

THE 2011 DEAR COLLEAGUE LETTER: A QUANTITATIVE ANALYSIS OF
TITLE IX'S IMPACT ON SEXUAL VIOLENCE MANAGEMENT

by

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A dissertation submitted in partial fulfillment
of the requirements for the degree

of

Doctor of Philosophy

in

Education

MONTANA STATE UNIVERSITY
Bozeman, Montana

November 2019

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DEDICATION

To my wife, Lana, who empowered me to undertake and complete this journey.

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ABSTRACT

This is a nationwide policy analysis of the 2011 Dear Colleague Letter – a policy which changed how institutions of education responded to reports of sexual violence. Due to the substantial requirements placed on institutions of higher education as a result of this guidance, there is a need to determine how the policy has impacted the management of sexual violence. To accomplish this, Clery Act data from 2001-2017 were collected from 3,634 institutions of higher education from throughout the United States. Uniform Crime Data, a national crime database, was used as a comparison to determine if any changes to reporting rates were also present in the general population of the United States. The Integrated Postsecondary Data System, a database comparing institutions of higher education, was used to determine if institution characteristics (degree program, sector, residential classification, and size) changed how the 2011 Dear Colleague Letter impacted the management of sexual violence. The datasets were analyzed using single- and multiple-group interrupted time-series analysis. The results of this examination found the 2011 Dear Colleague Letter increased reports of sexual violence through the Clery Act by 350%. Three primary conclusions of this study include: 1) The 2011 Dear Colleague Letter caused a significant increase in the management of sexual violence by institutions of higher education; 2) This increase was not due to an increase in reporting by the general population; and 3) Institutions of higher education implemented the 2011 Dear Colleague Letter guidance despite unique characteristics; however, there existed significant differences between these groups.

Trigger Warning:

The content of this paper contains information regarding sexual violence – this includes descriptions of events regarding students and crime definitions.

National Sexual Assault Telephone Hotline:

There are programs and services related to sexual violence available in most communities and regions. It is not required that you have personally experienced sexual violence to talk someone.

RAINN (or local affiliate organization): (800) 656-4673

INTRODUCTION

The federal government and institutions of higher education have long recognized sexual violence to be a pervasive problem on college campuses around the country (Sloan & Fisher, 2011). Further, research indicates that the problems of sexual violence are present at colleges and universities despite institutional differences (Karjane, Fisher, & Cullen, 2002). Multiple studies have shown that between 20% to 25% of women who attend college will experience attempted or completed sexual assault at some point during their student career (Koss, 1985; Fisher, Cullen, & Turner, 2000; Fisher, Daigle, & Cullen, 2010; Jordan, 2014; Krebs, Lindquist, Warner, Fisher, & Martin, 2007; Krebs, Lindquist, Berzofsky, Shook-Sa, & Peterson, 2016); additionally, “6.1 percent of males were victims of completed or attempted sexual assault during college (Office for Civil Rights, 2011, p.2). Rates of sexual violence have been found to vary from campus-to-campus based on institutional characteristics, and external validity of these studies is often cited as a critique of their findings (Cantor, Fisher, Chibnall, Townsend, Lee, Bruce, & Thomas, 2015).

It is difficult to find statistics on the prevalence of sexual violence in the United States which utilize the same crime definitions and age groupings. In 2015, the National Criminal Justice Reference Service (2018) reported sexual violence (defined as “sexual threats to unwanted contact to rape”) occurs in the general population at a rate of 2.5 per 1,000 people per year. However, completed rape and sexual assault victimizations for women 18-34 years old in the general population was higher, despite a narrower definition, at 3.7 per 1,000 in 2010 (Planty, Langton, Krebs, Berzofsky, & Smiley

McDonald, 2013). Cantor et al. (2015) published a report on 27 universities surveyed in 2015, which found:

Once including all types of nonconsensual sexual contact measured on the survey, 9.5 percent of undergraduates reported being a victim during the 2014-2015 academic year. Females when compared to males are most likely to be a victim at least once (15.0% for females vs. 3.4% for males) (p. 24).

This report by Cantor et al. (2015) indicates a rate of completed sexual assault each year to be 150 per 1,000 women undergraduate students and does not include attempts of sexual assault. When comparing Cantor et al.'s (2015) findings with Platy et al. (2013) which studied a group of women similar in age to traditional undergraduate students (18-34 years old), prevalence of completed sexual assault was 40.5 times more likely for women at colleges and universities. Given this information, there is a responsibility for both lawmakers and institutions of higher education to take responsibility for their policies which impact these rates of sexual violence.

Women have been attending institutions of higher education since before the American Revolutionary War (Saving & Abrahams, 1957; Arnstein, 1974; Jones, 2002). Discrimination on the basis of sex has occurred in the United States since it was first established as a country, starting with not accepting women applicants who passed entrance examinations (Arnstein, 1974). While both sexual harassment and sexual violence have likely occurred throughout the history of higher education, prior to legislation such as the Crime Awareness and Campus Security Act (1990), there were few studies which provided scale of these issues (Jessup-Anger, Lopez, & Koss, 2018).

In 2011, the Department of Education's Office of Civil Rights provided federally funded institutions of higher education guidance on how to address reports of sexual

discrimination on their campuses (Office for Civil Rights, 2011). This guidance is now commonly referred to as the “2011 Dear Colleague Letter.” Prior to the 2011 Dear Colleague Letter, federally funded institutions of higher education had the responsibility to manage incidents of sexual discrimination; however, there was ambiguity of their role which led to mismanagement of these incidents (Office for Civil Rights, 2011). The Office for Civil Rights (2011) clarified reports of sexual assault, sexual harassment, stalking, and domestic violence, all being recognized and protected by law, were the responsibility of institutions of higher education (Office for Civil Rights, 2011).

The 2011 Dear Colleague Letter guidance was provided based on Title IX of the Education Amendments of 1972 policy, which states: “No person in the United States 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.” The 2011 Dear Colleague Letter also required federally funded institutions of higher education to appoint a person in charge of investigating Title IX reports (the Title IX Coordinator) and adopt preponderance of evidence as the standard of evidence when adjudicating these cases (Office for Civil Rights, 2011).

The Office for Civil Rights (2017a) of the Department of Education, following a change in government administration, withdrew the 2011 Dear Colleague Letter and its Questions and Answers about Title IX and Sexual Violence which had been published in 2014. The purpose for this withdrawal was stated as:

...the deprivation of rights for many students – both accused students denied fair process and victims denied an adequate resolution of their complaints... schools face a confusing and counterproductive set of regulatory mandates, and the

objective of regulatory compliance has displaced Title IX's goal of educational equity (Office for Civil Rights, 2017a, p. 2).

In place of these documents, the 2017 Dear Colleague Letter and 2017 Q&A on Campus Sexual Misconduct were published.

Statement of Problem

Title IX of the Education Amendments of 1972 is a federal law prohibiting discrimination of students on the basis of sex. The 2011 Dear Colleague Letter was developed and implemented to address the under-reporting and mishandling of cases involving sexual misconduct at education institutions (Office for Civil Rights, 2011). The 2011 Dear Colleague Letter had large financial and structural implications for educational institutions, in particular, institutions of higher education (Office for Civil Rights, 2011). The 2011 Dear Colleague Letter required institutions to adopt campus-wide non-discrimination policies, appoint a person in charge of all Title IX reports, and changed how sexual misconduct cases should be addressed (Office for Civil Rights, 2011). At the time of this study, few research studies have studied the 2011 Dear Colleague Letter, and none have measured the impact of this guidance on sexual misconduct reporting through the Clery Act.

Research Purpose

Through a substantive review of the literature, only four studies were found which evaluated the 2011 Dear Colleague Letter. All four of these studies were dissertations. These findings were consistent with the literature reviews of each of the dissertations

(Poole, 2014; Damron-Litchford, 2015; Jones, 2017; Schaffer nee Malone, 2017). None of the studies found used a fully quantitative approach; only one used mixed-methods. Additionally, none of these studies used Clery Act statistics to inform their research. This study explores this gap in the literature by utilizing a fully quantitative design. It is important for lawmakers in charge of creating and changing these policies to have as much information as possible when making their decisions; this requires a clearer picture of past and existing policies. In order to evaluate the impact of the 2011 Dear Colleague Letter, a foundation of both quantitative and qualitative studies must be established. By establishing the impact of the 2011 Dear Colleague Letter on the management of sexual violence by institutions of higher education, law makers, institutions of higher education, researchers, and students and their families will have the information to inform their decision making.

Research Questions

To evaluate the impact of the 2011 Dear Colleague Letter, the guiding research questions are:

1. What was the impact of the 2011 Dear Colleague Letter on the rates of managing sexual violence reports by institutions of higher education?
2. Was there a change in the rates of sexual violence reported by law enforcement agencies to the U.S. Department of Justice from 2000-2017, and how does this compare to the rates of sexual violence reported by institutions of higher education?

3. Was there a differing impact of the 2011 Dear Colleague Letter based on institution classifications (degree program, sector, residential classification, or size) on the rates of managing sexual violence reports by institutions of higher education?

Significance of Study

This study contributes to the current body of knowledge in several ways. First, this study develops a foundation of empirical knowledge regarding the impacts of the 2011 Dear Colleague Letter for future research into the evaluation of this policy. Second, this study serves as a framework for future studies aimed at evaluating policies related to the Clery Act and future policy changes related to the 2011 Dear Colleague Letter. Third, this study will provide information to lawmakers, so they can make more informed policy decisions in the future. Fourth, the public needs the information provided in this study to make informed decisions on which institution to attend, and how institutions of higher education manage these issues. Lastly, this study provides information to practitioners and researchers of higher education which was not previously available – impacting decision making at several levels.

Theoretical Framework

The theoretical framework of this study is the Policy Cycle Theory. This theoretical framework was first published by Lasswell (1956) and has been refined by many scholars since then. The Policy Cycle Theory provides a framework for research as it relates to policy. This theory can be used to evaluate a policy from its formation to

expiration. There are many forms of the Policy Cycle Theory, some with four stages of the life of policy and some with many more. Most of these theories contain evaluation as a stage within the theory. Werner and Kai (2006) discuss a four-stage policy cycle, including: agenda setting, policy formation, implementation, and evaluation and termination (see Figure 1.1). Agenda setting is when organizations evaluate future strategy and issues they would like to take-on (Werner & Kai, 2006). Policy formation is the creation of the actual policy and the work preparing the policy for implementation (Werner & Kai, 2006). Implementation is bringing the policy to life and enacting it (Werner & Kai, 2006). Lastly, evaluation and termination are the analysis of the impact of a policy and the eventual removal of that policy (Werner & Kai, 2006). The evaluation stage of the Policy Cycle Theory is often seen as being applicable at any point in the life of a policy.



Figure 1.1. Policy Cycle Theory. An adaption of Werner and Kai's (2006) four-stage policy cycle theory.

Conceptual Framework

Conceptual frameworks utilize theory and context in order to establish organization which can be applied to a specific task or activity (Ravitch & Riggan, 2016). A conceptual framework has been developed which works to understand how the 2011 Dear Colleague Letter can be evaluated using the Clery Act reports; accomplished through evaluation of the policy cycle theory, the 2011 Dear Colleague Letter, and the Clery Act.

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”) was originally signed in 1990 after the rape and murder of Jeanne Clery in 1986 (Allen & Lengfellner, 2016; Clery Center, 2018). The Clery Act requires federally funded institutions of higher education to report crimes which occur on their campuses; this information is then published to the Clery database. Campus Safety and Security, a branch of the United States Department of Education, maintains this information and makes it available to the public (U.S. Department of Education, 2018). From 2001 to 2013, the crime “Sex Offenses – Forcible” (to later be defined), was included in these reports (U.S. Department of Education, 2018). From 2014 to the publication of this study, “Sex Offenses – Forcible” was split into two crime categories “Rape” and “Fondling” (U.S. Department of Education, 2018). The continuity of data from 2001-2017, the timeframe of this study, allows for analysis using quantitative methods; specifically, time-series analysis methods.

The 2011 Dear Colleague Letter required immediate change in policy by institutions of education (Office for Civil Rights, 2011). This change in policy provides a

distinctive time period which can be studied to determine if there was an impact to Clery Act statistics. Additionally, Institutions of Higher Education in the United States are given a unique identification number (Institute of Education Sciences, 2018); this allows for comparison across multiple databases. By comparing data from Clery Act statistics, with that from the Integrate Postsecondary Education Data System, institutional differences can be evaluated using time-series analysis methods. Through this analysis, evaluation of the 2011 Dear Colleague Letter will be accomplished, providing information and recommendations for policy agenda setting and formation.

Research Methodology

This exploratory investigation utilizes a quasi-experimental, quantitative design, employing the statistical methods of interrupted time-series regression and descriptive statistics. The study is a policy evaluation of the 2011 Dear Colleague Letter. To answer the research questions, data was collected from Campus Safety and Security (CSS), Integrated Post-Secondary Education Data System (IPEDS), and Uniform Crime Reports (UCR). Institutions to be included in this study are all federally funded institutions of higher education, located in the 50-states (including the District of Columbia) of the United States of America.

Definition of Terms

The following is a list of definitions as they are used throughout this study:

1. *Campus Geography*: Defined by the U. S. Department of Education as: “(1) on campus, (2) on public property within or immediately adjacent to the campus, (3)

in or on noncampus buildings or property that your institution owns or controls” (p. 2-1).

2. *Institutions of Education*: All education institutions in the United States. This includes primary-, secondary-, and higher-education institutions.
3. *Institutions of Higher Education*: All post-secondary education institutions in the United States. This includes all post-secondary institutions (colleges, universities, technical schools, cosmetology schools, etc.).
4. *Office for Civil Rights (OCR)*: Civil rights policy and enforcement branch for the United States Department of Education.
5. *On-Campus Crime*: Crime which occurs within a campuses’ geography. See definition for “Campus Geography.”
6. *Sexual Harassment*: Defined by the U.S. Department of Education (1997) as: “Conduct of a sexual nature is sufficiently severe, persistent, or pervasive,” and “includes acts of sexual violence,” and “is a form of sex discrimination prohibited by Title IX” (Office for Civil Rights, 2011, p. 1).
7. *Sexual Misconduct*: The U.S. Department of Education’s (2017) Q/A on Campus Sexual Misconduct does not define sexual misconduct; however, the definition can be inferred to be: Conduct which contributes to sex discrimination. This can include sexual harassment, and this can include sexual violence (U.S. Department of Education, 2017). See definitions for “Sexual Harassment” and “Sexual Violence.”

8. *Sexual Violence*: The Office for Civil Rights (2011) defined sexual violence in their 2011 Dear Colleague Letter as:

Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, and sexual coercion (p. 1-2).

9. *Study Time-Frame*: The time-frame for this study started in 2001 and ended in 2016. At the time of data collection, these were the years available in Campus Safety and Security's published data.

Assumptions

The data for this study was collected from three different government agencies: The United States Department of Education, the United States Department of Justice, and the National Center for Education Statistics. It is assumed these organizations have reported their data accurately and without alteration which would impact the validity of this study's results.

