

La Salle University

La Salle University Digital Commons

Undergraduate Research


La Salle Scholar

Fall 2018

#MeToo Movement: Solutions

Raquelle A. Walker-White Ms
walkerwhiter1@student.lasalle.edu

Follow this and additional works at: <https://digitalcommons.lasalle.edu/undergraduateresearch>

 Part of the [Civil Rights and Discrimination Commons](#), [Courts Commons](#), [Criminal Law Commons](#), [Education Law Commons](#), [Juvenile Law Commons](#), [Law and Gender Commons](#), [Legislation Commons](#), [Lesbian, Gay, Bisexual, and Transgender Studies Commons](#), [Secondary Education Commons](#), and the [Women's Studies Commons](#)

Recommended Citation

Walker-White, Raquelle A. Ms, "#MeToo Movement: Solutions" (2018). *Undergraduate Research*. 34.
<https://digitalcommons.lasalle.edu/undergraduateresearch/34>

This Article is brought to you for free and open access by the La Salle Scholar at La Salle University Digital Commons. It has been accepted for inclusion in Undergraduate Research by an authorized administrator of La Salle University Digital Commons. For more information, please contact careyc@lasalle.edu.

#MeToo Movement: Solutions
Raquelle Walker-White
Undergraduate Research Fall 2018
Professor Bogle
December 14, 2018
La Salle University

Introduction

Sexual assault, a topic that has been in the news and media the past couple of decades, disproportionately affects women at astounding rates. In the past year, the #MeToo movement has shined a light on how pervasive both sexual harassment and sexual assault are in our society. Not only are these problems widespread, but all too often they go unreported. Sexual misconduct is often dismissed by those who will say “boys will be boys.” This mentality insinuates that boys or men are naturally rough, hard headed, childish in nature and mischievous. This phrase is a defense to justify these boy’s and men’s actions even if their behavior was against the law. This defense removes accountability and leaves the victim without proper justice while the perpetrator gets to walk away with no consequences for their actions. An analysis of sexual misconduct, such as harassment and assault, will reveal that there has been legislation, mandated policies and movements that bring awareness to the issues of sexual harassment and sexual assault, one being the #MeToo movement. This viral movement aims to ensure that victims have a voice, that they are heard and that perpetrators are held accountable for their actions.

In the following sections, this paper will analyze sexual assault and sexual harassment in regards to the #MeToo movement, how the movement started and the scope of the problem of sexual assault in the United States. I will discuss the history of sexual assault and how legislation has evolved overtime to address this social problem. Moreover, I will discuss famous cases surrounding sexual assault to help illustrate the difficulty of solving this problem. I will then examine the debate over solutions to the problems of harassment and assault in society in general and on college and university campuses while discussing the current controversy surrounding the new proposed regulations under the Trump administration. Lastly, I will touch upon the

differences between the criminal justice system proceedings and Title IX disciplinary process. Currently, society deals with harassment and assault differently. For sexual harassment an individual can be fined or sued in civil court. Sexual assault on the other hand is handled on a criminal basis in which people can go to prison for being convicted of a sexual assault charge such as rape. This is in comparison to colleges' and universities who use hearing boards while also introducing alternative approaches such as restorative justice.

#MeToo

What is #MeToo?

#MeToo is a global movement that aims to create conversation and bring awareness to the problems of sexual harassment and sexual violence. #MeToo movement was founded to help survivors of sexual violence, create more resources for survivors during their healing process and to build a community of advocates with both survivors and non-survivors (metoomvmt). The goal of #MeToo is to hold perpetrators accountable for their actions, disrupt the systems that allow sexual violence and to create systemic change (metoomvmt). #MeToo is about giving people a voice, by “encouraging millions to speak out about sexual violence” as they “empower through empathy” (metoomvmt). This movement is changing how our culture thinks about sexual assault and sexual violence as a whole and is forcing our culture and other cultures to recognize this as a problem. It is creating a sense of awareness around heinous crimes such as sexual assault and harassment. #MeToo represents a collective power of survivors helping one another and collective action taken to create a precedent in the United States. Accountability,

justice, healing, and community action are just some of the ideas grounded around the movement.

Why did MeToo start?

In the U.S., 1 in 3 women (36.3%) and nearly 1 in 6 men (17.1%) experienced some form of sexual violence during their lifetime. About 1 in 5 women (19.1) or an estimated 23 million women have experienced completed or attempted rape at some point in their lives (NCVS, 2017). According to the National Crime Victimization Survey (NCVS) which collects data on rape, sexual assault, theft, burglary etc. from a nationally representative sample, in 2015 and 2016, around 750,000 people were raped and sexually assaulted but only 37 percent of these cases was reported to the police (NCVS).

