



**Campus Sexual Violence Advisory Council  
of Southeastern Pennsylvania**

**Report to the**

**White House Task Force to Protect Students  
from Sexual Assault**

**April 2014**

A handwritten signature in black ink that reads "Patrick Meehan". The signature is written in a cursive, flowing style.

**Congressman Patrick Meehan  
7<sup>th</sup> District, Pennsylvania**

PATRICK MEEHAN  
7TH DISTRICT, PENNSYLVANIA

HOMELAND SECURITY COMMITTEE  
CHAIRMAN, SUBCOMMITTEE ON CYBERSECURITY,  
INFRASTRUCTURE PROTECTION AND  
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SUBCOMMITTEE ON  
COUNTERTERRORISM AND INTELLIGENCE

ETHICS COMMITTEE



**Congress of the United States**  
**House of Representatives**

Washington, DC 20515-3807

April 14, 2014

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SUBCOMMITTEE ON RAILROADS, PIPELINES,  
AND HAZARDOUS MATERIALS  
SUBCOMMITTEE ON COAST GUARD AND  
MARITIME TRANSPORTATION

Hon. Catherine Lhamon  
Assistant Secretary for Civil Rights  
U.S. Department of Education  
123 Independence Avenue  
Washington, DC 20002

Dear Asst. Sec. Lhamon,

I respectfully submit the enclosed white paper for the consideration of the White House Task Force to Protect Students from Sexual Assault. This report is the product of weeks of study and discussion by some of the nation's most respected voices on campus safety issues.

In the United States Congress, I have the privilege of representing much of the Greater Philadelphia region – a region which includes one of the largest concentrations of colleges and universities in the nation. As a result, our region has a tremendous amount of experience and insight in combating violence and sexual assault on campus.

After President Obama announced the formation of the White House task force, I called together a number of the leading experts in our community and worked with them to develop the enclosed recommendations. Our work focused on concrete steps that academia, law enforcement, and victims' services groups can take to prevent incidents and protect the victims. It is my hope that you and your colleagues on the task force will take these suggestions and insights into consideration as you prepare your report for the President.

As a former local and federal prosecutor, I've seen up close the tragic consequences of sexual assault on our nation's college campuses. It's a challenge I've continued to work on since coming to Congress.

I applaud you for the work you and your colleagues have done on this important matter, and I look forward to continuing to work with you as we fight to ensure our college campuses are safe for American students.

Sincerely,

Patrick Meehan  
Member of Congress

## Introduction

Learning can only be accomplished in a safe environment, and as such, campus administrators have made many efforts to promote campus environments that are safe and free from discrimination. However, research suggests that sexual victimization remains a problem. The National Institute of Justice (NIJ) at the U.S. Department of Justice (DOJ) reported in December 2000 that as many as 350 rapes per year may occur at a college with 10,000 students.<sup>1</sup>

The same report also estimates that fewer than five percent of completed and attempted rapes on college campuses are reported to law enforcement. Data reports that nearly 20 percent of matriculating women are victims of attempted or actual sexual assault as well as approximately 6 percent of men. These numbers present a stark difference to the general population, where approximately 40 percent of all sexual attacks are reported to law enforcement.<sup>2</sup>

*One in five female college students will be the victim of sexual assault or attempted assault, according to a 2007 Justice Department study*

In recent years, educational institutions and law enforcement agencies have enhanced their efforts to prevent sexual offenses on campus, protect victims, and bring the offenders to justice. But there is more than can and should be done.

The U.S. Congress has taken certain steps to address this issue. A brief summary of key legislative efforts is below. Additionally, Representative Meehan formed a Campus Sexual Violence Advisory Council, made up of experts on campus safety issues from across southeastern Pennsylvania.

Southeastern Pennsylvania has one of the largest populations of college students in the nation and is home to diverse institutions including the University of Pennsylvania, Ursinus College, Lincoln University, Villanova University, St. Joseph's University, Temple University, Drexel University, and many community colleges. A complete list of regional institutions is included in the appendix. As a result, the region has a wealth of experience and insight into the myriad challenges faced by institutions and communities as they work to address this important issue.

The Advisory Council met formally at Penn State Brandywine on March 17, 2014. During this meeting and subsequent follow-up conversations, Advisory Council members developed policy proposals to combat sexual assault on college campuses and strengthen protections for victims.