Limitations

There are four limitations which will be addressed for this study. First, the Clery Act only requires reporting of crimes within their campus geography, which include: "(1) on campus, (2) on public property within or immediately adjacent to the campus, (3) in or on noncampus buildings or property that your institution owns or controls" (U.S. Department of Education, 2016, p. 2-1). Crimes which occur outside of this campus

geography are not required to be reported and are not published by Campus Safety and Security (U.S. Department of Education, 2016). The findings of this study will be limited to on-campus crime and will not be able to measure the impact of the 2011 Dear Colleague Letter on off-campus sexual violence. Second, definitions for sexual violence changed during the study timeframe in both the Uniform Crime Reports and Campus Safety and Security; however, the change did not impact which crimes were included in the published data. The change in definition in the Uniform Crime Reports did result in an immediate increase in rates; this is likely due to a widening of their crime definition (U.S. Department of Justice, 2018). These changes in definitions will be discussed further in the methods section. Third, due to the scope of this study, student demographics cannot be controlled; the data provided by Campus Safety and Security and Uniform Crime Reports does not include breakdowns by specific demographics (*e.g.*, age, and gender). Last, there are several studies which have evaluated the validity of Clery Act data; specifically, the under-reporting of crime by students, and both intentional and unintentional mistakes by institutions of higher education in their reporting of on-campus crime. Under-reporting of crime cannot be addressed by this study. The sample for this study includes every institution in the United States which has reported on-campus crime to Campus Safety and Security during the study time-frame.

Delimitations

There are two delimitations which will be addressed for this study. First, this study focuses on the reporting of sexual violence which has occurred within campus geography. The 2011 Dear Colleague Letter applies to all sexual violence, both inside

and outside campus geography. The data available through Campus Safety and Security contributes to this delimitation (as discussed in the limitations). Second, this study only includes institutions of higher education which have published crime and enrollment data to Campus Safety and Security for every year included in the study time-frame. This impacts the external validity of the study and may introduce response bias; however, reasons for not reporting and not having data published may be out of the control of an excluded institution of higher education (*e.g.* an institution of higher education which began in 2010 would not be included in the dataset).

Summary of Chapter

The 2011 Dear Colleague Letter's guidance impacted institutions of education and their role in managing sexual misconduct on their campuses. This study evaluates the impact of the Department of Education's Office of Civil Rights' 2011 Dear Colleague Letter using three research questions:

1. What was the impact of the 2011 Dear Colleague Letter on the rates of managing sexual violence reports by institutions of higher education?
2. Was there a change in the rates of sexual violence reported by law enforcement agencies to the U.S. Department of Justice from 2000-2017, and how does this compare to the rates of sexual violence reported by institutions of higher education?
3. Was there a differing impact of the 2011 Dear Colleague Letter based on institution classifications (degree program, sector, residential classification, or

size) on the rates of managing sexual violence reports by institutions of higher education?

This policy evaluation utilizes Clery Act data reported by each individual institution from 2001 to 2017 to determine if the 2011 Dear Colleague Letter had an impact on Clery Act statistics. This dissertation extends the foundation of literature and methods centered on evaluating federal policy impacting institutions of education; specifically, this study provides a precedent for researching Title IX, sexual violence, and crimes at institutions of higher education.

LITERATURE REVIEW

Introduction

Understanding federal policy requires knowledge of the preceding legal foundations, history of how the legislation came to pass, the language of the legislation, court interpretation of the legislation (precedent), and guidance and regulation provided by the oversight of the federal government. There are two pieces of legislation this dissertation utilizes in evaluating the impact of the 2011 Dear Colleague Letter: Title IX of the Education Amendments of 1972 (Title IX) and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act).

The 2011 Dear Colleague Letter and Clery Act are both rooted in the history of the United States, and both have had large impacts on how institutions of higher education address sexual violence. Since the policy being evaluated is the 2011 Dear Colleague Letter, the literature review will be focused on gaining a full understanding of this policy as described in the previous section. The Clery Act is being used as the source of data to evaluate the policy. Due to the importance of understanding the convergence and divergence of these two policies, the Clery Act will also be discussed in-depth.

This literature review begins with the legislative foundations which built the infrastructure for Title IX. Following the legislative foundations, the history of Title IX and implications it held for institutions of education will be conferred. Next, the literature will discuss the seminal court cases that have interpreted Title IX and created legal precedent for institutions to follow. The guidance provided by the Office for Civil Rights of the U.S. Department of Education, including the 2011 Dear Colleague Letter,

will be discussed. Next, the literature review will discuss the history, legislation, and guidance of the Clery Act. Last, this literature review will discuss research which has been done on the 2011 Dear Colleague Letter and research which has utilized the Clery Act as a data source.

In evaluating legislation, history, and speeches, strong priority was given to primary sources. In searching for specific legislation or court cases, exact names were used in the search (e.g. brown v. board of education, 2011 dear colleague letter). For speeches, this was listening to recordings and reading transcripts. Regarding legislation, this was reading the original piece of legislation. For court cases, this was the judicial opinion provided by the presiding judges. Due to the complexity of legislation and court documents, additional review of books and literature related to education law and policy were used to confirm understanding of the text. Legislation and guidance pertaining to sexual misconduct, which occurred after 2011, was included in this literature review – the purpose of this was to recognize all legislation and guidance which might impact Clery Act statistics. Additionally, government agency websites (e.g. Department of Education) were used where possible to provide relevant information for this literature review.

The search for literature and relevant research was conducted using electronic sources, including: Google Scholar, ERIC, PsycInfo, Educators Reference Complete, JSTOR, Dissertations and Theses Global, Teacher Reference Center, and Web of Science Core Collection. The search used names of federal legislation (e.g. Education Amendments of 1972), common phrases within legislation (e.g. sexual harassment, sexual violence), and keywords common within higher education research (e.g. college,

university, higher education). Due to the lack of literature evaluating the 2011 Dear Colleague Letter, the search for literature on this policy was not limited to institutions of higher education. For similar reasons, no parameters were placed on date of publication in order to include research which might have evaluated the 2001 Dear Colleague Letter. Phrases used in the literature search were: dear colleague letter, clery act, 2011 Dear Colleague Letter, dear colleague letter and clery, title ix and clery, dear colleague letter and sexual violence, clery and sexual violence.

Women in Higher Education

Women have not always been a part of institutions of higher education in the United States (Jones, 2002; Savin & Abrahams, 1957); this was primarily due to discrimination: “It was not believed that girls could be educated beyond the three R’s or given a higher education. In fact, the higher education of girls was bitterly opposed by men of influence” (Savin & Abrahams, 1957, p. 58). While women were found to be intellectually qualified for admittance to institutions of higher education, they were turned away due to their sex. Lucinda Foote took the Yale College entrance examinations in 1783 and was rejected by Ezra Stiles, the President of the University, who commented: “I testify that were it not for her sex she would be considered fit to be admitted as a student of Yale” (Arnstein, 1974, p. 1).

Prior to the start of the American Revolutionary War there were institutions of higher education available to women in North America; however, the first institution to be recognized by the United States government was The Young Ladies’ Academy of Philadelphia in 1787 (Savin & Abrahams, 1957; Jones, 2002). Prior to this, the first

women instructors at institutions of higher education in the United States were hired in 1783 by Washington College (Washington College, 2019). Oberlin College was the first institution of higher education in the United States to teach men and women together in 1833 (Jones, 2002); following this, institutions of higher education increasingly began to accept both women and men (Wood, 2012). In 1890, women mostly attended single-sex colleges; however, following World War 1, women began to attend coeducational institutions at a much higher rate (Geiger, 2011).

Women have likely had to endure sexual harassment and sexual misconduct throughout their history attending institutions of higher education; however, very few accounts are present which detail these issues (Jessup-Anger, Lopez, & Koss, 2018). Kirkpatrick and Kanin (1957) published one of the earliest studies into sexual violence occurring at institutions of higher education. In their study, they found 55.7% of the women had experienced attempts of sexual assault and 20.9% had experienced “forcible attempts at intercourse” in the previous academic year (Kirkpatrick & Kanin, 1957, p. 53).

Legislative Foundations of Title IX

This section of the literature review focuses on key legislation and court rulings which led to the creation of Title IX of the Education Amendments of 1972 (Title IX). Legislation included in this section must have directly impacted the writing of Title IX. The key pieces of policy this section discusses are the 14th amendment, *Brown v. Board of Education*, The Civil Rights Act of 1964, and Executive Order Number 11246 and 11375. The case law and legislation discussed in this section followed the end of the

Civil War, as the United States began moving towards providing equal rights to all people of the United States.

Following the Civil War, which ended in 1865, the congress of the United States passed the Reconstruction Amendments (Harrison, 2001). These amendments to the constitution consisted of the 13th, 14th, and 15th amendments (Harrison, 2001). The 14th amendment, ratified on July 9, 1868, contained several clauses which created legislative protections from discrimination, which included: due process, voting protections, and equal protections (U.S. Const. amend. XIV). The Equal Protections Clause states,

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws (U.S. Const. amend. XIV).

The 14th amendment was a victory for people of color; however, not all of these rights applied to women regardless of their race; specifically, the right to vote (*Minor v. Happersett*, 1875). The Equal Protections Clause and 14th amendment was later used as the basis for the decision in *Brown v. Board of Education* (1954).

The Civil Rights Movement had its first major win in the court ruling of *Brown v. Board of Education* (1954), occurring eighty-six years after the ratification of the 14th amendment. Protesting segregation of school systems, several cases were combined by the National Association for the Advancement of Colored People (NAACP) to form *Brown v. Board of Education* (1954). The United States Supreme Court ruled unanimously on May 17, 1954 in favor of the NAACP stating, “separate educational facilities are inherently unequal” (*Brown v. Board of Education*, 1954). This ruling established desegregation of institutions of education, and while the initial focus was on

primary and secondary schools, it was later affirmed to apply to postsecondary education as well (Kaplin and Lee, 2013). The abolishment of legal segregation on the basis of racial identity at institutions of higher education laid the foundations for the expansion of civil rights policy – eventually leading towards the creation of The Civil Rights Act of 1964 10 years later.

In 1963, two African-American students had been granted admission to the University of Alabama by the United States District Court for the Northern District of Alabama (Kennedy, 1963). This decision was based on the ruling of *Brown v. Board of Education* (Clark, 1995; Kennedy, 1963). Due to this ruling, threats of violence had been made which prompted action by President John F. Kennedy (Kennedy, 1963). On June 11th, 1963, President Kennedy gave a speech to the United States of America in a radio and television address focused on civil rights (Kennedy, 1963). In this address he called for legislation which established protections to the right to vote, desegregation of public facilities, and increasing federal involvement in “law suits designed to end segregation in public education” (Kennedy, 1963). Following this speech, President Kennedy gave congress a bill which would later become The Civil Rights Act on June 19th, 1963.

Following the assassination of President Kennedy, the Civil Rights Act was signed by Lyndon B. Johnson on July 2nd, 1964 (Johnson, 1964). The Civil Rights Act of 1964 contained two articles which directly addressed discrimination in federally funded programs, and employment discrimination. Title VI of The Civil Rights Act of 1964 (Title VI), which applied to federally funded programs reads:

No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to

discrimination under any program or activity receiving Federal financial assistance (The Civil Rights Act of 1964).

While Title VI did not provide protections from discrimination on the basis of sex, it did provide the foundation for language written into Title IX. Title VII of the Civil Rights Act of 1964 (Title VII) created protections from employment discrimination on the basis of race, color, religion, sex, or national origin, and established Equal Employment Opportunity Commission as an enforcement arm. Despite these protections, they did not apply to “an educational institution with respect to the employment of individuals to perform work connected with the educational activities of such institution” (Civil Rights Act of 1964). Despite the many accomplishments of the Civil Rights Act of 1964, legal discrimination on the basis of sex at institutions of education continued.

Following the Civil Rights Act of 1964, President Johnson signed Executive Order Number 11246 on September 24, 1965, expanding Title VII to include federal government contractors (Executive Order No. 11246, 1965). This executive order passed by President Johnson included, “race, creed, color, or national origin,” and left out sex as a protected identity (Executive Order No. 11246, 1965). On October 13, 1967, President Johnson signed Executive Order 11375, which amended order 11246 to include sex as a protected identity (Executive Order No. 11375, 1967). These two executive orders were used to later provide legal backing to cases brought for sex discrimination against institutions of education – fueling the creation of Title IX.

The five pieces of legislation and case law discussed in this section built on each other over more than one-hundred years to form the basic foundations of Title IX. While the basis for Title IX was built through pushes by the Civil Rights Movement for equal

rights for people of color, the Presidential Executive Orders signed by President Johnson began to acknowledge the need for laws protecting women from discrimination based on sex. From the time the Civil War ended in 1865 to the time Title IX was created in 1972, the United States continued to evolve protections for all people within its jurisdiction. Despite this, discrimination on the basis of sex at institutions of education in the United States continued.

Title IX of the Education Amendments of 1972

Title IX was only possible through contributions from both the Civil Rights Movement and Feminist Movements from the 1950s, 1960s, and 1970s (Valentin, 1997; Suggs, 2006). The major push for Title IX was due to employment discrimination of women at institutions of higher education (Suggs, 2006). One of the most influential people in the creation of Title IX, considered the Grandmother of Title IX, is Dr. Bernice “Bunny” Sandler (Ware, 2007). Dr. Sandler, an adjunct professor at the University of Maryland, applied for several teaching positions following the completion of her Doctorate of Education (Sandler, 2000; Valentin, 1997). After being denied these positions, she asked for feedback from a colleague, and was told she was rejected from these positions because, “she came on too strong for a woman” (Sandler, 2000, p. 9). In her research into how to proceed, Dr. Sandler found that discrimination on the basis of sex was not protected by Title VI. She also found Title VII prevented sex discrimination however it did not apply to institutions of education (Sandler, 2000). Dr. Sandler continued her research and found an executive order signed by President Johnson in 1965, Executive Order 11246. This legislation expanded protections to federal

contractors but did not include discrimination on the basis of sex; however, Dr. Sandler found President Johnson had signed Executive Order Number 11375 which amended the previous executive order to include sex discrimination (Sandler, 2000; Valentin, 1997). Dr. Sandler recognized “most universities and colleges had federal contracts” (Valentin, 1997, p. 2) and were thus under the jurisdiction of this legislation. Using the executive order, Dr. Sandler brought several legal suits against institutions of higher education (Sandler, 2000).

Representative Edith Green, chair of the committee which oversaw higher education, became aware of the work Dr. Sandler after a speech by Representative Martha Griffiths (Valentin, 1997; Suggs 2006). Representative Green brought on Dr. Sandler to serve on her committee (Suggs, 2006). They began to construct legislation and gained support for protections from sex discrimination at institutions of education (Suggs, 2006). This eventually led to both the Senate and House of Representatives working together to draft and pass the Education Amendments of 1972 on June 8th, 1972 (Valentin, 1997).

The Education Amendments of 1972, was signed by President Richard Nixon on June 23, 1972 (Title IX, 1972). Title IX of this legislation states, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied benefits of, or be subjected to discrimination under and education program or activity receiving Federal financial assistance” (Title IX, 1972). Although the bill was passed in 1972, it wasn’t until May 27, 1975, that specific regulations were enacted (Valentin, 1997).

The broad implications of Title IX's protections were not immediately recognized. In fact, after Title IX's founding, it was "best known for its effect on schools' athletic programs" (Buchanan, 2012, p. 91). It wasn't until later, after several court cases and the Dear Colleague Letters, that Title IX began to address issues of sexual harassment and sexual misconduct.

Court Cases Impacting Title IX

Courts form precedent through the interpretation of legislation; precedent informs the current understanding of laws and policies. This section discusses the individual cases which have greatly impacted how institutions of education manage reports of sexual harassment and sexual misconduct. The court cases which will be discussed are: *Alexander v. Yale University*, 1980; *Franklin v. Gwinnett County Public Schools*, 1992; *Gebster v. Lago Vista Independent School District*, 1998; *David v. Monroe County Board of Education*, 1999; and *Jackson v. Birmingham Board of Education*, 2005. These five cases have influenced modern Title IX and the writing of the Dear Colleague Letters.