The prevalence of sexual assault and harassment and the need to support survivors and interrupt sexual violence has led to the founding of #MeToo. #MeToo movement was founded in 2006 by an African American woman and activist Tarana Burke. Tarana Burke started the movement after being a youth worker in a non-profit organization she co-founded called Just Be Inc., where she primarily worked with black children and other people of color in low income communities. After one of the girls in her sessions confided and disclosed to her that her mother's boyfriend had sexually assaulted her, Tarana Burke was unable to admit to the little girl "me too." That brave little girl's story gave her the courage to found the #MeToo movement to spread the message to survivors that they were heard and understood. Tarana Burke initially started the #MeToo movement with young black girls and women where she put together curriculum to discuss and inform these girls and women about sexual violence within the black

community but also in society in general. The #MeToo movement supports survivors of sexual violence and their allies by connecting survivors to resources, offering community organizing resources, pursuing a ‘me too’ policy platform, and gathering sexual violence researchers and research” (metoomvmt). Although Tarana Burke coined the term ‘me too’, it became a global movement and a hashtag after actress Alyssa Milano on October 15, 2017 tweeted asking if anyone has been sexually assaulted or harassed to tweet ‘me too’. Her tweet came shortly after the initial investigations into the sexual harassment allegations made about American Hollywood film producer Harvey Weinstein. The next morning Alyssa Milano’s tweet became a viral hashtag, with 55,000 replies and was trending No.1 on twitter. The hashtag #MeToo was active in 85 countries on twitter and was posted 85 million times on Facebook over 45 days after the initial tweet (Sayej, N, 2017). Alyssa Milano’s tweet and her platform as a Hollywood actress helped expand Tarana Burke’s movement to reach a global scale. It has sparked many conversations and has caused a cultural shift in making sure the workplace, college campuses and society in general is more equal for women.

The movement has created a domino effect, leading to many men in positions of power being accused of sexual misconduct, and, in some cases, losing their jobs. Like any strong movement there is bound to be backlash from it. Critics of the #MeToo movement argue that it points the finger at all men and accuses all men of some form of assault or harassment but also that it prematurely encourages a rush of judgement and ostracizes innocent men (Washington Examiner). The #MeToo movement represents a form of solidarity; women from all over, different races and ethnicities are standing together and speaking up against sexual violence and sexual harassment that goes on in the workplace, on college campuses and anywhere else sexual

harassment and assault may take place. The phrase “me too” not only acknowledges the act but acknowledges the survivors as well.

How did we get here?

Although sexual assault has been a topic of conversation recently in the media due to the #MeToo movement, the issue has a long history behind it, including sexual assault on college campuses. To gain an understanding of how we got here today we must understand the history of rape law reform. In the 1970’s, women worked to change the rape laws so that they were specific to what rape really was, and they aimed to make the laws more gender neutral and provide fair punishment so that more rapists could be convicted. Over the past four decades, feminist reformers have succeeded in abolishing requirements that unfairly burdened rape prosecutions.

These requirements included:

...the complainant’s credible testimony be corroborated by other evidence, that the victim resist her attacker to the utmost of her physical capacity, that the victim promptly complain to authorities of the attack, that the victim not be married to the attacker, and that the judge caution jurors to weigh the testimony of complainants in rape cases with skepticism (Anderson, M, 2016, p.1943)

Traditionally rape was determined to be between a man and woman and was defined as forced vaginal penetration without consent, since then it has been reformed to a more gender neutral definition. In 2012, the U.S. attorney general changed the definition of rape making it so that there was no requirement of force: “the penetration, no matter how slight, of the vagina or anus with any body part or object or oral penetration by a sex organ of another person, without the consent of the victim” (U.S. Attorney General). When rape had the lowest convicted felony charge, as a result, some states redefined rape on a broader scale and replaced it by the term sexual assault. Sexual assault is defined as

... sexual contact or behavior that occurs without explicit consent of the victim. Some forms of sexual assault include: attempted rape, fondling or unwanted sexual touching, forcing a victim to perform sexual acts, such as oral or penetrating the perpetrator's body, penetration of the victim's body, known as rape (RAINN)

Oftentimes people may use the terms sexual assault and sexual harassment interchangeably; however, they mean two different things. Most recently sexual harassment has been talked about in the workplace but similar to sexual assault it can take place in any setting. The U.S. Department of State defines sexual harassment as

“unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when: (1) an employment decision affecting that individual is made because the individual submitted to or rejected the unwelcome conduct; or (2) the unwelcome conduct unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or abusive work environment” (state.gov).