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<sup>1</sup> National Institute of Justice (2000). *The Sexual Victimization of College Women* (NIJ publication No. NCJ 182369). Washington, DC: Author. Retrieved from <https://www.ncjrs.gov/txtfiles1/nij/182369.txt>

<sup>2</sup> Reporting Rates. *Rape, Abuse, Incest & National Network*. Retrieved from <https://www.rainn.org/get-information/statistics/reporting-rates>.

## Existing Law

### **Title IX**

Title IX of the Education Amendments of 1972 prohibits sex and gender-based discrimination in educational programs that receive federal financial assistance.

Under Title IX, institutions must publish a non-discrimination statement; appoint a Title IX coordinator who assumes oversight responsibility for Title IX compliance efforts; implement grievance procedures that provide for prompt and equitable investigation and resolution of complaints; provide interim accommodations and protective measures; provide education and prevention programming; and offer training on grievance policies and procedures to campus community members and employees implementing the procedures.

Title IX also provides that if an institution knows or reasonably should know about sexual or gender-based harassment, the institution must take immediate corrective action to stop the harassment, prevent its repetition, and address its effects. An institution has “notice” when a responsible employee knew or, in the exercise of reasonable care, should have known about the harassment.<sup>3</sup>

### **The Clery Act**

In 1990, Congress passed the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act to ensure that students, their families, and employees have access to appropriate information about campus safety. This landmark piece of legislation is named in memory of Jeanne Clery, a college freshman from Bryn Mawr, Pennsylvania, who was raped and murdered in her Lehigh University dormitory.

In the years after her death, Clery’s parents became advocates for campus safety and lobbied state and federal legislatures to pass more than 35 laws on campus safety.<sup>4</sup>

### **Campus Sexual Assault in the United States: A Statistical Snapshot**

Nearly  
**20%**  
of female college students  
are victims of assault or  
attempted assault

More than  
**80%**  
of victims know their  
attacker

Only  
**5%**  
of assaults are reported  
to authorities

<sup>3</sup> Education Amendments of 1972, Public Law No. 92-318, 86 Stat. 235, codified at 20 U.S.C §§ 1681-1688.

<sup>4</sup> Peterson, Margie (2011, April 5). Murder at Lehigh University Shocked the Nation 25 Years Ago. *Emmaus Patch*, retrieved from <http://emmaus.patch.com/groups/politics-and-elections/p/murder-at-lehigh-university-shocked-the-nation-25-years-ago>.

Referred to as the “Clery Act,” this law requires that educational institutions receiving federal financial assistance to collect and publish certain information about crimes occurring on or near campus. Crimes that are reported to designated individuals on campus, known as campus security authorities, must be disclosed in an Annual Security Report if there is a reasonable basis for believing information is not hearsay, even if the alleged crime was not investigated and even if a finding of guilt or responsibility was not made.

The Clery Act also requires campus security authorities to keep a public daily log of all reported crimes, and to make that log accessible to the public during normal business hours. Reported crimes are listed in the log for 60 days, after which time campus security authorities must make information available upon request within two business days.

The Clery Act also requires institutions to develop policies, procedures, and programs to govern how they respond to an incidence of sexual assault. The reporting procedure should detail the steps a victim should take if a sexual offense occurs, including to whom the alleged offense should be reported, the right to call law enforcement and campus security, and the importance of preserving evidence. The disciplinary action procedure should list possible sanctions for offenses and include an equal right to be informed of the outcome of disciplinary proceedings. The victim should be made aware of options to make reasonable changes to academic or living situations after an alleged incident and available mental health services.

Finally, the Clery Act requires institutions to provide the public with time-sensitive notifications of all reported crimes that are considered to represent a serious or continuing threat to campus safety. Each institution makes decisions as to whether to issue warnings on a case-by-case basis, taking into account information including the nature of the crime, the potential of an ongoing threat, and coordination with local law enforcement. If the institution deems a warning appropriate, it must be made in a format likely to reach the entire campus community, like an email or text message.<sup>5</sup>

### **Campus SaVE Act**

Congress reauthorized the Violence Against Women (VAWA) in March 2013. The bill included the Campus Sexual Violence Elimination Act (Campus SaVE Act), a bill that Representative Meehan cosponsored and strongly supported. Under Campus SaVE, the campus crime statistics report that

***“Many institutions have concerns over how to effectively comply with the Clery Act and Title IX”***

—Alison Kiss,  
Executive Director,  
Clery Center for Security on Campus

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<sup>5</sup> Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, Public Law No. 101-542, codified at 20 U.S.C. § 1092(f).

each institution publishes annually must include incidents of domestic violence, dating violence, sexual assault, and stalking.