Alexander v. Yale University, 1980

Alexander v. Yale University (1980) was the first case to argue sexual harassment as a form of sex discrimination under Title IX (Kaplin & Lee, 2013). Catharine MacKinnon (1979), a graduate of Yale Law School, theorized sexual harassment constituted sex discrimination, because sexual harassment occurred due to the victim's sex. Five female students and a male faculty member, advised by Catharine MacKinnon, alleged Yale University's, "failure to combat sexual harassment of female students and

its refusal to institute mechanisms and procedures to address complaints and make investigations of such harassment interferes with the educational process and denies equal opportunity in education” (*Alexander v. Yale University*, 1980, p. 3). Each of the plaintiffs experienced different occurrences of sexual harassment while attending Yale University or had witnessed sexual harassment (*Alexander v. Yale University*, 1980). They argued women at Yale University had a choice of either tolerating “sexual demands from ‘men in positions of authority at Yale’” (*Alexander v. Yale University*, 1980, p. 3) or sacrificing their opportunity to pursue higher education. They argued the forced decision between sexual harassment or forfeiting their education created a discriminatory environment (*Alexander v. Yale University*, 1980). Every one of the cases brought against Yale University were dismissed or rejected for various reasons; however, the court agreed that institutions had a responsibility to remedy sexual harassment under Title IX (*Alexander v. Yale University*, 1980; Kaplin & Lee, 2013).

Franklin v. Gwinnett County Public Schools, 1992

Christine Franklin, a student at North Gwinnett High School, alleged in a lawsuit that Andrew Hill, a coach and teacher, had sexually harassed Franklin and the school had failed to remedy the situation; Franklin sought financial damages through Title IX (*Franklin v. Gwinnett County Public Schools*, 1992). Franklin had been subjected to sexually explicit conversations, forced kissing, and “coercive intercourse” (*Franklin v. Gwinnett County Public Schools*, 1992, p. 1), all of which had created a hostile environment (Kaplin & Lee, 2013). The case alleged that although the school, “became aware and investigated Hill’s sexual harassment,” they had “took no action to halt it and

discouraged Franklin from pressing charges against Hill” (*Franklin v. Gwinnett County Public Schools*, 1992, p. 1). The United States Supreme Court, after reversing the ruling to dismiss by both Federal District Court and Appeals Court, found Franklin could be awarded financial damages and supported MacKinnon’s (1979) theory that sexual harassment was a form of sex discrimination under Title IX (*Franklin v. Gwinnett County Public Schools*, 1992; Kaplin & Lee, 2013). The case also established Title IX’s protections from hostile environment sexual harassment and quid pro quo sexual harassment (Kaplin & Lee, 2013).

Gebser v. Lago Vista Independent School District, 1998

Gebser v. Lago Vista Independent School District (1998) established guidelines for reasonable notice given to institutions of sexual harassment (Kaplin & Lee, 2013). Alida Star Gebser, a student of Lago Vista High School, had a sexual relationship with Frank Waltrip, a teacher at her school, starting in 1991 and continuing through 1993 (*Gebser v. Lago Vista Independent School District*, 1998). The sexual relationship had not been reported to school officials (*Gebser v. Lago Vista Independent School District*, 1998). In January of 1993, a police officer found Gebser and Waltrip having sex, and arrested Waltrip – Waltrip’s employment was subsequently terminated (*Gebser v. Lago Vista Independent School District* (1998). The case eventually made it to the United States Supreme Court, where they ruled in favor of Lago Vista Independent School District, providing the following guidance:

1. Notice must be given to an “appropriate person” at the institution, and the institution must have “opportunity to rectify any violation” (*Gebser v. Lago Vista Independent School District*, 1998).
2. After receiving notice, the institution must not have acted with “deliberate indifference to the discrimination” (*Gebser v. Lago Vista Independent School District*, 1998).

Davis v. Monroe County Board of Education, 1999

Gebser v. Lago Vista Independent School District (1998), affirmed institutions could be held liable for teacher-student sexual harassment under Title IX; *Davis v. Monroe County Board of Education* (1999) affirmed institutions were liable for student-on-student sexual harassment as well. LaShonda Davis, a fifth grader, had been subjected to multiple instances of sexual harassment by a peer, over the course of six months (*Davis v. Monroe County Board of Education*, 1999; Kaplin & Lee, 2013). Davis and her mother reported these instances of sexual harassment to the school (*Davis v. Monroe County Board of Education*, 1999). The school spoke with the student who had been accused; however, the sexual harassment continued and there was no further action taken by Hubbard Elementary School (*Davis v. Monroe County Board of Education*, 1999). The United States Supreme Court ruled that what Davis experienced “severe, pervasive, and objectively offensive” enough to constitute sexual harassment which would interfere with her access to education (*Davis v. Monroe County Board of Education*, 1999). The court also ruled that after Hubbard Elementary School received notice of this sexual harassment, they had acted with deliberate indifference and failed to

remedy the problems (*Davis v. Monroe County Board of Education*, 1999). This ruling established a precedent that sexual harassment must be “severe, pervasive, and objectively offensive” to be covered by Title IX (*Davis v. Monroe County Board of Education*, 1999; Kaplin & Lee, 2013).

Jackson v. Birmingham Board of Education, 2005

Roderick Jackson, a coach and teacher of Birmingham Public Schools reported to school administrators regarding unequal conditions between girls and boys basketball teams’ equipment and facilities (*Jackson v. Birmingham*, 2005). After a series of negative evaluations, Jackson was removed as coach of the girls basketball team and had his pay reduced (*Jackson v. Birmingham*, 2005). Jackson filed a lawsuit claiming he had been retaliated against for reporting the unequal conditions between the teams (*Jackson v. Birmingham*, 2005). The United States Supreme Court ruled Jackson had been retaliated against for reporting a Title IX violation and established monetary damages could be awarded for retaliation under Title IX (*Jackson v. Birmingham*, 2005).

Summary of Court Cases

These five court cases provided direction and legal precedent which influences how Title IX is managed by federally funded institutions of education throughout the United States. Table 2.1 below summarizes the important contribution each of these cases made:

Case	Contribution to Title IX
Alexander v. Yale University, 1980	<ul style="list-style-type: none"> Sexual harassment constitutes sexual discrimination because the harassment due to the victim's sex.
Franklin v. Gwinnett County Public Schools 1992	<ul style="list-style-type: none"> Institutions of education must act when given notice of sexual misconduct; failure to do so can result in lawsuits where financial damages may be awarded. Established the responsibilities of institutions of education to manage hostile environment sexual harassment. Established the responsibilities of institutions of education to manage quid-pro-quo sexual harassment.
Gebser v. Lago Vista Independent School District 1998	<ul style="list-style-type: none"> Notice of sexual harassment must be given to an "appropriate person" at the institutions of education, and the institution must be given "reasonable time to rectify the violation." Upon receiving notice of sexual harassment, institutions of education must not act with "deliberate indifference to the discrimination."
Davis v. Monroe County Board of Education 1999	<ul style="list-style-type: none"> Sexual harassment is defined as conduct being "severe, pervasive, and objectively offensive."
Jackson v. Birmingham Board of Education 2005	<ul style="list-style-type: none"> Protected reporters of discrimination from retaliation.

Table 2.1. Summary of Court Cases.

The Dear Colleague Letters

The history of the Dear Colleague Letters are rooted in government and serve as a way to get pertinent information to members of congress regarding legislation (Peterson, 2005). While the initial purpose of the Dear Colleague Letters was to inform congress, the Office for Civil Rights in the U.S. Department of Education (OCR) has used them to provide policy guidance regarding civil rights laws to institutions of education. The OCR makes all policy guidance available to the public in their “reading room.” In a review of all guidance published, the first Dear Colleague Letter was published on September 27, 1991. Since 1991, there have been 59 of which, 22 pertain to Title IX (Office for Civil Rights, 2018). This section focuses on guidance specific to the responsibility of institutions to manage reports of sexual harassment.

2001 Dear Colleague Letter

The first piece of guidance from the OCR on how institutions manage sexual harassment was published on January 19, 2001 (Kaplin & Lee, 2013). The 2001 Dear Colleague Letter (2001 DCL) “reminds” institutions of, “the principles that a school should use to recognize and effectively respond to the sexual harassment of students in its programs and activities” (Office for Civil Rights, 2001a, p. 1). The 2001 DCL expresses the concern regarding “a significant number of students are still subjected to sexual harassment, which can interfere with a student’s education” (Office for Civil Rights, 2001a, p. 1). The 2001 DCL references another document which was published in tandem, the Revised Sexual Harassment Guidance: Harassment of Students by School

Employees, Other Students, or Third Parties (2001 Guidance) (Office for Civil Rights, 2001b).

The 2001 guidance references both *Gebser v Lago Vista Independent School District* (1998) and *Davis v. Monroe County Board of Education* (1999) to affirm institutional responsibility to manage both teacher-student and student-on-student sexual harassment (Office for Civil Rights, 2001b). Additionally, the 2001 guidance gives institutions specific guidance on the definition of sexual harassment, how to manage receiving notice of sexual harassment, establishing grievance procedures, and how OCR intends on regulating this new guidance (Office for Civil Rights, 2001b; Kaplin & Lee, 2013).

The 2001 Guidance also references both *Davis v. Monroe County Board of Education* (1999) and guidance provided in the 1997 Federal Register (Office for Civil Rights, 2001b). The definition for sexual harassment which was set as precedent in *Davis v. Monroe County Board of Education* (1999) which gave the definition of, “severe, pervasive, and objectively offensive.” The definition provided in the 1997 Federal Register is: “Conduct of a sexual nature is sufficiently severe, persistent, or pervasive to limit a student’s ability to participate in or benefit from the education program, or to create a hostile or abusive education environment” (U.S. Department of Education, 1997). The 2001 guidance labels these definitions as, “consistent” (Office for Civil Rights, 2001, p. vi).

2011 Dear Colleague Letter

On April 4, 2011, OCR published the 2011 Dear Colleague Letter (2011 DCL), which provided additional guidance and pressure on institutions to manage reports of sexual harassment (Office for Civil Rights, 2011; Kaplin & Lee, 2013). The 2011 Dear Colleague Letter cited The Campus Sexual Assault (CSA) Study: Final Report stating, “the National Institute of Justice found that about 1 in 5 women are victims of completed or attempted sexual assault while in college...6.1 percent of males were victims of completed or attempted sexual assault during college” (Office for Civil Rights, 2011, p. 2; Krebs, Lindquist, Warner, Fischer, & Martin, 2007). Unlike the 2001 DCL, the 2011 DCL contained guidance on the responsibility of the institutions of education rather than referencing an additional document.

The 2011 DCL stated, “the requirements of Title IX pertaining to sexual harassment also covers sexual violence” (Office for Civil Rights, 2011, p. 1). This guidance made it clear to institutions that sexual violence is a form of sexual harassment and sex discrimination, and as such needs to be managed under Title IX (Kaplin & Lee, 2013). The 2011 DCL defined sexual violence as, “physical sexual acts perpetrated against a person’s will or where a person is incapable of giving consent due to the victim’s use of drugs or alcohol,” and includes, “rape, sexual assault, sexual battery, and sexual coercion” (Office for Civil Rights, 2011, p. 1-2).

In the 2011 DCL the OCR (2011) established or reinforced responsibilities beyond addressing sexual violence; some of these responsibilities included:

1. Publishing a “notice of nondiscrimination and to adopt and publish grievance procedures” (Office for Civil Rights, 2011, p. 4).
2. Requirements of regular training for employees in how to appropriately report sexual harassment (Office for Civil Rights, 2011).
3. Managing incidents which occurred off-campus under the same established grievance procedures as on-campus incidents (Office for Civil Rights, 2011).
4. Establishing a Title IX Coordinator who has “ultimate oversight responsibility” (Office for Civil Rights, 2011, p. 7).
5. A separate and thorough investigation from law enforcement which should not be delayed by the law enforcement investigation (Office for Civil Rights, 2011).
6. Timeframes for investigations, stating: “Based on OCR experience, a typical investigation takes approximately 60 calendar days following the receipt of the complaint” (Office for Civil Rights, 2011, p. 12).

Further Office for Civil Rights Guidance

Following the 2011 DCL, OCR released the 2013 Dear Colleague Letter (2013 DCL) on April 24, 2013. The 2013 DCL provided guidelines on managing reports of retaliation through Title IX. The 2013 DCL’s guidance was supported by the finding in *Jackson v. Birmingham Board of Education* (2005) (Office for Civil Rights, 2013). In April of 2014, OCR published the Questions and Answers about Title IX and Sexual Violence (2014 Q/A) which provided additional guidance related to the 2011 DCL

(Office for Civil Rights, 2014). This document acted to provide additional clarification to commonly asked questions regarding the 2011 DCL (Office for Civil Rights, 2014).

On September 22, 2017, OCR published two documents, the 2017 Dear Colleague Letter (2017 DCL) and the 2017 Questions and Answers on Campus Sexual Misconduct (2017 Q/A). The 2017 DCL expressed concerns regarding the rights of individuals accused of sexual violence, and rescinded the guidance provided in both the 2011 DCL and 2014 Q/A. The 2017 DCL referenced new guidance provided in the 2017 Q/A which would immediately replace the 2011 DCL and 2014 Q/A.

Office for Civil Rights Guidance Controversy

The 2011 DCL required institutions to immediately implement the guidance. OCR received backlash following the implementation of the 2011 DCL because it did not provide notice of the proposed guidance and did not undergo the normal comment period (Napolitano, 2014). The 2014 Q/A received similar backlash to the 2011 DCL due to not providing notice of the guidance and a comment period prior to implementation (Napolitano, 2014).

Clery Act

Jeanne Clery, was a freshman of Lehigh University located in Bethlehem, Pennsylvania (DeBowes, 2014). On April 5, 1986, Jeanne Clery was raped and murdered in her residence hall room (Fisher, Harman, Cullen, & Turner, 2002; DeBowes, 2014; Clery Center, 2018). Lehigh University had 38 violent crimes from 1982-1985, which occurred prior to Jeanne Clery's death (DeBowes, 2014). At the time, institutions were

not required to report crimes which occurred, and so, Jeanne Clery's parents were unaware of the danger she was in (Clery Center, 2018). Institutions of higher education were also not required to provide warning of criminal incidents occurring on or around campus (Fisher et al., 2002). Clery's parents lobbied lawmakers for change to how institutions managed reporting of criminal incidents (Clery Center, 2018).

President George Bush signed the Crime Awareness and Campus Security Act into law on November 8, 1990 (Crime Awareness and Campus Security Act, 1990). The purpose of this legislation was to provide information to students and their families about the safety of a campus when selecting an institution to attend (U.S. Department of Education, 2016). This act required federally funded institutions of higher education to report statistics of on-campus crimes, publish the number of arrests for certain crimes, and make crime prevention policies available to the public (Department of Education, 2016; Nobles, Fox, Khey, & Lizotte, 2013). The Crime Awareness and Campus Security Act (1990) contained categories of crimes for institutions of higher education to report on – one of these categories was rape.

The Crime Awareness and Campus Security Act was amended in the Higher Education Amendments of 1992 (1992 Amendments) to include the Campus Sexual Assault Victims' Bill of Rights (Crime Awareness and Campus Security Act, 1992). The legislation changed the original crime category of rape to forcible offenses and nonforcible sex offenses (DeBowes, 2014). Forcible sex offenses – which include: forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling (Crime Awareness and Campus Security Act, 1992). The 1992 Amendments required

institutions of higher education to provide information about their efforts to prevent crime and improve security in their annual security report. The 1992 Amendments also provided guidance to institutions on their requirements regarding sexual violence.