In 1975 the term “date rape” was coined a term by American feminist, journalist, and author Susan Brownmiller. In 1975, date rape referenced “a dating situation in which an aggressor may press his advantage to the point where pleasantness quickly turns to unpleasantness and more than the woman bargained for” (Helen Tierney, 1999 p. 337.). More recently, the term date rape has been redefined as “nonconsensual sex that that occurs within a dating context. It is one form of acquaintance rape or nonconsensual sex between people who know each other, for example, as friends, neighbors, or coworkers (Parrot & Bechhofer. 1991). The definition of date rape has evolved over time to fit the cultural shifts in society.

Famous cases

The evolution of the #MeToo movement has resulted in famous landmark cases around sexual harassment and assault in the workplace. Many of these cases involve men in powerful positions such as senators, actors, producers, athletes and more. Since the #MeToo movement, 201 powerful men have lost their jobs or major roles and have been replaced by mainly women as a result of sexual harassment allegations against them (Carlsen, A., Salam, M., Miller, C.C., Lu, D., Ngu, A., Patel, J.K., Wichter, Z., 2018).

Harvey Weinstein

As mentioned above, actress Alyssa Milano's tweet was sparked by sexual assault and harassment allegations made against Hollywood producer Harvey Weinstein. On October 5, 2017, Jodi Kantor and Meghan Twohey of the *New York Times* published a story that was comprised of decades of allegations of sexual harassment, in which eight of them were resolved by settlements to keep them from disclosing this information. On the same day that the story was published, Weinstein took a leave of absence from The Weinstein Company. These allegations include stories of more than 80 women, primarily actresses that Weinstein had previously worked with, such as Rose Mc Gowan, Angelina Jolie, and Ashley Judd. He denied any type of allegations of harassment, abuse, or rape and denied committing any crimes throughout the years. On May 31, 2018, a grand jury in New York indicts Weinstein on charges of rape and criminal sexual act against two women, one incident that occurred in 2013 and another in 2004. On June 5, 2018, he pleads not guilty to rape and sexual assault charges for both women. On July 2, 2018, Harvey Weinstein is accused of another assault charge against a third woman in 2006; he pleads not guilty again. Thus, "he now faces six felony charges, relating to three women: two counts of predatory sexual assault, two counts of criminal sexual act in the first degree, and one

count each of the first-degree rape and third degree rape” (Gonzalez, S., France, L.R., Melas, C., 2018).

Brett Kavanaugh

Despite the allegations of sexual assault and the many women who protested against Brett Kavanaugh he was still sworn in to the Supreme Court. Three women accused the Supreme Court Justice of sexual assault and misconduct, Christine Blasey Ford, Deborah Ramirez and lastly Julie Swetnick. However, only Christine Blasey Ford was able to testify as she was the first accuser to come forward. She was a high school acquaintance of Kavanaugh who said that more than 30 years ago “a young, drunken Mr. Kavanaugh pinned her to a bed, tried to rip off her clothes and placed his hand over her mouth to muffle her screams for help” (New York Times, 2018). In a senate vote, 50 to 48, he was confirmed to be sworn into the Supreme Court. Many opposed to the confirmation as they were giving Kavanaugh the power to be on the highest judicial court in the United States. Kavanaugh’s confirmation during the #MeToo movement revealed that there is still much change that needs to occur. It revealed how men in power can commit such crimes and get off easily with no consequences for their actions. It revealed how there still needs to be work done in the criminal justice system in providing justice for victims of sexual assault. Lastly, it illustrates the difficulty of solving this problem and the scope of the problem at hand.

Bill Cosby

Bill Cosby, actor who was known as “America’s Dad” was most known for his televised show *The Cosby Show* which aired for eight seasons from 1984-1992. The first allegation against

America's dad was in 2000 by Lachelle Convington but authorities decided that no crime had been committed (Slate). Andrea Constand was the second accuser but the first woman to publically accuse Cosby of sexual assault (Slate). In his first trial in 2017, there was a hung jury and in such cases there can be a retrial. On September 25, 2018 Cosby was sentenced to 3-10 years in prison at the retrial for drugging and assaulting Andrea Constand, Temple University women's basketball administrator at his home fourteen years ago. In his previous testimony for a civil case, he admitted to giving women quaaludes to make sexual advances on them. Judge Steven O'Neil "ruled that Cosby be classified as a 'sexually violent predator', a determination that requires lifetime registration, lifetime mandatory sex offender counseling with a treatment provider and notification to the community that a 'sexually violent predator' lives in the area" (Levnson & Cooper, 2018). Constand testified at trial that Bill Cosby used his power and public persona to take advantage of her. Bill Cosby has become the first celebrity since the #MeToo era to be sent to prison. Sonia Ossorio, president of the National Organization for Women of New York said, "Bill Cosby seeing the inside of a prison cell sends a strong message that predators- no matter who they are, from Hollywood to Wall Street to the Supreme Court- can no longer be protected at the expense of victims that they are not untouchable and that they will no longer be protected" (Dale, M., & Sisak, M.R, 2018). Bill Cosby's conviction has set a precedent and message for men in power and is a landmark case for the #MeToo era.