Institutions must also provide students or employees reporting offenses with a copy of the institution's disciplinary process and any possible sanctions, as well as their written rights to (1) receive assistance from campus authorities when reporting to local law enforcement; (2) make changes to their academic, residential, or transportation situations to avoid a hostile environment; and (3) obtain a restraining or no contact order.

Campus SaVE also requires institutions to develop specific disciplinary procedures covering domestic violence, dating violence, sexual assault, and stalking. They must include a prompt and impartial investigation of complaints to be conducted by officials who receive annual training on dating violence, domestic violence, sexual assault, and stalking.

Lastly, Campus SaVE requires institutions to provide educational programming for students and faculty on prevention, awareness, bystander intervention, and risk reduction.<sup>6</sup>

### **Additional Requirements**

Institutions must also integrate the requirements of the Health Insurance Portability and Accountability Act (HIPAA), the Family Educational Rights and Privacy Act of 1974 (FERPA), criminal law, and state and local regulations, including mandatory reporting of suspected child abuse. In addition, the Department of Education Office of Civil Rights has issued guidance in the form of Dear Colleague Letters in 1997, 2001, and 2011.

### **Challenges**

Members of the Advisory Council met to discuss these issues during a roundtable discussion and subsequent follow-up conversations. The members identified multiple areas of concern that challenge our shared goal of ensuring a safe and effective learning environment and eliminating sexual offenses on college campuses.

The Advisory Council included some of southeastern Pennsylvania's leading experts on these issues, and was divided into three groups broadly representing key stakeholders in the educational community, law enforcement, and victims' services. A full list of Advisory Council members is included in the appendix.

### **Educational Programming**

Advisory Council members agreed that any efforts to address sexual offenses on college campuses must include accessible and effective educational programming. Most institutions offer some form of educational programming on these issues, particularly as they are directed to do so under Title IX, the Clery Act, and the Campus SaVE Act. The effectiveness of these programs is unclear, however,

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<sup>6</sup> Violence Against Women Reauthorization Act of 2013, Public Law No. 113-4, 127 Stat. 54.

and there have been few evidence-based evaluations through which researchers could identify and disseminate best practices.

Additionally, some representatives from the educational community shared concerns that the various legislative and regulatory initiatives designed to address these important matters may, at times, create conflicting obligations and can be confusing to navigate. Representatives from the educational community stressed that while institutions have a genuine interest in promoting campus safety, they face significant challenges in implementing the complex and evolving legal requirements.

Many of the federal requirements intersect, but institutions have questions about how to reconcile those intersections. For example, institutions question how to effectively identify and train those who may be deemed a “responsible employee” under Title IX, a “campus security authority” under the Clery Act, or a mandated reporter” under state child abuse reporting laws. Guidance on how these reporting requirements differ and overlap is necessary.

Representatives from the educational community shared that they have received little clarification or direction from the Department of Education when these concerns or questions arise, and they mentioned that this is a particular challenge for smaller institutions, which may not be able to afford the same access to legal counsel as their larger counterparts.

Representatives from the law enforcement community echoed confusion, saying it can be unclear what their responsibilities are under Campus SaVE and the Clery Act, compared to those of campus safety authorities.

## **Partnerships**

Advisory Council members discussed the importance of forming effective partnerships between educational institutions and external law enforcement agencies.

The Council broadly agreed that the college and university system is unique with respect to sexual offenses, as survivors of sexual and gender-based violence have numerous and distinct reporting options not typically available to the general public. For example, a survivor might choose to report to law enforcement, to the educational institution, to both or to neither. In lieu of reporting, the survivor could also choose to receive confidential support through a victim services organization (rape crisis counselor), medical personnel, or mental health providers.

In society at large, a survivor’s choices are more limited: a survivor can report to law enforcement or can seek confidential support (through the same mechanisms). Survivors may benefit from multiple reporting and support options, but if these options are not well coordinated, it may present a challenge for both victims and law enforcement.

*College students often have unique resources available to them, but if they are not coordinated, they could create challenges for victims and law enforcement*

There are clear differences between the campus and criminal judicial processes. In a criminal justice investigation, investigators seek to determine whether there has been a violation of law by a reasonable doubt. In a campus judicial procedure, the institution seeks to determine whether there has been a violation of campus policies by a preponderance of the evidence. Both share the goal of accountability for prohibited conduct. Campus disciplinary proceedings, however, are not mini-courts. Unlike the strictures of the adversarial model used in criminal judicial proceedings, institutions have wide latitude in designing effective campus disciplinary proceedings.