In 1998, the Crime Awareness and Campus Security Act was further amended by the Higher Education Amendments of 1998 (1998 Amendments) (Clery Act, 1998). The Crime Awareness and Campus Security Act was renamed to the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act) (Clery Act, 1998; Department of Education, 2016). The 1998 Amendments required institutions of higher education to keep a log of all crimes reported to campus security or police, updated within 48 hours of each report (Clery Act, 1998).

The Violence Against Women Reauthorization Act of 2013 (VAWA) was passed on March 7, 2013 (Department of Education, 2016). The Department of Education (2016) lists VAWA's amendments to the Clery Act; these changes, "require institutions to disclose statistics, policies and programs related to dating violence, domestic violence, sexual assault and stalking" (p. 1-1). Additionally, VAWA changed how institutions report Sex Offenses – Forcible by dividing the definition into two categories: Rape and Fondling (U.S. Department of Education, 2018).

A summary of the changes to the Clery Act can be seen in Table 2.2. The Clery Act uses fines as an enforcement mechanism. These fines are levied on an institution when they either under-report or over-report incidents in their crime statistics - each incident which was misclassified is considered a single violation (Clery Center, 2018). The Department of Education conducts audits of institutions to determine if they have

been appropriately following the Clery Act (Clery Center, 2018). The maximum fine per violation started at \$25,000 in 1992 and was at \$54,789 in 2018 (Clery Center, 2018).

Legislation	Requirements of Institutions of Higher Education
Crime Awareness and Campus Security Act, 1990	<ul style="list-style-type: none"> • Report statistics of on-campus crimes. • Publish the number of arrests for certain crimes. • Make crime prevention policies available to the public.
Crime Awareness and Campus Security Act, 1992	<ul style="list-style-type: none"> • Crime definition of rape is changed to forcible sex offenses and non-forcible sex offenses. • An annual security report must be published and made available.
Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 1998	<ul style="list-style-type: none"> • A crime log must be kept, publicly published, and updated every 48 hours.
The Violence Against Women Reauthorization Act of 2013	<ul style="list-style-type: none"> • Incidents of dating violence, stalking, sexual assault, and domestic violence must be disclosed in annual statistics.

Table 2.2. Summary of Changes to the Clery Act.

Research in the Literature

A strong majority of the current research on Title IX evaluates the impact it has had on college athletics. The search for literature found no research which evaluated the impact of the 2011 DCL on Clery Act statistics. Additionally, no studies were found which evaluated the impact of the 2001 DCL on Clery Act statistics. Only a few studies were found which were focused on the impact of the 2011 DCL, all of which were dissertations done on the topic. In searching for research related to the 2011 DCL,

several law articles were found which had been published on the topic. Many of these legal articles disagreed with the guidance in the 2011 DCL and suggested institutions reject the guidance. Finally, this section looks at studies which have studied the reporting of sexual violence.

2011 Dear Colleague Letter

During the search for literature, only four studies were found which evaluated the 2011 DCL. All four of these studies were dissertations. These findings were consistent with the literature reviews of each of the dissertations (Poole, 2014; Damron-Litchford, 2015; Jones, 2017; Schaffer nee Malone, 2017). Each of these studies used qualitative methods to determine impact; Damron-Litchford (2015) was the only one to use mixed methods. None of the studies used a fully quantitative approach to understanding the impact of the 2011 Dear Colleague Letter. Additionally, none of these studies used Clery Act statistics to inform their research.

In the first of these studies, a case-study, looked at the response of a single institution following OCRs release of the 2011 DCL guidance (Poole, 2014). Poole (2014) interviewed five mid-level administrators at a single institution to evaluate their response to the 2011 DCL. Additionally, Poole (2014) used observations and documents to construct themes. The themes found during this case study were, “(a) change, (b) collaboration, (c) support, and (d) human and financial capital” (Poole, 2014, p. 70). This study, the first to be published following the release of the 2011 Dear Colleague Letter was limited in its focus on a single institution. The themes found may not be applicable to different institution types.

Damron-Litchford (2015) examined court rulings for sexual violence cases involving institutions of higher education from 1998 to 2013. While this study used information prior to the 2011 DCL, some of the information pertained to the 2011 guidance which is why it is included in this literature review. Court cases were coded based on finding of liability (or not), and if institutions responded to reports of peer sexual violence (Damron-Litchford, 2015). Damron-Litchford (2015) found institutions which responded to peer-on-peer sexual violence were significantly less likely to be held liable by the courts than institutions which did not respond.

Jones (2017) focused their research on the state of Arkansas. Title IX Coordinators at six institutions of higher education in Arkansas were interviewed regarding their perceptions of the 2011 DCL guidance (Jones, 2017). The institutions consisted of two public community colleges, two public four-year institutions, and two private four-year institutions (Jones, 2017). Jones (2017) found the Title IX Coordinators “expressed frustration with implementing and complying with Title IX and the OCR” (p. 75). Additionally, Title IX Coordinators “expressed the OCR guidance may be flawed” (Jones, 2017, p. 75). While the intention may have been to better understand the impact of the 2011 Dear Colleagues Letter in a single setting, this study was limited by the geographical boundaries it set. A follow-up study evaluating Title IX Coordinators throughout the United States could have provided a better understanding of the perception these administrators had on the new policy.

In the final study, Schaffer nee Malone (2017) evaluated how the OCR has defined noncompliance of institutions responding to complaints of sexual misconduct.

This qualitative study analyzed letters of findings from OCR investigations. Utilizing Social Constructionism Theory, Schaffer nee Malone (2017) substantiates how addressing audits of sexual misconduct cases could be inconsistent due to differences in how institutions and individual people define “sexual assault... the way we think about this crime in our society” (p. 9). Schaffer nee Malone (2017) labels OCR’s findings of non-compliance a social construct, varying between complaints.

Clery Act

Similar to the 2011 DCL, few studies have evaluated the Clery Act, and most of the literature has been published by the same group of authors (DeBowes, 2014). For this study, the primary focus of the literature review as it pertains to the Clery Act is on the reliability of the data provided by Clery Act statistics. In the search for literature, three studies were found which addressed the reliability of the Clery Act statistics (Sloan, Fisher, & Cullen, 1997; Fisher et al., 2002; Yung, 2015).

Sloan et al. (1997) used the National College Women Sexual Victimization (NCWSV) survey. The NCWSV surveyed 4,446 women attending a two-year or four-year college in the fall of 1996. This study found off-campus sexual victimization was more prevalent victimization which occurred on-campus. This study challenges the reliability of Clery Act statistics because the Clery Act only reports on crimes which occur on-campus.

Fisher et al. (2002) challenges the reliability of Clery Act statistics; they state, “three nation-level student victimization surveys support the fact that very few students report their victimizations either to campus law enforcement or security or to other

campus authorities” (p. 83). They suggest the Clery Act statistics “underestimate the actual volume of on-campus crimes, especially those involving students” (p. 85). They also challenge crimes which the Clery Act does not require institutions of education to report – stating institutions tend to “overemphasize the seriousness of campus crime” (p. 86).

More recently, Yung (2015) evaluated Clery Act statistics of institutions of higher education, before, during, and after audits by the U.S. Department of Education. They found reports of sexual assault increased during audits, and then dropped following audits. Reports of aggravated assault, burglary, and robbery did not dramatically change during or after an audit. This evaluation suggests institutions are concealing the number of sexual assaults on their campus in the Clery Act statistics due to their availability to the public; however, they also suggest an audit could increase victim reporting due to publicity. They also suggest audits could coincide with an increase in sexual assaults. Due to these inconsistencies, Yung (2015) believes Clery Act statistics are unreliable due to their underrepresentation of sexual violence incidents.

Reporting of Sexual Violence

Unlike the 2011 DCL and Clery Act, substantial literature exists on college students reporting incidents of crime (Hart & Colavito, 2011). The scope of this study is to understand how this might impact reports of sexual violence which occurred on-campus. Few studies were found which evaluated reporting of sexual violence of college students, and similar to Clery Act literature, they were published by a small group of authors.

From 1995 to 2004 there were 30,000 victims of sexual violence per year; however, this number is believed to be higher (Hart, 2007; Hart & Colavito, 2011). In a study of 3,400 college students, Sloan et al. (1997) found only 18% of violent crime was reported to campus police or security. Additionally, a study conducted by Fisher, Cullen, & Turner (2000) which used data from the National College Women Sexual Victimization study found college students only reported 5% of sexual assaults. Hart (2003) had similar results, finding 34% of violent crimes and 12% of sexual assaults were reported to campus police or security. A study by Hart & Colavito (2011) worked to determine factors which influenced college students' reporting of crime. They found social control (the impact on one's behavior caused by social norms, values, and laws) has a statistically significant impact on a students' choice to report crime (Hart & Colavito, 2011). They also found social cohesion (the willingness of a person to cooperate) does not have a statistically significant impact on reporting decisions (Hart & Colavito, 2011).

Chapter Summary

This literature review worked to achieve three goals: (1) discuss the history and legislative foundations of the 2011 Dear Colleague Letter and Clery Act, (2) detail the requirements of both the 2011 Dear Colleague Letter and Clery Act on their management of reports of sexual violence at institutions of higher education, (3) evaluate research on the 2011 Dear Colleague Letter, the reliability of the Clery Act statistics, and reporting of sexual violence by college students.

METHODOLOGY

Introduction

Despite the 2011 Dear Colleague Letter's substantial changes to how institutions of higher education respond to sexual misconduct, there was found to be a dearth of literature evaluating the impact of this legislation. Only four studies were found which studied the 2011 Dear Colleague Letter, and only one of these used quantitative methods; however, even the single study using quantitative methods used a mixed methods approach. This exploratory study aims to show the impact the 2011 Dear Colleague Letter had on the reporting of sexual misconduct by institutions of higher education. This information can be used by lawmakers and researchers to continue developing and evaluating policies which impact institutions of higher education. To achieve this goal, this study utilized the following three research questions:

1. What was the impact of the 2011 Dear Colleague Letter on the rates of managing sexual violence reports by institutions of higher education?
2. Was there a change in the rates of sexual violence reported by law enforcement agencies to the U.S. Department of Justice from 2000-2017, and how does this compare to the rates of sexual violence reported by institutions of higher education?
3. Was there a differing impact of the 2011 Dear Colleague Letter based on institution classifications (degree program, sector, residential classification, or size) on the rates of managing sexual violence reports by institutions of higher education?

The study methodology was developed in order to fully answer these three research questions; utilizing both primary and secondary analysis techniques. This chapter describes this methodology in-depth.

Positionality

Research is influenced by many factors, including the researcher (Bourke, 2014). The researcher brings to the research their identity and experiences; this is present from conceptualization through publication (Bourke, 2014). This study was conceptualized while working as a Title IX and Civil Rights Investigator at Montana State University. Montana State University is a mid-sized, land-grant, primarily white institution of higher education located in Montana. As an investigator, I worked directly with the people impacted by these policies and processes; these people included: complainants, alleged, witnesses, staff, faculty, and people indirectly impacted. Prior to working in Title IX, I was the Coordinator of Academic Initiatives and Diversity for Montana State University's student housing department. While in that position, I worked to develop and implement a curriculum, training, and programs related to diversity and social justice for student leaders and the students they served. I have seven years of student housing experience, of which, I regularly worked with students impacted by these policies and assisted students throughout the entire process. My exposure to coursework in Critical Race Theory and Indigenous Research Methodologies, and my experiences in the military, student housing, and Title IX have contributed to my understanding of how these policies and issues impact people differently based on their own positionality.

Context of the Study

This study analyzed the 2011 Dear Colleague Letter, a federal policy impacting institutions of higher education in the United States. To answer the research questions, information was gathered from Campus Safety and Security (CSS), Uniform Crime Reports (UCR), and the Integrated Postsecondary Education Data System (IPEDS). Publicly available Clery Act statistics were available from 2001-2017 at the time of data collection; this provided the time parameters for the current study. This study is broken up into three time-frames: pre-guidance, year of intervention, and post-guidance. Pre-guidance encompasses the 10 years prior to the 2011 Dear Colleague Letter, 2001-2010. The year, or point, of intervention was 2011. The research questions for this study focus on the date in which the 2011 Dear Colleague Letter was released, April 4th, 2011. This gave institutions nine months, or 75%, of the calendar year to implement the guidance provided by the Department of Education. Post-guidance includes the six years following the 2011 guidance, 2012-2017.

This study provides information relevant at multiple levels, from the students and their families, to the individual institutions of higher education, to the policies created by the federal government. In terms of micro-context, institutions of higher education benefit from this research as it provides information to decision makers regarding institution policy and institution characteristics; additionally, this research can give students and their families more information in making the choice to attend and institution of higher education. From the macro-context, this study provides critical

information required for decision making within the federal government with how to proceed with Title IX policies.

Research Design

This exploratory investigation utilized a quasi-experimental, quantitative design, employing the statistical methods of interrupted time-series regression, multiple group interrupted time-series analysis, and descriptive statistics. The study is a policy evaluation of the 2011 Dear Colleague Letter. To answer the research questions, information was collected from Campus Safety and Security, Uniform Crime Reports, and the Integrated Postsecondary Education Data System. Institutions included in this study were all federally funded two- and four-year institutions of higher education, located in the 50-states (including the District of Columbia) of the United States of America.

Sample

The sample for this study was taken from all institutions of higher education located in the 50-states (including the District of Columbia) of United States of America which reported data to Campus Safety and Security between 2001 and 2017. Information for American Samoa, Federated States of Micronesia, Marshall Islands, Northern Marianas, Palau, Puerto Rico, Virgin Islands, and Guam were available in both the Clery Act data and IPEDS; however, they were not included in the UCR, and were thus excluded from this study. Research question two utilized data from UCR; this data will be described in-depth in the instrument section of this chapter.

There were 5,379 institutions of higher education included in the initial sample of this study. The sample was first filtered to include institutions which had reported Clery Act statistics on forcible sex-offenses for every year between 2001 and 2017, leaving 3,791 institutions. Next, the sample only included institutions which reported total enrollment for the 17 years being evaluated, leaving 3,634 institutions in the largest analytic sample for this study. Not all information requested by IPEDS was reported by each institution – therefore the analytic sample changed for each institution variable studied for research question three. Total enrollment of these 3,634 institutions was collected for each of the seventeen years. The highest total enrollment between 2001 and 2017 was 18,969,290 in 2010. The lowest enrollment during the seventeen-year time period was 15,147,632 in 2001. The process for merging these databases will be described in the Instrument section of this chapter.

Instrument

The instruments used in this study are three databases: The Uniform Crime Reports, the Campus Safety and Security database, and the Integrated Postsecondary Education Data System. All three of the databases used in this study are maintained by the federal government of the United States. The information from these databases is free and available for public use.

Uniform Crime Reports

The Uniform Crime Reports is provided by the United States Department of Justice's Federal Bureau of Investigation (U.S. Department of Justice, 2018). The U.S.

Department of Justice (2018) started the UCR in 1930. The U.S. Department of Justice (2018), describes the program as, “a nationwide, cooperative statistical effort of nearly 18,000 city, university and college, county, state, tribal, and federal law enforcement agencies voluntarily brought to their attention.” The data provided in the UCR has been published since 1958 (U.S. Department of Justice, 2018). The U.S. Department of Justice (2018) includes both attempts and completed incidents of sexual violence in the UCR.

There are two definitions of sexual violence provided in the UCR: Revised Rape and Legacy Rape. The U.S. Department of Justice (2018) Legacy Rape definition states, “the carnal knowledge of a female forcibly and against her will. Rapes by force and attempts or assaults to rape, regardless of the age of the victim are included.” The Revised Rape definition was added in December of 2011 (U.S. Department of Justice, 2018) and is defined as, “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.” The UCR’s data following 2011 continued to include statistics utilizing the Legacy Rape definition. To maximize internal validity of the data analysis, Legacy Rape was the only statistic utilized in this study because it was available for each of the study years.