Solutions

Society in general

Although Sexual assault and harassment are often associated together and at times used interchangeably they are handled differently within society. Sexual assault allegations can generally be handled either criminally or civilly whereas sexual harassment allegations can be handled either criminally, civilly, or within a workplace. In a criminal trial/proceeding, the burden of proof used when determining one's guilt is beyond a reasonable doubt standard, which is generally thought to be a high burden of proof. This standard "is required because some accusations are wrong, and the constitution demands an extremely high degree of confidence when individuals face the special punishments and stigmatization associated with criminal liability" (Rubinfeld, 2017). A higher burden of proof results in fewer errors and false convictions, but even sometimes mistakes are made and people are falsely convicted for crimes they did not commit.

In civil courts, where people are suing for damages and looking for money they use a preponderance of evidence standard. This standard "requires the fact-finder to find facts to be true to the degree of more likely than not" (Weizel, 2012). Thus, it requires more than 50% likelihood that the facts of the case are true and the defendant in the case is held liable. In the criminal justice system, the victim/survivor first files a report to law enforcement and then decides whether or not they want to press charges. From there, the District Attorney will see if they have enough evidence to convict the accused, if not then they will not go forward in pressing charges. Unfortunately, "out of every 1000 instances of rape, only 13 cases get referred to a prosecutor, and only 7 cases will lead to a felony conviction" (NCVS, 2017). However, many sexual assault cases are handled and resolved with a plea bargain, which is when the defendant is offered a lesser punishment for pleading guilty to the crime. Nonetheless, it is difficult to prove that a rape or sexual assault occurred to a jury because more likely than not

they are using testimonial evidence and a recollection of their memory of that night, if they even remember or have clarity of what happened (Adam-Curtis & Forbes, 2004; Martin & Hummer, 1989). As one can see, it is very hard to convict people on a sexual assault charge if out of every 1000 rapes, 230 are reported the police, 46 of those reports lead to an arrest, 9 of those cases get referred to prosecutors leading only 5 of those cases to lead to a felony conviction which results in only 4.6 rapists who will be incarcerated (RAINN).

Sexual harassment within the workplace is not tolerated and against the law making it so that employers are responsible for providing their employees with a place of work that is free of harassment. If there is a Sexual harassment claim within the workplace, there are necessary steps that should be taken to address the allegation. The first step of the employee is to file a complaint with the employer or supervisor and from there the employer is responsible for properly investigating the claims. If in the case of the employer failing to investigate or talk to the alleged harasser to stop the behavior from happening then the employee can file a complaint at the federal, state or local level (The New York Times). If an employee files a complaint at the federal level they will file a charge of discrimination through the Equal Employment Opportunity Commission (EEOC) which they will then take action in investigating the charge of discrimination against the employer, union or organization that has engaged in employment discrimination (Equal Employment Opportunity Commission). If an employee wants to go down the path of filing with a state or local jurisdiction then they file a charge through Fair Employment Practice Agencies (FEPA), which is responsible for enforcing anti-discrimination laws at the state and local level (Equal Employment Opportunity Commission). However, if an employee files a complaint with FEPA, it is automatically “dual-filed” with the the EEOC. If either the EEOC or FEPA finds a complaint to be warranted, in other words that the law may

have been violated, then they will issue a “Notice of Right to Sue”, which allows an individual to file a lawsuit (Equal Employment Opportunity Commission).

College campus options

Not only is sexual assault happening at high incidence rates in workplaces and in general settings but it disproportionately affects college students. College and universities vary on how they may handle sexual assaults and adjudications, which is a term used for juveniles (persons under the age of 18) which serves like an adult criminal conviction or guilty sentence. To address the problem of sexual assault on college and university campuses, there has been legislation such as the Clery Act and Title IX that requires schools to mandate policies and laws to prevent sexual violence and assault on campuses. The Clery Act, formerly known as the Crime Awareness and Campus Security Act, was passed in 1990. It requires schools that receive federal aid to publicize their crime statistics to inform students, employees and the general public about the prevalence of crime on their campus and the policies and procedures in place to prevent such crimes (Vladutiu, Martin, & Macy, 2011). The Clery Act brings awareness to crimes, such as stalking, sexual assault, rape in specific geographic areas on college campuses. Other legislation that has put in place is Title IX which says “no person...shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance” (Triplett, 2012). Title IX, is a federally mandated policy that requires schools to investigate allegations of sexual assault.