Law enforcement officials who are unfamiliar with campus judicial systems and laws may think that campus fact gathering is meant to augment the criminal justice process, that campus proceedings affect the integrity of criminal justice investigations, or have concerns that the use of campus disciplinary proceedings drives underreporting in the criminal context.

A clear understanding of Title IX, the Clery Act, and other relevant statutes will help institutions and local law enforcement agencies to assist victims in navigating this process and minimize the number of times a victim must share their account.

### **Under-Reporting**

Advisory Council members shared concerns about the under-reporting of sexual offenses on college campuses. The reasons for under-reporting are varied and complex, but it is widely understood that victims are often afraid to come forward or may not understand that the incident they have experienced is a crime, particularly when the offender is not a stranger.

The Advisory Council discussed other barriers that victims face in the reporting process, including the potential need to share their account multiple times to multiple sets of people, and concerns of “social suicide” if other students become aware of the report. Further, Council members shared that victims express concern that reporting will compromise their privacy through newspaper coverage or required campus-wide text messages and emails.

The Clery Act requires institutions to share information about a continuing threat to campus safety in a format reasonably likely to reach the entire campus population. Members of the Advisory Council expressed concern that this well-intentioned policy may drive under-reporting, especially in the age of social media. Although the Campus SaVE Act requires that timely warnings be made without disclosing the victim’s identity, this provision is still not well understood by students.

### **Preserving Evidence and Ensuring Access to Health Care**

Victims have an immediate and on-going need for health care services following a sexual offense. Advisory Council members discussed the importance of obtaining a forensic medical examination for use if a victim chooses to pursue criminal prosecution. Victims may need to seek off-campus medical care to obtain such an examination.

## Recommendations

Based on input from the Advisory Council, Congressman Meehan has developed a series of policy recommendations for the consideration of the White House Task Force on Sexual Assault. They are listed below.

### **Streamline Patchwork Requirements**

The Task Force should issues recommendations to streamline federal law and regulatory guidance. Standardizing definitions and concepts across legislation and guidance will assist educational institutions in the navigation of the regulatory framework. The Department of Education sought to clarify some of these concerns in an April 2011 Dear Colleague Letter addressing student-on-student sexual violence. Nonetheless, additional guidance is needed.

There are also concerning reports that university counsel who have requested additional support and guidance are not receiving timely responses when seeking answers from the Department of Education regarding questions with the April 4, 2011 Dear Colleague Letter.

Although the Department of Education has promised a Frequently Asked Questions document this spring, it has taken three years for the Department to respond to questions raised by institutions across the country in response to the April 4, 2011 Dear Colleague Letter. A lack of clarification or response from federal officials results in confusion and unnecessary delay in effective implementation of these important policies and procedures.

### **Support Effective Partnerships**

Strong partnerships between educational institutions and local law enforcement officials are key to addressing sexual offenses and helping survivors navigate the reporting process.

It can be difficult to establish these partnerships, particularly as campus security authorities vary from institution to institution with respect to their

## Recommendations

**Streamline Patchwork Requirements for Colleges and Universities**

**Support Effective Partnerships Between Colleges and Law Enforcement Agencies**

**Support Effective Resource Allocation**

**Increase Effective Educational Programming**

**Coordinate a Victim-Centered Response**

**Conduct Anonymous Survey Research**

**Ensure Access to Specialized Forensic Medical Care**

responsibilities and relationships to local law enforcement agencies. Educational institutions and law enforcement agencies must also carefully address concerns like how to respect a survivor's desire for anonymity and privacy.

The Task Force should support developing a list of best practices in law enforcement and campus security authority partnerships. It may be appropriate for the parameters of these partnerships to be clearly outlined in campus policies. Further, it may be appropriate to consider information-sharing policies between institutions and law enforcement agencies that reduce or eliminate the need for victims to repeat their stories multiple times to multiple groups of people.

### **Support Effective Resource Allocation**

Limited coordination between federal agencies like the Department of Education and DOJ may mean that existing resources are not being optimized. For example, reports of thousands of untested rape kits and substantial backlogs in forensic laboratories are concerning, as delays analyzing evidence obstruct investigations.

The Task Force may wish to appoint a resource panel that can study and identify available federal resources as well as prioritize where they are directed, considering monetary, time, and knowledge resources.