Campus Safety and Security Database

The U.S. Department of Education (2018) maintains the Campus Safety and Security Database. This database contains information on 6,496 institutions of higher education from 2001 to 2016 (U.S. Department of Education, 2018). Federally funded

institutions of higher education are required to submit their campus crime information from the preceding year to the Campus Safety and Security Database on October 1st of each year (U.S. Department of Education, 2018).

The Campus Safety and Security Database collects information on criminal offenses which occur on campus, in on-campus student housing facilities, areas considered non-campus and public property, and those crimes reported to the U.S. Department of Education by local & state police. For this study, only on campus crimes were explored since all other areas (except on-campus student housing facilities) were not required as a part of the Clery Act. The U.S. Department of Education classifies incidents which occur in on-campus student housing facilities as part of the incidents which occur on campus – including these would have added weight to institutions with on-campus housing facilities.

The Campus Safety and Security Database includes attempts and completed incidents of sexual violence in their statistics (U.S. Department of Education, 2018). Similar to the UCR, there were two different ways sexual violence was reported during the seventeen years being evaluated by this study. From 2001 to 2013, the data provided was called Sex Offenses – Forcible and was defined as, “Any sexual act directed against another person, forcibly and/or against that person’s will; or not forcibly or against the person’s will where the victim is incapable of giving consent” (U.S. Department of Education, 2018). Sex Offenses – Forcible includes: forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling (U.S. Department of Education, 2018). With the implementation of the Violence Against Women Reauthorization Act of

2013, Sex Offenses – Forcible was separated into two categories: Rape and Fondling (U.S. Department of Education, 2018). The U.S. Department of Education (2018) defined Rape as, “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.” Fondling was defined by the U.S. Department of Education (2018) as, “The touching of private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.” Since the 2014 changes to the data separated Sex Offenses Forcible into Rape and Fondling, they were combined for the years 2014, 2015, and 2016, into a single variable for this study.

Integrated Postsecondary Education Data System

The U.S. Department of Education’s Institute of Education Sciences maintains the Integrated Postsecondary Education Data System. Federally funded institutions of higher education are required by the Higher Education Act of 1965 to report their data to the Institute of Education Science (Institute of Education Sciences, 2018). Institutions of higher education which are not federally funded must make a request to be included in IPEDS (Institute of Education Sciences, 2018). The Institute of Education Sciences (2018) collects data for IPEDS through, “a series of 12 interrelated survey components covering 9 major areas.” The nine major areas covered by IPEDS are: academic libraries, admissions, completions, enrollment, finance, graduation rates and outcome measures,

human resources, institutional characteristics, and student financial aid (Institute of Education Sciences, 2018).

Merging Databases

This study utilized both the CSS and IPEDS database, merging data from 5,379 institutions of higher education. The following process was used to merge the data:

1. Clery Act statistics on “Criminal Offenses – On campus” was collected individually for each of the seventeen years.
2. IPEDS data was collected for each of the institution variables being studied, on or as near as possible to the year 2011.
3. The unique identification number assigned to postsecondary institutions by the U.S. Department of Education was checked in both data sets to insure 100% accuracy between datasets for each year.
4. Starting with the CSS, a new, single, data set was created using all institutions. Institutions which did not report both sexual violence and total enrollment to CSS for all seventeen years were removed from the data set.
5. Only institutions from IPEDS which were included in the CSS data set remained in the single, combined data set.

Variables

In using interrupted time-series analysis, the independent variable of the study is time; therefore, all three research questions use the same independent variable.

Research Question 1

What was the impact of the 2011 Dear Colleague Letter on the rates of managing sexual violence reports by institutions of higher education? To answer this question, the dependent variable was the reported rate of Sex-Offences – Forcible (as defined by CSS) per 100,000 students, by institutions of higher education to the U.S. Department of Education. Per capita was used for the dependent variable for two reasons. First, UCR utilizes per capita at a rate of 100,000 people when reporting their crime statistics and does not publish total reports. Second, per capita allows for standardization when comparing groups. To obtain this dependent variable for each year, the following equation was used:

$$\text{Rate}_y = \text{SO}_y \times \frac{100,000}{\text{TE}_y}$$

The variable, SO_y is the total number of Sex Offenses – Forcible in a given year (y) for all institutions. The variable TE_y is the total enrollment of all institutions.

Research Question 2

Was there a change in the rates of sexual violence reported by law enforcement agencies to the U.S. Department of Justice from 2000-2017, and how does this compare to the rates of sexual violence reported by institutions of higher education? The information available in the UCR database was already formatted per capita at a rate of 100,000 people and by year. The dependent variable for this research question was the reported rate of Legacy Rape per 100,000 people for each year.

Research Question 3

Was there a differing impact of the 2011 Dear Colleague Letter based on institution classifications (degree program, sector, residential classification, or size) on the rates of managing sexual violence reports by institutions of higher education? Since this is an exploratory study, and the first to use interrupted time-series analysis to evaluate the 2011 Dear Colleague Letter, covariates in this study were chosen based on their possible influence on an institution's management of the guidance. The additional variables being evaluated in this study are: Degree Program, Sector, Residential Classification, and Size. These covariates were selected due to their relevance to federal lawmakers creating policy which impacts all federally funded institutions of higher education.

Similar to research question 1, the dependent variable for research question 3 was the reported rate of Sex-Offences – Forcible (as defined by CSS) per 100,000 students, by institutions of higher education to the U.S. Department of Education; however, this was separated out by group for each IPEDS covariate being studied.

Degree Program Degree program is the first institution characteristic evaluated. This information was available in 2011 from IPEDS. The categories reported were: 2-Year, and 4-Year (which includes beyond 4-years). The information for this classification was reported by 3,609 institutions. The institution breakdown for degree program can be seen in Table 3.1.

Degree Program	N	%
2-Year	1452	60.0
4-Year and Above	2157	40.0
Total Reported	3609	
Not Reported	25	

Table 3.1. Degree Program Institution Breakdown.

Sector of Institution Sector of institution was evaluated next as a part of research question 3. This information was available in 2011 from IPEDS. The categories were reported by IPEDS as: Public, Private Non-Profit, and Private For-Profit. This information was reported for 3,609 institutions. Sector of institution descriptive statistics are seen in Table 3.2.

Sector of Institution	N	%
Public	1603	44.4
Private Non-Profit	1434	40.4
Private For-Profit	572	15.8
Total Report	3609	
Not Reported	25	

Table 3.2. Sector of Institution Breakdown.

Residential Classification Residential Classification had three categories: Primarily Non-Residential, Primarily Residential, and Highly Residential. This information was gathered from the size and setting IPEDS category. Size and setting is a

classification combined within the Carnegie Classification of Institutions of Higher Education; however, since institutional size is already being evaluated by this study, residential classification was isolated. Carnegie Classification of Institutions of Higher Education (2019) describes these as follows:

1. Primarily Non-Residential: “Fewer than 25 % of degree-seeking undergraduates live on campus and/or fewer than 50 % attend full time (includes exclusively distance education institutions).”
2. Primarily Residential: “25-49 % of degree-seeking undergraduates live on campus and at least 50% attend full time.”
3. Highly Residential: “At least half of degree-seeking undergraduates live on campus and at least 80 % attend full time.”

On-Campus is, “defined as “institutionally-owned, -controlled, or -affiliated housing.

The institution breakdown of residential classification can be seen in Table 3.3.

Residential Classification	N	%
Primarily Non-Residential	491	31.1
Primarily Residential	492	31.1
Highly Residential	597	37.8
Total Reported	1580	
Not Reported	2054	

Table 3.3. Residential Classification Institution Breakdown.

Institution Size Institution size is the last classification evaluated as a part of research question 3. Institution size was collected from IPEDS for 2011. Institution size was defined as: Very Small (under 1,000 student), Small (1,000-4,999 students), Medium and Large (5,000-19,999 students), and Very Large (20,000 students and above). The IPEDS data had classifications of Medium (5,000-9,999 students) and Large (10,000-19,999 students) separated. Due to the increased complexity of having a fifth classification, two categories from institution size needed to be combined. These two categories were combined following pair-wise analysis using multiple-group interrupted time-series analysis of each adjacent category (*e.g.*, Very Small with Small, and Large with Very Large) which found they minimal differences. The analysis comparing Medium and Large institution size can be seen in Appendix D. There were 3,609 institutions included in the analytic sample for this variable. Table 3.4 describes the total number institutions in each category.

Size	N	%
Very Small	1174	32.5
Small	1377	38.0
Medium and Large	840	26.3
Very Large	218	6.0
Total Reported	3609	
Not Reported	25	

Table 3.4. Size Institution Breakdown.

Statistical Analysis

An interrupted time-series analysis was used to answer all three research questions. Interrupted time-series analysis is used in studying public policy, environmental changes, and population-based healthcare interventions (Linden, 2015; Maçaira, Thomé, Oliveira, & Ferrer, 2018). The sample size of an interrupted time-series analysis is $N=1$, where the sample consists of an entire community (*e.g.*, an institution of higher education, a state, a country, etc.) (Simonton, 1977; Linden, 2015). Interrupted time-series design is a quasi-experimental approach which focuses on a specific time period, the intervention – the time prior to the intervention is the counterfactual (Simonton, 1977). In interrupted time-series analysis, there is no explicit control or treatment groups; rather, the time prior to the intervention serves as the control group, and the time following the intervention serves as the treatment group (Linden, 2015).

There are two types of interrupted time-series analysis: Box-Jenkins and ordinary least-squares (OLS) regression (Linden, 2015). The Box-Jenkins method requires 50-100 observations to achieve statistical power (Simonton, 1977). Since the current study utilizes 16 observations, the OLS Regression method was used. OLS Regression model of interrupted time-series analysis is designed to adjust for autocorrelation; however, it is necessary to check for autocorrelation when conducting interrupted time-series analysis (Linden, 2015). Autocorrelation is the correlation between elements of the same series.

Single Group Interrupted Time-Series Analysis

Single-group interrupted time-series analysis measures both the change in level and change in slope of the dependent variable (Simonton, 1977). A change in level is

characterized as a change in intercept at the point of intervention of the dependent variable pre- and post-intervention. A change in slope signifies a change in rate of the dependent variable pre- and post-intervention.

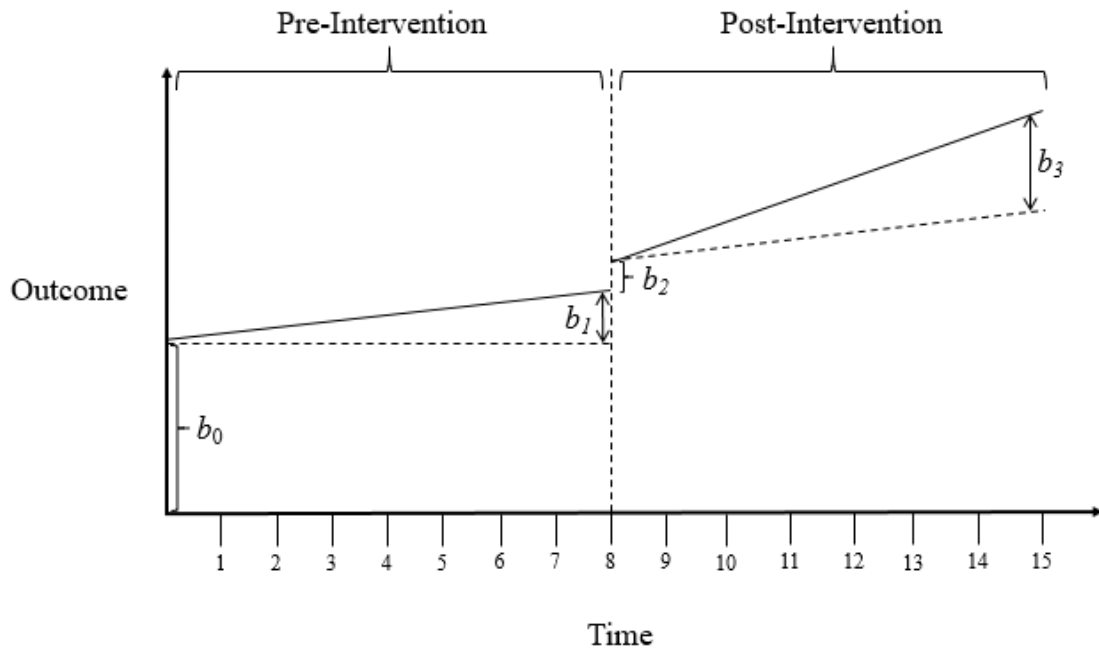


Figure 3.1. A visualization of interrupted time-series analysis. This figure was adapted from the work of Simonton (1977) and Linden (2015).

Interrupted time-series analysis using OLS regression utilizes the following formula (Linden, 2015):

$$Y_t = b_0 + b_1X_tT + b_2X_t + b_3X_tT_t$$

Coefficient b_0 measures the intercept of the dependent variable prior to the intervention. (Simonton, 1977; Linden, 2015). Coefficient b_1 is the slope, or rate of change, of the pre-intervention. (Simonton, 1977; Linden, 2015). Coefficient b_2 measures the difference between the pre- and post-intervention levels. (Simonton, 1977; Linden, 2015).

Coefficient b_3 measures the difference of the pre-intervention slope and post-intervention slope. (Simonton, 1977; Linden, 2015).

Figure 3.1 depicts this interrupted time-series model, and can be applied to each of the research questions as follows: For research questions one and three Coefficient b_0 is the y-intercept of the rate of Sex Offenses – Forcible; Coefficient b_1 is the slope of the rate of Sex Offenses – Forcible from 2001-2010; Coefficient b_2 is the difference in the rate of Sex Offenses-Forcible at the point of intervention, between the pre-intervention and post-intervention periods; Coefficient b_3 measures the change in slope of rate of Sex Offenses- Forcible between the pre-intervention and post intervention periods. For research question two Coefficient b_0 is the y-intercept of the rate of Legacy Rape; Coefficient b_1 is the slope of the rate of Legacy Rape from 2001-2010; Coefficient b_2 is the difference in the rate of Legacy Rape at the point of intervention, between the pre-intervention and post-intervention periods; Coefficient b_3 measures the change in slope of Legacy Rape between the pre-intervention and post intervention periods.

Multiple-Group Interrupted Time-Series Analysis

Multiple-group interrupted time-series analysis compares two single-group interrupted time-series analysis to determine if statistically significant differences exist between them (Linden, 2015). This analysis compares five aspects of the two time-series being evaluated: base level, pre-intervention trend, the change in trend at the point of intervention, post-intervention trend, and change in trend between the pre-intervention period and the post-intervention period. The equation for this analysis can be seen below:

$$Y_t = b_0 + b_1T_t + b_2X_t + b_3X_tT_t + b_4Z + b_5ZT_t + b_6ZX_t + b_7ZX_tT_t$$

For this analysis, b_0 through b_3 represent the first group, while b_4 through b_7 represents the comparison group. Coefficient b_4 represents a difference of the intercept, or base level. Coefficient b_5 represents the difference of the pre-intervention trend. Coefficient b_6 is a difference between the change in level. Coefficient b_7 is the difference between the post-intervention trend. Figure 3.2 shows an example of multiple-group interrupted time-series analysis utilizing the coefficients provided above.