While schools are required to investigate sexual assault allegations, there are different approaches of how they adjudicate individuals while maintaining a balance of protecting the

victims and the accused rights. The different approaches are: restorative justice, a disciplinary hearing board or suggesting that the victim pursues options outside of the college such as pursuing the case in a civil or criminal court. In a restorative- justice approach “the victim and the offender, and in some cases other people affected by the misconduct, participate in active and often brutally honest discussions about how someone was harmed and what it would take to heal” (Mangan, 2018). Restorative justice focuses on healing the victim and aims to ensure that the offenders knew what they did and what harm they have caused and discuss what steps to take to not recidivate. Many colleges are switching to restorative justice when addressing cases of sexual misconduct because it’s argued to be more effective than handling it through traditional punitive approaches, it reduces the cost associated with seeking resolution and addresses due process. Restorative justice requires the offenders to take responsibility, which makes them accountable for their actions. It strays away from punishing the accused and tries to find a way to repair the harm done through an alternative resolution (Patterson, 2018).

During Obama’s administration, the U.S. Department of Education for Civil Rights sent out a “Dear Colleague Letter” to colleges and universities requiring them to use the preponderance of evidence standard of proof in campus disciplinary proceedings in compliance with Title IX. Before the issuing of this letter it was left up to the college or universities to use whatever judicial proceedings they prefer when handling sexual misconduct on their campuses. Under the 14th amendment, the due process clause says that “no state shall deprive anyone of life, liberty or property without due process,” public schools are considered under the role of the state and therefore due process is required in campus judicial proceedings in public schools. However, because Title IX requires both public and private schools who receive federal funding to investigate allegations of sexual assault, they too must comply with the preponderance of

evidence standard. Due process ensures that the accused rights are protected which is a civil right here in the United States. Preponderance of evidence is commonly used in civil suits, between two people which “requires the fact-finder to find facts to be true to the degree of more likely than not” (Weizel, 2012). This standard of proof requires more than 50% likelihood that the facts of the case are true and the defendant in the case is held liable. Furthermore, this standard protects both the accused and the victims and is found to produce more equality, fairness and legitimacy. Some critics argue that this standard is too low when handling the accused due process rights and does not protect the accused against false allegations if ‘more likely than not’ that the accused will be found guilty.

Before the government mandated standard of proof of preponderance of evidence, some colleges or universities previously used the standard “clear and convincing” evidence for all serious disciplinary charges, including sexual assault. The clear and convincing evidence standard falls in the middle ground between beyond a reasonable doubt and preponderance of the evidence. This standard is generally used in civil law but can also be used in criminal law as well. The fact finders of the case have to believe the facts of the case are more probable to have happened than not happened when using this particular standard. People in opposition to the clear and convincing evidence standard argue that it “could burden a school’s limited investigatory and adjudicatory resources by requiring a school to present evidence of significant quantity and quality in order to meet its burden” (Weizel, 2012). Schools have only so much resources and are not fully equipped to investigate such complaints around sexual assaults on their campuses, thus, clear and convincing evidence is not an effective standard of proof for adjudicating students.

Currently, there is a controversy over President Trump's administration's suggestions for handling campus sexual assault cases. Betsy DeVos, U.S. secretary of education, proposes that colleges have new regulations around sexual misconduct that would help students accused of sexual misconduct gain far more protection and reduce the liability for colleges facing investigating complaints (Chronicle). Betsy DeVos's regulations would replace President Obama's administration's guidance under the "Dear Colleague Letter". The new regulations under Trump's administration were as follows: (1) "a person accused of sexual misconduct would be guaranteed the right to cross-examine the accuser" (2) "colleges' responsibilities to investigate would be limited to cases in which there are formal complaints and the alleged incidents happen on campus or within an educational program or activity" (3) "The definition of sexual harassment colleges are required to act on would be narrower" (4) "colleges would have the option of using a higher standard of proof" (5) "colleges would have more leeway to use mediation and other informal resolution procedures" (The Chronicle of Higher Education). Some are arguing that these new regulations are just another way to sweep sexual assault under the rug, weaken the protections of students, and allow for gray spaces for colleges (Chronicle). These proposed regulations have not been taken into effect yet and it's unclear whether or not these will be the final rules.