### **Increase Effective Educational Programming**

The Task Force should recommend a formal evaluation of the relationship between educational programming and the outcomes we seek, including reduced sexual and gender-based violence and increased reporting. An evidence-based assessment should be developed to determine which communication strategies are most effective and what timing and follow-up practices best achieve improved outcomes.

It may be appropriate to consider the effectiveness of communication via innovative technological formats commonly used by college students, like social media and smartphone applications. Additionally, the Task Force should specifically evaluate strategies to help victims identify non-stranger sexual offenses as a crime that should be reported to campus security authorities and/or law enforcement.

### **Coordinate a Victim-Centered Response**

The Task Force should recommend that institutions incorporate a coordinated victim-centered response. Being victim-centered requires an understanding of the impacts of sexual and gender-based harassment and violence on a victim, including a recognition of the ways in which trauma impacts individuals and communities. Processes that do not take into account the unique physical and psychological impacts of trauma can impede reporting and discourage victims from seeking help, obtaining support, or participating in a campus disciplinary or criminal justice proceeding.

There are significant barriers that may inhibit a victim from reporting, including confusion and difficulty interpreting pertinent legislation, uncertainty about what or where to report, confusion about an institution's responsibilities in the wake of a report, and what may be expected of a victim should they come forward.

Under-reporting is damaging to campus communities in many ways. On the systemic level it perpetuates hostile environments and fails to provide communities with the opportunity to eliminate, prevent, or remedy the effects. On an individual level, victims are less likely to get the health services and support they need in the wake of a traumatic event, and offenders are less likely to be subject to accountability or rehabilitation.

Incorporating a victim-centered approach may help to remove barriers to reporting and ensure that institutional practices are sensitive, empathetic, and tailored to the needs of the individuals served.

Further, a victim-centered approach should provide victims with information about resources and options that allows them to retain autonomy to make informed decisions at each step of reporting and campus disciplinary proceedings. The Task Force should encourage institutions to develop victim-centered response policies that emphasize increasing awareness of the multiple routes a victim can follow to report an offense and obtain needed medical care or emotional support.

The Task Force might evaluate the usefulness of making available a trained staff member who can act as a confidential coordinator for victims' services. Many states protect the confidentiality of communications with a rape crisis counselor or advocate. An institution can rely upon their existing counseling center, a dedicated rape crisis counselor, or a partnership with a community agency to provide rape crisis counseling.

Under any of these models, this coordinator could help victims to understand their reporting options, accompany them to medical, legal, and/or campus proceedings, and ensure their awareness of ongoing physical and mental health services.

Incorporating a victim-centered response is not inconsistent with principles of a fair, impartial, and equitable institutional response. The principles of prompt and equitable grievance procedures require that investigations be thorough, reliable, fair and balanced; that both parties have notice of the allegations, the opportunity to be heard and respond, and the opportunity to present witnesses and other information; and that the investigation and adjudication be conducted by trained and impartial officials.

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*Incorporating a victim-centered approach may help to remove barriers to reporting and ensure that institutional practices are sensitive, empathetic, and tailored to the needs of the individuals served.*

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Incorporating practices that consider the unique needs of all parties will enhance the overall effectiveness and integrity of institutional responses.

### **Issue Anonymous Surveys**

The Task Force should recommend issuing anonymous surveys to measure the frequency of sexual or gender-based violence and the effect of risk reduction and prevention programs. Such data would help us better understand the extent of this problem on college campuses, despite the challenges posed by under-reporting.

### **Ensure Access to Medical Care**

Victims must have access to comprehensive medical care immediately following an alleged sexual offense, including a sexual assault forensic examination. If a victim chooses to pursue the criminal justice process, they will benefit from thorough documentation of the evidence, especially in the case of non-stranger sexual offenses.

A Sexual Assault Nurse Examiner (SANE) is a registered nurse with specialized training in medical forensic care for patients who have experienced a sexual offense. SANE practitioners conduct a physical exam, collect forensic evidence, and document the chain of evidence. They may also refer the victim to mental health services or further physical medical treatment, as victims may experience sustained physical and mental health concerns related to a sexual offense. The Task Force should encourage campuses to ensure access to SANEs, either on campus or by providing transportation to medical facilities that offer these services.

*Congressman Meehan thanks the members of the Campus Sexual Violence Council of Southeastern Pennsylvania for sharing their insights and experiences and is grateful for the work of so many in our region who work every day to protect students from violence on college campuses.*

# Campus Sexual Violence Advisory Council of Southeastern Pennsylvania

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**Joyce Dale**

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