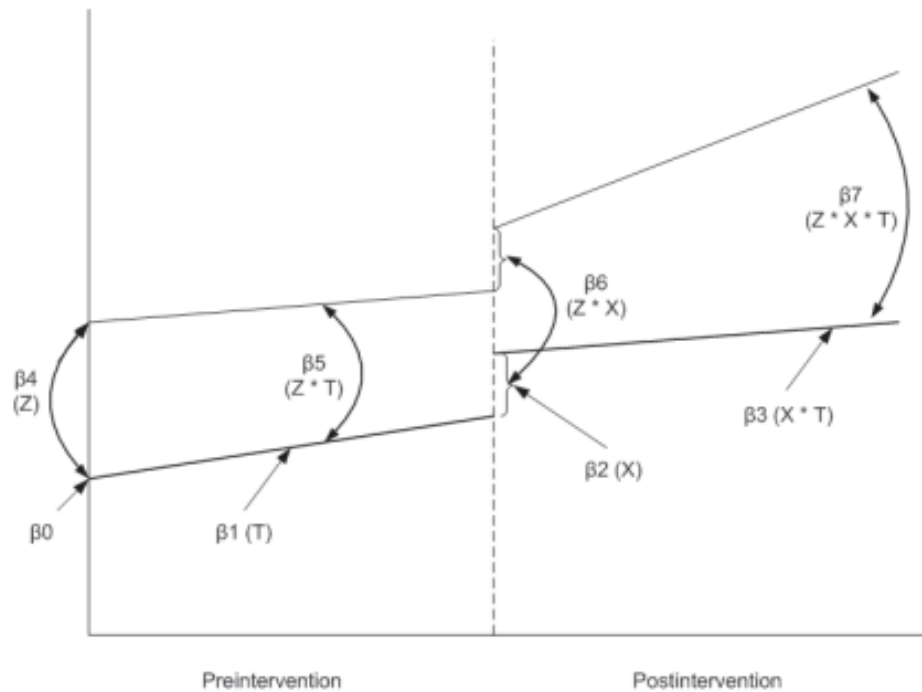


Figure 3.2. A visualization of multiple-group interrupted time-series analysis. (Linden, 2015).

In the review of the literature, there were no studies identified which compared more than two groups using multiple-group interrupted time-series analysis. In communication with Ariel Linden (2019, May 6), it was determined multiple-group analysis with more than two groups utilizing a round-robin technique could occur if a

Bonferroni Correction was used. Bonferroni Correction reduces the probability of Type I error from occurring (Sedgwick, 2012); this is accomplished by dividing the significant P-value (0.05) by the number of analyses used.

Assumptions

The primary assumption of the interrupted time-series analysis is that there are no confounding variables at the point of intervention (Linden, 2015). A confounding variable might be legislation or a significant event occurring in conjunction with, or near in time to the intervention. As discussed in the literature review, there were no other policy changes regarding the management of sexual misconduct by institutions of higher education in 2011. The nearest change to policy came with the 2014 guidance presented by the U.S. Department of Education and the 2014 Violence Against Women Act. Linden (2015) suggests where there is concern for a confounding variable, additional time periods can be tested; however, since none were identified, additional time periods were not tested.

Internal and External Validity

Linden (2015) states the internal validity of the interrupted time-series analysis is strong. Biglan, Ary & Wagenaar (2000) identified six threats to internal validity when using interrupted time-series analysis; these threats are: history, testing, instrumentation, instability, selection, and implementation. History is the greatest threat to the internal validity of studies using interrupted time-series analysis (Simonton, 1977). These are events which occur near the same time of the intervention which are unable to be controlled (Simonton, 1977; Biglan et al., 2000). Testing threatens internal validity with

repeated time-series designs, which this study does not implement (Biglan et al., 2000). Changes to the instrument(s) over time has been known to threaten internal validity (Biglan et al., 2000). Several measures have been employed in the research design to minimize this threat. Specifically, changes in definitions have been addressed and responded to accordingly. Large variability in the dependent variable over time is known to cause threats to internal validity (Biglan et al., 2000). An additional threat to the internal validity is the bias in selection of the treatment and control groups (Biglan et al., 2000). This threat is more relevant to multiple group interrupted time-series design, which this study does not employ due to the dependent variable impacting all institutions of higher education. Lastly, the implementation of the intervention is not controlled by the researcher, and so it is hard, if not impossible, to determine if the intervention was implemented at the time point being studied (Biglan et al., 2000). Due to the large number of institutions in this study, this threat to internal validity is controlled for. If a single institution did not implement the 2011 U.S. Department of Education guidance, their impact to the dependent variable would be minimal.

Chapter Summary

This exploratory study aims to show the impact of the 2011 Dear Colleague Letter on the reporting of sexual misconduct by institutions of higher education through the Clery Act. This chapter explored the methodology used in this study, and how it impacts the answering of the three research questions. Data for this study was collected from three different databases maintained by the United States Federal Government, they included: The Uniform Crime Reports, Campus Safety and Security, and Integrated

Postsecondary Education Statistics. Using this data, all three of the research questions will be answered using interrupted time-series analysis in chapter four of this dissertation.

RESULTS

Introduction

This chapter works to describe the results of the analysis of data utilizing single-group interrupted time-series analysis and multiple-group interrupted time-series analysis. This chapter uses these analyses to answer these three research questions:

1. What was the impact of the 2011 Dear Colleague Letter on the rates of managing sexual violence reports by institutions of higher education?
2. Was there a change in the rates of sexual violence reported by law enforcement agencies to the U.S. Department of Justice from 2000-2017, and how does this compare to the rates of sexual violence reported by institutions of higher education?
3. Was there a differing impact of the 2011 Dear Colleague Letter based on institution classifications (degree program, sector, residential classification, or size) on the rates of managing sexual violence reports by institutions of higher education?

To answer these research questions, 28 analyses were performed; 14 single-group interrupted time-series analyses and 14 multiple-group interrupted time-series analyses. These analyses require an intervention period; this period is included in both the pre-intervention and post-intervention results. Since the 2011 Dear Colleague Letter was published in September 2011, 2011 was used as the intervention period. When discussing these results the following definitions are used:

1. Pre-intervention period: 2001-2010.

2. Intervention point: 2011
3. Post-intervention period: 2012-2017.

As discussed in the methods chapter, a Bonferroni Correction was used in the multiple-group interrupted time-series analyses to prevent Type I error (Rice, 1989). Also discussed in the methods chapter was the need for autocorrelation adjustments utilizing the appropriate lag amount (Linden, 2015). The 16 autocorrelation tests all found a lag of one to be correct for all 28 analyses; these tests can be viewed in Appendix D. This chapter starts with the analysis related to research question one.

Research Question 1

The first analysis conducted evaluates a time-series of Clery Act reports of sexual violence per 100,000 students from 2000-2017 and uses single-group interrupted time-series analysis to investigate the impact of the 2011 Dear Colleague Letter. The lowest year for these reports was 2001 at 14.20, and the highest year was 2017 with 52.89; a table of reports per 100,000 students by year can be viewed in Appendix C. The results of this analysis are shown in Table 4.2.

Factor	B	<i>SE</i>	t	<i>p</i>
Base Level	15.13	0.59	25.53	< .001*
Pre-Int Trend	-0.02	0.11	-0.17	.87
Change in Level	1.05	1.26	0.84	.42
Post-Int Trend	6.30	0.24	26.13	< .001*
Change in Trend	6.32	0.27	23.57	< .001*

Table 4.1. Clery Act Reports Interrupted Time-Series Analysis. $p < .05$ is significant (*).

The base level of reports of sexual violence per 100,000 students was estimated at 15.13 and was significant ($p < 0.001$); however, the pre-intervention trend of 0.02 less reports each year was not significant ($p = 0.87$). At the point of intervention (2011), there was a non-significant increase of reports per 100,000 students by 1.05 ($p = 0.42$). The post-intervention (2011-2017) trend showed a significant increase of reports per 100,000 students by 6.3 ($p < 0.001$) per year; this change in trend from pre-intervention to post-intervention was significant ($p < 0.001$). The visualization of these results can be seen in Figure 4.1.

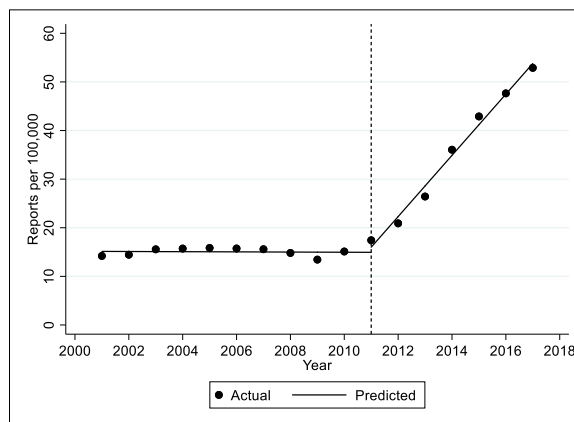


Figure 4.1. Clery Act Reports Interrupted Time-Series Analysis. Regression with Newey-West standard errors - lag(1).

Research Question 2

This analysis evaluates the time-series of Uniform Crime Reports' Legacy Rape reports per 100,000 people from 2000-2017 and uses single-group interrupted time-series analysis to determine if there was a change in the level or trend of reports in the general United States population at the intervention period. A second analysis, a multiple-group interrupted time-series analysis was conducted to identify differences between the Clery

Act Reports and Uniform Crime Reports during the study period. The results of the single-group interrupted time-series analysis and multiple-group interrupted time-series analysis can be seen in Table 4.2 and Table 4.3 respectively.

Factor	B	SE	t	<i>p</i>
Base Level	33.28	0.61	54.61	< .001*
Pre-Int Trend	-0.50	0.11	-4.48	.001*
Change in Level	-2.37	1.21	-1.97	.07
Post-Int Trend	0.69	0.20	3.43	.005*
Change in Trend	1.20	0.21	5.68	< .001*

Table 4.2. Uniform Crime Reports Interrupted Time-Series Analysis. $p < .05$ is significant (*).

The base level of reports of Legacy Rape per 100,000 people was significant and estimated at 33.28 ($p < 0.001$). Prior to the intervention, there was a significant decrease in the trend of these reports per 100,000 people at a rate of 0.50 per year ($p = 0.001$). There was a non-significant decrease in reports per 100,000 people in 2011 of 2.37 ($p = 0.07$). From 2012-2017 there was an significant increase in reports per 100,000 people of 0.69 ($p = 0.005$); the change in trend was significant ($p < 0.001$). The visualization of these results can be seen in Figure 4.2.

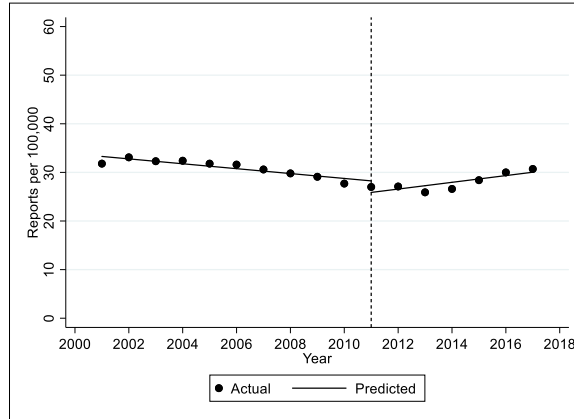


Figure 4.2. Uniform Crime Reports Single-Group Interrupted Time-Series Analysis. Regression with Newey-West standard errors - lag(1).

The results of the multiple-group interrupted time-series analysis between Clery Act's reports of sexual violence per 100,000 (Clery Act reports) students and the Uniform Crime Reports' reports of legacy rape per 100,000 (UCR reports) people can be seen below in Table 4.3. A Bonferroni Correction was unnecessary for this analysis because only a single comparison was conducted.

Factor	B	SE	t	p
Base Level Difference	-18.15	0.85	-21.35	< .001*
Pre-Int Trend Difference	0.48	0.16	3.08	.01*
Change in Level Difference	3.43	1.74	1.97	.06
Post-Int Trend Difference	5.61	0.31	17.82	< .001*
Change in Trend Difference	5.12	0.34	15.02	< .001*

Table 4.3. Clery Act Reports compared to Uniform Crime Reports Multiple-Group Interrupted Time-Series Analysis. $p < .05$ is significant (*).

There were significant differences between the base level ($p < 0.001$), pre-intervention trend ($p = 0.01$), post-intervention trend ($p < 0.001$), and change in trend ($p < 0.001$) of the Clery Act reports and UCR reports. The difference in the change in level

at the point of intervention was not significant ($p = 0.06$). The results of this multiple-group interrupted time-series analysis can be viewed in Figure 4.3.

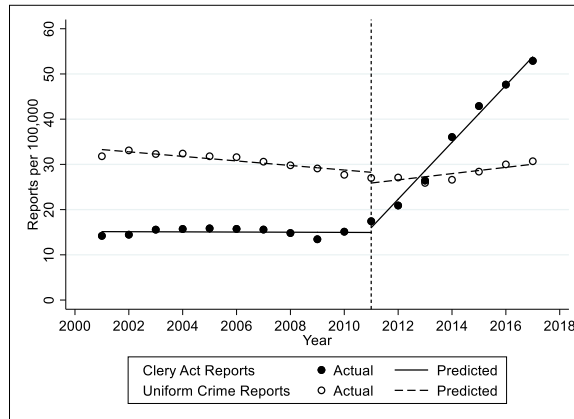


Figure 4.3. Clery Act Reports compared to Uniform Crime Reports Multiple-Group Interrupted Time-Series Analysis. Regression with Newey-West standard errors - lag(1).

Research Question 3

Research question three evaluated if and how the 2011 Dear Colleague Letter impacted reports of sexual violence by different classifications of institutions of higher education; these classifications included: degree program, sector, residential classification, and institution size. The first classification to be analyzed was degree program.

Degree Program

Degree program classification identifies institutions of higher education as being two-year or four-year. There were two single-group interrupted time-series analysis conducted, and one multiple-group interrupted time-series analysis conducted to investigate the impact of the 2011 Dear Colleague Letter on Clery Act reports of sexual violence per 100,000 students based on an institution of higher education's degree

program. The results of the single-group interrupted time-series analysis and multiple-group interrupted time-series analysis can be seen in Table 4.4 and Table 4.5 respectively.

Factor	B	SE	t	<i>p</i>
Two-Year				
Base Level	1.91	0.10	18.51	< .001*
Pre-Int Trend	0.15	0.03	5.23	< .001*
Change in Level	0.06	0.45	0.13	.90
Post-Int Trend	0.96	0.11	8.56	< .001*
Change in Trend	0.81	0.11	7.31	< .001*
Four-Year				
Base Level	22.39	0.81	27.77	< .001*
Pre-Int Trend	-0.08	0.15	-0.51	.62
Change in Level	1.94	1.58	1.23	.24
Post-Int Trend	8.83	0.31	28.86	< .001*
Change in Trend	8.90	0.35	25.21	< .001*

Table 4.4. Degree Program Single-Group Interrupted Time-Series Analyses. *p* < .05 is significant (*).

The base level of Clery Act reports of sexual violence per 100,000 students for two-year institutions of higher education (two-year institution reports) was 1.91, which was significant ($p < 0.001$). Prior to 2011, two-year institution reports were significantly increasing by 0.15 per year ($p < 0.001$). There was no significant change in two-year institution reports at the point of intervention (-0.08 per year, $p = 0.90$). Following intervention, there was a significant increase in two-year institution reports of 0.96 ($p <$

0.001) per year; this change in trend was significant compared with the pre-intervention trend ($p < 0.001$). The visual representation of these results can be seen in Figure 4.4.

The base level of Clery Act reports of sexual violence per 100,000 students for four-year institutions of higher education (four-year institution reports) was 22.39, which was significant ($p < 0.001$). Prior to the intervention period, there was no significant change in the trend of four-year institution reports (-0.08 per year, $p = 0.62$). At the intervention period, there was a statistically insignificant increase in four-year institution reports of 1.94 ($p = 0.24$). During the post-intervention period four-year institution reports significantly increased by 8.83 per year ($p < 0.001$); this change in trend was significant ($p < 0.001$). These results are visualized in Figure 4.5.