Institutional judicial procedures most commonly involved a hearing board that consisted of students, faculty and administrators. Hearing boards receive training that "included judicial board process and procedures, school policies, rape and sexual assault information, sanctioning, state and federal laws and codes, student handbook, student code of conduct review, and fundamentals of due process" (Amar, Strout, Simpson, Cardiello, & Beckford, p. 584). In a study done by Amar, Strout, Simpson, Cardiello, and Beckford (2014) to assess campus response to

sexual assault, the elements of due process that were used informed defendants of their rights before a hearing, provided defendants written notice of the charges and informed defendants and victims of their right to bring an attorney or advisor to hearings. The notice of charges and a hearing during disciplinary proceedings comply with the requirements of Title IX, which the Supreme Court says is a part of the due process requirements for individuals. The study found that the penalties in a sexual assault case resulted in suspension in 92% of the cases, expulsion in 90% of the cases, no-contact orders in 80% of the cases, counseling in 75% of the cases, community service in 61% of the cases, restitution in 43% of the cases and lastly fines in 32% of the cases (Amar, et al., 2014, p.585). Offenders are more likely to receive suspension or expulsion for their punishments in sexual assault cases than any other form of punishment. Despite the commonly used traditional model of hearing boards, oftentimes it was found that victims experienced secondary victimization during their campus adjudication process which people viewed as an opposition for having hearing boards. "Secondary victimization is the unresponsive treatment rape victims receive from social system personnel. It is the victim-blaming behaviors and practices engaged in by community service providers, which further the rape event, resulting in additional stress and trauma for victims" (Campbell, R., & Raja, S., (1999), p. 262). Secondary victimization results in victim blaming and an insensitive attitude that causes victims to relive their trauma as they are victimized all over again.

Colleges are not always successful in adjudicating allegations of sexual assault on their campuses. In these particular cases, students are suing their colleges and universities on Title IX complaints for gender discrimination. It was found that in 2009, there were nine complaints to the U.S. Department of Education's office for Civil Rights (OCR) regarding sexual violence and in 2014 there was 105 complaints, in 2015 there were 164 complaints and as of January 11, 2016

there were 26 complaints received by the OCR (Peterson & Ortiz, 2016). These complaints just included post secondary education which includes an education from a college or university, but as one can see as the years go by the complaints increase. “The Dear Colleague Letter” aims to provide an equitable environment for the accused and the victims and when colleges and universities fail to do so then that’s when students begin to take up Title IX complaints. As a result in the rise of complaints over the years, the OCR has started many investigations in these schools.

There are various distinctions between the procedures found within the criminal justice system and Title IX disciplinary process. The main purpose of the criminal justice system is deterrence, retribution, incapacitation and lastly rehabilitation. On the other hand, Title IX aims to provide equality and more importantly educational equality in an equitable environment that guarantees the protection of students civil rights. The goals of the criminal justice aim to determine if an individual violated a law and to protect and preserve public safety but also to punish the individuals who break the law. The goals of a college are to promote a safe campus environment, and to provide education to their students (duffylaw). A criminal investigation is conducted by local law enforcement whereas in a school disciplinary proceeding the investigation is conducted by employees of the school. Another major difference between a criminal justice proceeding and a Title IX proceeding is that in a criminal court the parties are composed of the prosecutor which is the state that is bringing the charges against the defendant, which is the accused (duffylaw). The parties in a disciplinary process can be considered the school and the accused or in some cases the victim and the accused (duffylaw). A final distinction, is the element of privacy. All criminal trials are for public record whereas in a disciplinary proceeding confidentiality is taken quite seriously and the proceedings are kept

private (duffy law). These are just some of the major distinctions between the two although there are various more.

Conclusion

In summation, the collective power of the #MeToo movement has resulted in both public disgrace and led to the loss of many jobs of men in powerful positions who use their power and persona to sexually assault or harass women in their workplaces, and in other settings. This movement, despite the backlash, has brought attention and created an awareness around the scope of the problem of sexual assault and sexual harassment. It is a movement of solidarity that has brought together and voiced many survivor's stories. Many around the United States have come to realize that they are not alone, and that they deserve to be heard. Perpetrators of sexual assault and harassment need to be held accountable for their actions and need to know that they are not untouchable and that what they are doing constitutes a crime or violates a standard of conduct for their workplace or college. The #MeToo movement has also sparked the conversation of the prevalence of sexual assault on college and university campuses and the need to address the issue. The federal government has mandated laws and policies such as the Clery Act and Title IX that have been put in place to help combat the issue of sexual assault on college campuses. As a result, both public and private college and universities are required to investigate allegations of sexual assault and in their disciplinary proceedings are required to use a universal standard of proof, preponderance of evidence, when adjudicating students.

If I were to take a stance on what the best option for colleges would be I would argue a middle ground between the preponderance of evidence standard that is in place now and the alternative approach of restorative justice. With the preponderance of evidence standard, it

provides a lot of justice for the victim as the offender is held accountable for their actions. I like how the restorative justice process makes the offender admit to their wrong doings whereas in the preponderance of evidence standard is up to the fact finder to analyze whether or not the victim is telling the truth based on the facts of the case. In addition, I like how in the restorative justice process there is involvement with both parties on how to resolve the issue and how to go forward in a positive manner. I think there still needs to be an element of facts and investigations when there is an allegation of sexual assault because what if the offender doesn't believe what they did was a crime and won't admit to their wrongdoings, then there needs to be someone who oversees everything, which would be the school in this case. So yes, if there could be a solution that involves a 51% likelihood that the facts of the case are true with a focus on healing the victim and taking accountability for one's actions then it would be a perfect option for campuses to use during disciplinary proceedings around sexual assault and harassment. This would be an effective solution when handling campus adjudication cases and an effective prevention measure that can be taken in the future.