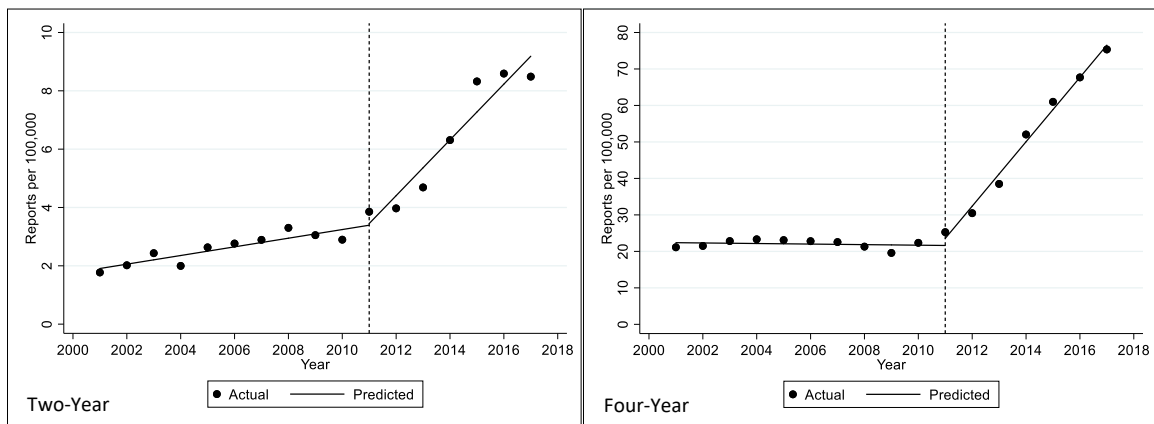


Figure 4.4. Degree Program Single-Group Interrupted Time-Series Analyses. Two-year institutions are represented in the left figure. Four-year institutions are represented in the right figure. Regression with Newey-West standard errors - lag(1).

The results of the multiple-group interrupted time-series analysis between two-year institution reports and four-year institution reports can be seen below in Table 4.5.

A Bonferroni Correction was unnecessary for this analysis because only a single comparison was conducted.

Factor	B	SE	t	p
Base Level Difference	-20.48	0.81	-25.20	< .001*
Pre-Int Trend Difference	0.22	0.15	1.47	.16
Change in Level Difference	-1.88	1.65	-1.15	.26
Post-Int Trend Difference	-7.87	0.33	-24.17	< .001*
Change in Trend Difference	-8.10	0.37	-21.88	< .001*

Table 4.5. Two-Year Institutions compared to Four-Year Institutions Multiple-Group Interrupted Time-Series Analysis. $p < 0.05$ is significant (*).

There were significant differences between two-year institutions reports and four-year institutions reports in base level ($p < 0.001$), post-intervention trend ($p < 0.001$), and change in trend ($p < 0.001$); there were no significant differences in pre-intervention trend ($p = 0.16$) and change in level ($p = 0.26$). The results of this multiple-group interrupted time-series analysis can be viewed in Figure 4.5.

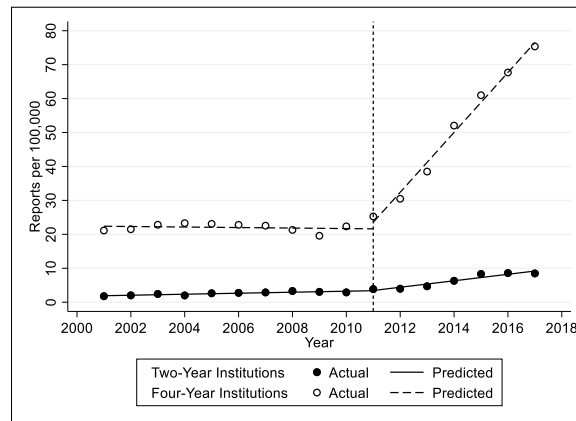


Figure 4.5. Two-Year Institutions compared to Four-Year Institutions Multiple-Group Interrupted Time-Series Analysis. Regression with Newey-West standard errors - lag(1).

Sector

Sector of institution includes three classifications: public, private non-profit, and private for-profit. There were three single-group interrupted time-series analyses and

three multiple-group interrupted time-series analyses conducted to investigate how the 2011 Dear Colleague Letter impacted Clery Act reports of sexual violence per 100,000 students based on an institution of higher education's sector. The results of the single-group interrupted time-series analysis and multiple-group interrupted time-series analysis can be seen in Table 4.6 and Table 4.7 respectively.

Factor	B	SE	t	p
Public				
Base Level	11.89	0.45	26.18	< .001*
Pre-Int Trend	-0.09	0.09	-1.00	.34
Change in Level	0.31	1.25	0.25	.81
Post-Int Trend	4.53	0.23	19.59	< .001*
Change in Trend	4.62	0.25	18.36	< .001*
Private Non-Profit				
Base Level	28.98	1.12	25.91	< .001*
Pre-Int Trend	0.40	0.18	2.24	.04*
Change in Level	4.41	2.19	2.02	.07
Post-Int Trend	13.30	0.51	26.17	< .001*
Change in Trend	12.90	0.54	23.84	< .001*
Private For-Profit				
Base Level	1.10	0.33	3.32	.006
Pre-Int Trend	0.13	0.06	2.06	.06
Change in Level	0.01	0.65	0.02	.98
Post-Int Trend	1.17	0.17	6.79	< .001*
Change in Trend	1.04	0.19	5.38	< .001*

Table 4.6. Sector Single-Group Interrupted Time-Series Analyses. $p < .05$ is significant (*).

The base level of Clery Act reports of sexual violence per 100,000 students for public institutions of higher education (Public Institution Reports) was 11.89, which was significant ($p < 0.001$). Prior to the intervention period, there was non-significant ($p = 0.34$) change per year of Public Institution Reports of -0.09. At the point of intervention, there was a an insignificant ($p = 0.81$) increase in Public Institution Reports of 0.31. Following the intervention period, Public Institution Reports significantly increased at a rate of 4.53 ($p < 0.001$), this change in rate was significant ($p < 0.001$). These results can be viewed in Figure 4.6.

The base level of Clery Act reports of sexual violence per 100,000 students for private non-profit institutions of higher education (Private Non-Profit Institution Reports) was 28.98, which was significant ($p < 0.001$). Prior to the intervention period, there was a significant increase in Private Non-Profit Institution Reports of 0.40 per year ($p = 0.04$). At the point of intervention there was an insignificant ($p = 0.07$) change in level of 4.41. Following the intervention period there was a significant increase in the rate of Private Non-Profit Institution Reports of 13.30 ($p < 0.001$), this change in rate was significant ($p < 0.001$). These results are visualized in Figure 4.6.

The base level of Clery Act reports of sexual violence per 100,000 students for private for-profit institutions of higher education (Private For-Profit Institution Reports) was 1.10, which was significant ($p = 0.006$). Prior to the intervention period, there was an insignificant ($p = 0.06$) increase in Private For-Profit Institution Reports of 0.13 per year. At the point of intervention, there was no significant change in level. Following the intervention, there was a significant ($p < 0.001$) increase in Private For Profit

Institution Reports of 1.17 per year; this change in rate was significant ($p < 0.001$). The results of this analysis can be seen in Figure 4.6.

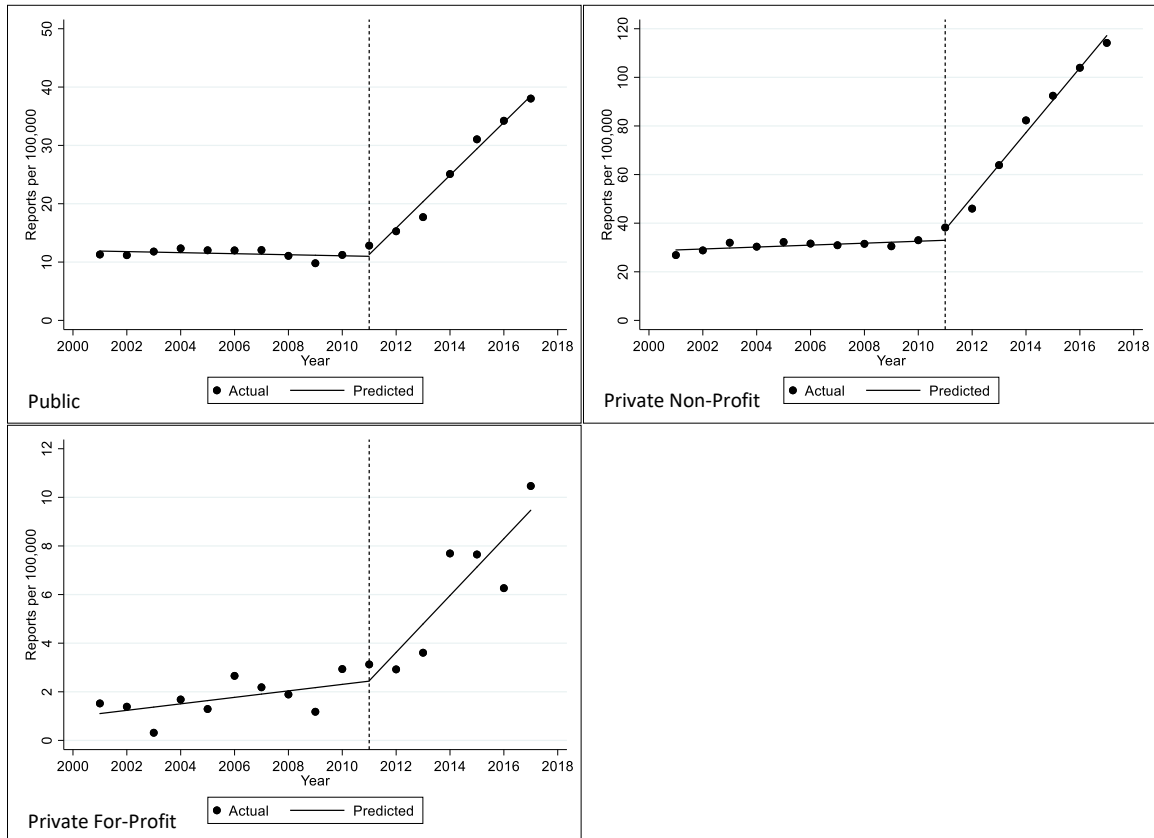


Figure 4.6. Sector Single-Group Interrupted Time-Series Analyses. Public institutions are represented in the top-left figure. Private non-profit institutions are represented in the top-right figure. Private for-profit institutions are represented in the bottom-left figure. Regression with Newey-West standard errors - lag(1).

The results of the multiple-group interrupted time-series analysis between Public Institution Reports, Private Non-Profit Institution Reports, and Private For-Profit Institution Reports can be seen below in Table 4.7. A Bonferroni Correction was utilized for these analyses; since three analyses were conducted, $p < 0.016$ is considered significant. Visual representation of these results can be viewed in Figure 4.7.

Factor	B	SE	t	<i>p</i>
Public compared to Private Non-Profit				
Base Level Difference	-17.09	1.21	-14.16	< .001*
Pre-Int Trend Difference	-0.49	0.20	-2.45	.02
Change in Level Difference	-4.10	2.52	-1.63	.12
Post-Int Trend Difference	0.000	0.000	0.000	< .001*
Change in Trend Difference	-8.28	0.60	-13.88	< .001*
Public compared to Private For-Profit				
Base Level Difference	10.78	0.56	19.16	< .001*
Pre-Int Trend Difference	-0.22	0.11	-2.02	.05
Change in Level Difference	0.30	1.41	0.21	.84
Post-Int Trend Difference	3.36	0.29	11.66	< .001*
Change in Trend Difference	3.58	0.32	11.31	< .001*
Private Non-Profit compared to Private For-Profit				
Base Level Difference	27.88	1.17	23.89	< .001*
Pre-Int Trend Difference	0.27	0.19	1.40	.17
Change in Level Difference	4.40	2.28	1.93	.07
Post-Int Trend Difference	12.13	0.54	22.61	< .001*
Change in Trend Difference	11.86	0.57	20.66	< .001*

Table 4.7. Sector Multiple-Group Interrupted Time-Series Analyses. Bonferroni Correction: $p < .016$ is significant (*).

There were significant differences between Public Institution Reports and Private Non-Profit Institution Reports in the base level ($p < 0.001$), post-intervention trend ($p < 0.001$), and change in trend ($p < 0.001$). The differences in pre-intervention trend and

change in level were insignificant ($p = 0.02$ and $p = 0.12$ respectively). This is visualized in the top-left figure of Figure 4.7.

There were significant differences between Public Institution Reports and Private For-Profit Institution Reports in base level, post-intervention trend, and the change in trend (all $p < 0.001$). The differences in pre-intervention trend ($p = 0.05$) and change in level ($p = 0.84$) were insignificant. These results can be seen in the top-right figure of Figure 4.7.

There were significant differences between Private Non-Profit Institution Reports and Private For-Profit Institution Reports in the base level ($p < 0.001$), post-intervention trend ($p < 0.001$), and change in trend ($p < 0.001$). The differences in pre-intervention trend and change in level were insignificant ($p = 0.17$ and $p = 0.07$ respectively). These results are visualized in the bottom-left figure of Figure 4.7.

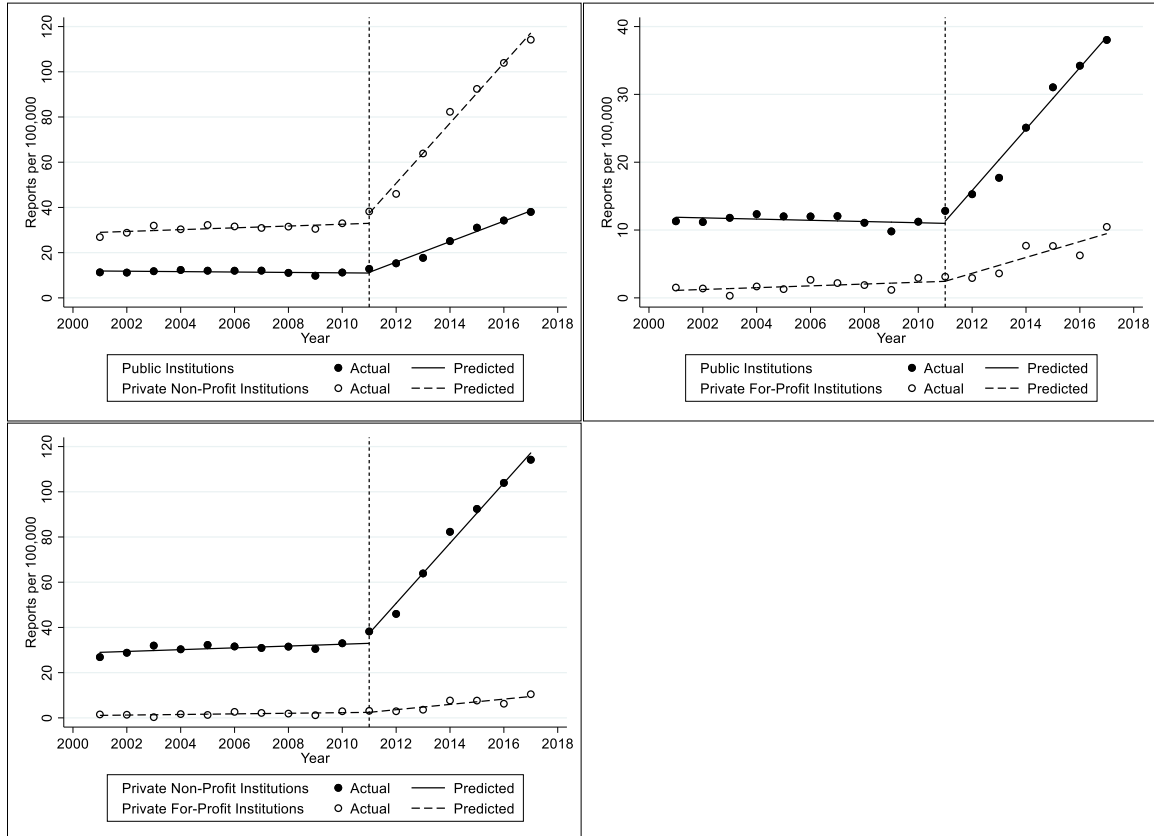


Figure 4.7. Sector Multiple-Group Interrupted Time-Series Analyses. Public institutions compared to private non-profit institutions is represented in the top-left figure. Public institutions compared to private for-profit institutions is represented in the top-right figure. Private non-profit institutions compared to private for-profit institutions is represented in the bottom-left figure. Regression with Newey-West standard errors - lag(1).