References

- Adams-Curtis, Leah and Gordon Forbes. 2004. "College Women's Experiences of Sexual Coercion: A Review of Cultural, Perpetrator, Victim, and Situational Variables." *Trauma, Violence, and Abuse: A Review Journal* 5:91–122
- Amar, A. F., Strout, T. D., Simpson, S., Cardiello, M., & Beckford, S. (2014). Administrators' perceptions of college campus protocols, response, and student prevention efforts for sexual assault. *Violence and Victims*, 29(4), 579-593. doi:10.1891/0886-6708.VV-D-12-00154
- Anderson, M. J. (2016). Campus sexual assault adjudication and resistance to reform. *Yale Law Journal*, 125(7), 1969.
- Bohmer, C & Parrot, A. *Sexual Assault On Campus: The Problem and the Solution* New York, NY: Lexington Books. Retrieved from <https://books.google.com/books?hl=en&lr=&id=RsbJjQSx7hMC&oi=fnd&pg=PP15&dq=History+of+sexual+assault+on+college+campuses+&ots=EJSSzthnpJ&sig=CiqlziHS9NK5mfPYtZWB18XBR7c#v=onepage&q=History%20of%20sexual%20assault%20on%20college%20campuses&f=false>
- Brown, S., & Mangan, K. (2018, November 16). What You Need to Know About the Proposed Title IX Regulations. *The Chronicle of Higher Education*. Retrieved from <https://www.chronicle.com/article/What-You-Need-to-Know-About/245118>
- Campbell, R., & Raja, S. (1999). Secondary victimization of rape victims: Insights from mental health professionals who treat survivors of violence. *Violence and Victims*, 14(3), 261-275. doi:10.1891/0886-6708.14.3.261

Carlsen, A., Salam, M., Miller, C.C., Lu, D., Ngu, A., Patel, J.K., Wichter, Z. (October 29, 2018)

#MeToo Brought down 201 powerful men. Nearly half of their replacements are women.

The New York Times. Retrieved from

<https://www.nytimes.com/interactive/2018/10/23/us/metoo-replacements.html>

Dale, M., & Sisak, M.R. (September 25, 2018) Cosby in cuffs: TV star gets 3 to 10 years for

sexual assault. *AP News*. Retrieved from

<https://www.apnews.com/a89d65175e8443f2945137bf07ba6510>

Duffy Law. (n.d.) *Distinction Between Title IX Investigation Disciplinary Process and Criminal*

Procedures. In Title IX. Retrieved from <https://www.duffylawct.com/distinction-title-ix->

[investigation-disciplinary-process-criminal-procedures/](https://www.duffylawct.com/distinction-title-ix-investigation-disciplinary-process-criminal-procedures/)

Everything on Brett Kavanaugh, the Senate Vote and the Fallout. (October 2, 2018) *The New*

York Times. Retrieved from

<https://www.nytimes.com/2018/10/02/us/politics/kavanaugh-news-fbi-investigation.html>

Gonzalez, S., France, L.R., Melas, C. (October 4, 2018) The year since the Weinstein scandal

first rocked Hollywood. *CNN entertainment*. Retrieved from

<https://www.cnn.com/2018/04/05/entertainment/weinstein-timeline/index.html>

Helen Tierney (Ed.). (1999). *Women's Studies Encyclopedia*. Westport, Connecticut: Greenwood

Press.

Ioannou, F., Mathis-Lilley, B., Hannon, E., & Wilson, L. (April 26, 2018) *Slate*. Retrieved from

<https://slate.com/culture/2018/04/bill-cosby-accusers-list-sexual-assault-rape-drugs->

[feature-in-women-s-stories.html](https://slate.com/culture/2018/04/bill-cosby-accusers-list-sexual-assault-rape-drugs-feature-in-women-s-stories.html)

- Levson, E., & Cooper, A. (September, 26, 2018). Bill Cosby sentenced to 3 to 10 years in prison for sexual assault. *CNN*. Retrieved from <https://www.cnn.com/2018/09/25/us/bill-cosby-sentence-assault/index.html>
- Mangan, K. (2018, September 17). Why more colleges Are trying Restorative Justice in Sex-Assault Cases. *Chronicle* Retrieved from <https://www.chronicle.com/article/Why-More-Colleges-Are-Trying/244542>
- Martin, P.Y., & Robert A. Hummer. 1989. "Fraternities and Rape on Campus." *Gender & Society* 3:457–73
- Me Too Movement. *History and Inception*. Retrieved from <https://metoomvmt.org/about/#history>
- Parrot, A., & Bechhofer, L. (Eds.). (1991). *Acquaintance Rape: The Hidden Crime*. New York, NY: John Wiley
- Patterson, J. (2018, September 19) Is restorative justice for sexual misconduct cases effective? *Education Dive* Retrieved from <https://www.educationdive.com/news/is-restorative-justice-for-sexual-misconduct-cases-effective/532676/>
- Peterson, A., & Ortiz, O. A Better Balance: Providing Survivors of Sexual Violence with Effective Protection" against Sex Discrimination through Title IX complaints. *The Yale Law Journal*, 125(7), 2134-2154. Retrieved from https://www.yalelawjournal.org/feature/a-better-balance-effective-protection-through-title-ix-complaints#_ftnref25
- Press Release, U.S. Dep't of Justice, Attorney General Eric Holder Announces Revision to the Uniform Crime Report's Definition of Rape: Data Reported on Rape Will Better Reflect State Criminal Codes, Victim Experiences (Jan. 6,

2012), <http://www.justice.gov/opa/pr/attorney-general-eric-holder-announces-revisions-uniform-crime-report-s-definition-rape>

Rainn. *What to Expect from the Criminal Justice System*. Retrieved from

<https://www.rainn.org/articles/what-expect-criminal-justice-system>

Rubinfeld, J. (2017). Privatization and state action: Do campus sexual assault hearings violate due process? *Texas Law Review*, 96(1), 15-69. Retrieved from

<https://dbproxy.lasalle.edu:443/login?url=https://dbproxy.lasalle.edu:6033/docview/1968928232?accountid=11999>

Safronova, V. (2017, November 10). When you Experience Sexual Harassment at Work. *The New York Times*. Retrieved from [https://www.nytimes.com/2017/11/10/style/sexual-](https://www.nytimes.com/2017/11/10/style/sexual-harassment-work-advice-lawyers.html)

[harassment-work-advice-lawyers.html](https://www.nytimes.com/2017/11/10/style/sexual-harassment-work-advice-lawyers.html)

Sayej, Nadja. (2017, December 1). Alyssa Milano on the #MeToo movement 'We're not going to stand for it any more'. *The Guardian*. Retrieved from

<https://www.theguardian.com/culture/2017/dec/01/alyssa-milano-mee-too-sexual-harassment-abuse>

Smith, S.G., Chen., J, Basile, K.C., Gilbert, K.L., Merrick, M.T., Patel, N., Walling, M., & Jain,

A. (2017). The National Intimate Partner and Sexual Violence Survey (NISVS) 2010-

2012 State Report. *National Center for Injury Prevention and of the Centers for Disease*

Control and Prevention. <https://www.cdc.gov/violenceprevention/pdf/NISVS->

[StateReportBook.pdf](https://www.cdc.gov/violenceprevention/pdf/NISVS-StateReportBook.pdf)

Triplett, M. (2012). Sexual Assault on College Campuses: Seeking the Appropriate Balance

Between Due Process and Victim Protection. *Duke Law Journal*, 62(2), 487-527.

Retrieved from <http://www.jstor.org/stable/23364856>

- Tripp, R. (2018, September 29). As the Kavanaugh debacle shows, the #MeToo culture is unfair to men. *Washington Examiner*. Retrieved from <https://www.washingtonexaminer.com/opinion/as-the-kavanaugh-debacle-shows-the-metoo-culture-is-unfair-to-men>
- U.S. Equal Employment Opportunity Commission (n.d.). *Filing a Charge of Discrimination*. In Employees and Job Applicants. Retrieved from <https://www.eeoc.gov/employees/charge.cfm>
- U.S. Department of State (n.d.). *Sexual Harassment Policy*. In Bureaus of offices reporting directly to the secretary. Retrieved from <https://www.state.gov/s/ocr/c14800.htm>
- Vladutiu, C. J., Martin, S. L., & Macy, R. J. (2011). College- or university-based sexual assault prevention programs: A review of program outcomes, characteristics, and recommendations. Los Angeles, CA: *SAGE Publications*.
doi:10.1177/1524838010390708
- Weizel, L. M. (2012). The Process that is Due: Preponderance of the Evidence as the Standard of Proof for University Adjudications of Student-on-Student Sexual Assault Complaints. Boston College Law School. *Boston College Law Review*, 53(4), 1613-1655. Retrieved from <https://dbproxy.lasalle.edu:443/login?url=https://dbproxy.lasalle.edu:6033/docview/1609166272?accountid=11999>