Residential Classification

Residential classification of institutions is made up of three classifications: primarily non-residential, primarily residential, and highly residential. These were defined in the methods chapter of this dissertation. There were three single-group interrupted time-series analyses and three multiple-group interrupted time-series analyses conducted to investigate how the 2011 Dear Colleague Letter impacted Clery Act reports of sexual violence per 100,000 students based on the residential classification of that

institution. The results of the single-group interrupted time-series analysis and multiple-group interrupted time-series analysis can be seen in Table 4.8 and 4.9 respectively.

Visualization of these results can be viewed in Figure 4.8.

Factor	B	SE	t	<i>p</i>
Primarily Non-Residential				
Base Level	10.29	0.40	25.65	< .001*
Pre-Int Trend	0.03	0.11	0.24	.81
Change in Level	-0.29	1.16	-0.25	.81
Post-Int Trend	4.50	0.25	17.75	< .001*
Change in Trend	4.47	0.28	16.01	< .001*
Primarily Residential				
Base Level	25.25	0.97	26.16	< .001*
Pre-Int Trend	-0.39	0.16	-2.40	.03*
Change in Level	2.05	2.39	0.86	.41
Post-Int Trend	8.37	0.48	17.42	< .001*
Change in Trend	8.76	0.51	17.33	< .001*
Highly Residential				
Base Level	45.37	2.11	21.52	< .001*
Pre-Int Trend	0.48	0.36	1.33	.21
Change in Level	7.77	3.79	2.05	.06
Post-Int Trend	20.13	0.91	22.17	< .001*
Change in Trend	19.65	1.00	19.57	< .001*

Table 4.8. Residential Classification Single-Group Interrupted Time-Series Analyses. *p* < .05 is significant (*).

The base level of Clery Act reports of sexual violence per 100,000 students of primarily non-residential institutions of higher education (Primarily Non-Residential Reports) was significant at 10.29 ($p < 0.001$). Prior to the intervention, there was no significant change in Primarily Non-Residential Reports ($B = 0.03, p = 0.81$). At the point of intervention, there was no significant change in level ($B = -0.29, p = 0.81$). Following the intervention, Primarily Non-Residential Reports increased by 4.50 ($p < 0.001$); this change in trend was significant ($p < 0.001$).

The base level of Clery Act reports of sexual violence per 100,000 students of primarily residential institutions of higher education (Primarily Residential Reports) was significant at 25.25 ($p < 0.001$). Prior to the intervention, Primarily Residential Reports were significantly decreasing at a rate of 0.39 per year ($p = 0.03$). At the point of intervention, there was a non-significant increase in level of 2.05 ($p = 0.41$). Following the intervention, there was an increase in Primarily Resident Reports of 8.37 per year ($p < 0.001$); this change in trend was significant ($p < 0.001$).

The base level of Clery Act reports of sexual violence per 100,000 students of highly residential institutions of higher education (Highly Residential Institutions) was significant at 45.37 ($p < 0.001$). Prior to the intervention there was a no significant change per year of these reports ($B = 0.48, p = 0.21$). At the point of intervention, there was a non-significant increase in Highly Residential Reports of 7.77 ($p = 0.06$). Following the intervention period, there was an increase in Highly Residential Reports of 20.13 per year ($p < 0.001$); this change in trend was significant ($p < 0.001$).

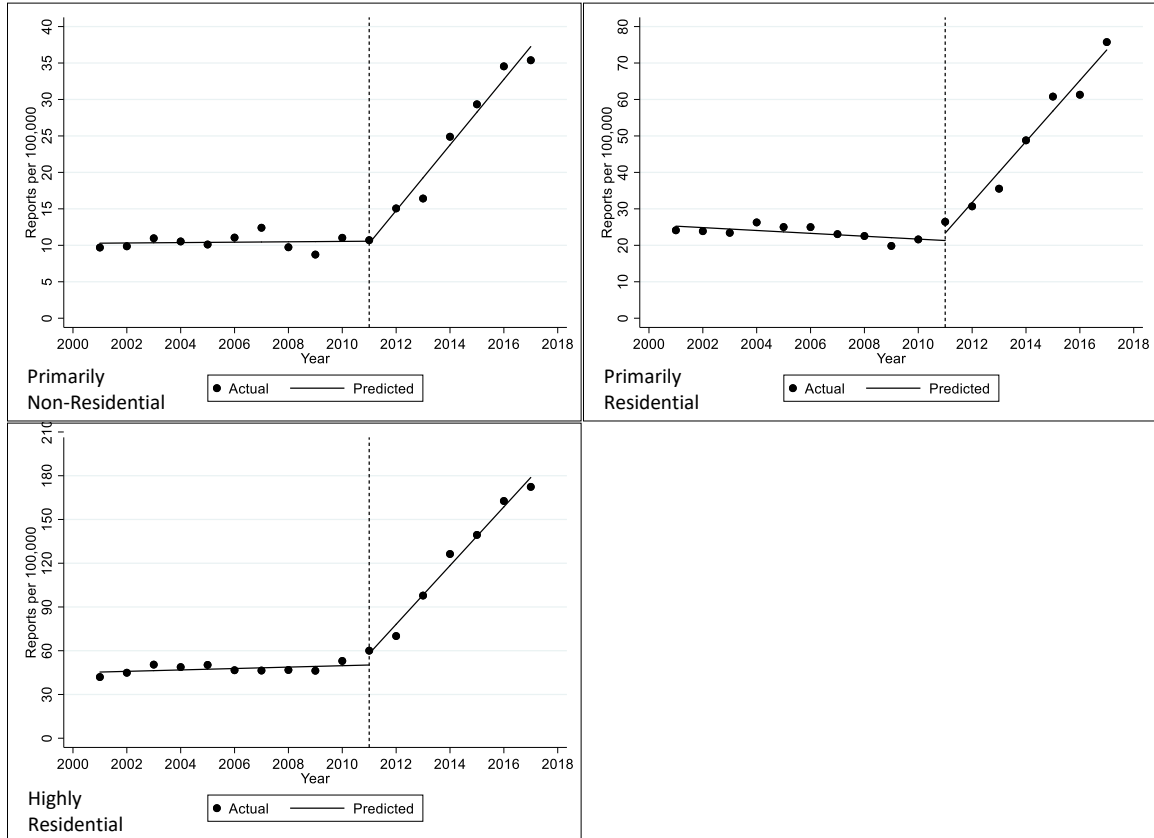


Figure 4.8. Residential Classification Single-Group Interrupted Time-Series Analyses. Primarily non-residential institutions are represented in the top-left figure. Primarily residential institutions are represented in the top-right figure. Highly residential institutions are represented in the bottom-left figure. Regression with Newey-West standard errors - lag(1).

The results of the multiple-group interrupted time-series analyses between Primarily Non-Residential Reports, Primarily Residential Reports, and Highly Residential Reports can be viewed below in Table 4.9. A Bonferroni Correction was utilized for these analyses; since three analyses were conducted, $p < 0.016$ is considered significant. Visualization of these results can be viewed in Figure 4.9.

Factor	B	SE	t	p
Primarily Non-Residential compared to Primarily Residential				
Base Level Difference	-14.96	1.05	-14.31	< .001*
Pre-Int Trend Difference	0.42	0.20	2.13	.04
Change in Level Difference	-2.34	2.66	-0.88	.39
Post-Int Trend Difference	-3.87	0.54	-7.13	< .001*
Change in Trend Difference	-4.29	0.58	-7.43	< .001*
Primarily Non-Residential compared to Highly Residential				
Base Level Difference	-35.08	2.15	-16.35	< .001*
Pre-Int Trend Difference	-0.46	0.38	-1.21	.24
Change in Level Difference	-8.07	3.96	-2.04	.05
Post-Int Trend Difference	-15.64	0.94	-16.58	< .001*
Change in Trend Difference	-15.18	1.04	-14.57	< .001*
Primarily Residential compared to Highly Residential				
Base Level Difference	-20.12	2.32	-8.68	< .001*
Pre-Int Trend Difference	-0.88	0.40	-2.20	.04
Change in Level Difference	-5.73	4.48	-1.28	.21
Post-Int Trend Difference	-11.76	1.03	-11.45	< .001*
Change in Trend Difference	-10.89	1.12	-9.68	< .001*

Table 4.9. Residential Classification Multiple-Group Interrupted Time-Series Analyses. Bonferroni Correction: $p < .016$ is significant (*).

In the comparison of Primarily Non-Residential Reports and Primarily Residential Reports there were significant differences in base level ($p < 0.001$), post-intervention trend ($p < 0.001$), and the change in trend ($p < 0.001$). There were no significant differences in pre-intervention trend and change in level ($p = 0.04$ and $p = 0.21$ respectively).

In comparing Primarily Non-Residential Reports and Highly Residential Reports there were significant difference in base level ($p < 0.001$), post-intervention trend ($p < 0.001$), and change in trend ($p < 0.001$). There was no significant difference in pre-intervention trend ($p = 0.24$) and change in level ($p = 0.05$).

There was significant difference between Primarily Residential Reports and Highly Residential Reports in the base level ($p < 0.001$), post-intervention trend ($p < 0.001$), and change in trend ($p < 0.001$). There was no significant difference in pre-intervention trend and change in level ($p = 0.04$ and $p = 0.21$ respectively).

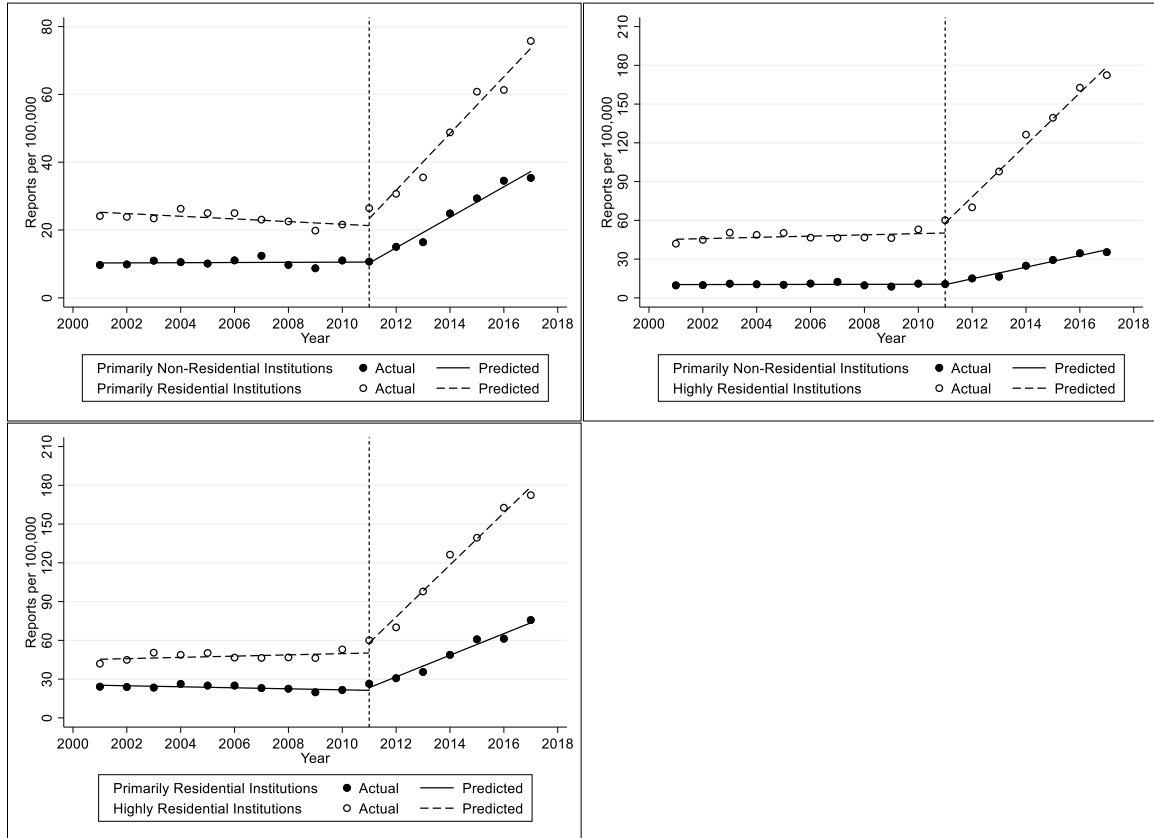


Figure 4.9. Residential Classification Multiple-Group Interrupted Time-Series Analyses. Primarily non-residential institutions compared to primarily residential institutions is represented in the top-left figure. Primarily non-residential institutions compared to highly residential institutions is represented in the top-right figure. Primarily residential institutions compared to highly residential institutions is represented in the bottom-left figure. Regression with Newey-West standard errors - lag(1).

Size

Institution size of institutions was divided into four classifications: very small, small, medium and large, and very large. These classifications were defined in the methods chapter. There were four single-group interrupted time-series analyses and six multiple-group interrupted time-series analyses conducted to investigate how the 2011 Dear Letter impacted Clery Act reports of sexual violence per 100,000 students based on the size of the institution. The results of the single-group interrupted time-series analysis

and multiple-group interrupted time-series analysis can be seen in Table 4.10 and Table 4.11 respectively. Visualization of these results can be viewed in Figure 4.10.

Due to the number of classifications for institution size, there was a need to merge two groupings; this was determined to be the medium-sized institutions and large-institutions. To make this determination, all five single-group interrupted time-series analyses were compared, followed by a multiple-group interrupted time-series analysis. During this evaluation, it was found medium and large institutions had no significant differences in the number of reports for all five measures; this was the only time this occurred throughout all 28 analyses included in this chapter. The tables and figures related to the analysis of medium and large institutions can be viewed in Appendix D.

Factor	B	SE	t	p
Very Small				
Base Level	12.94	1.11	11.69	< .001*
Pre-Int Trend	0.93	0.31	2.98	.01*
Change in Level	-2.63	2.71	-0.97	.35
Post-Int Trend	7.49	0.49	15.19	< .001*
Change in Trend	6.56	0.59	11.13	< .001*
Small				
Base Level	21.18	0.87	24.45	< .001*
Pre-Int Trend	0.34	0.15	2.28	.04*
Change in Level	3.93	2.12	1.86	.09
Post-Int Trend	11.49	0.46	24.73	< .001*
Change in Trend	11.15	0.49	22.57	< .001*
Medium and Large				
Base Level	12.39	0.79	15.70	< .001*
Pre-Int Trend	0.05	0.14	0.36	.72
Change in Level	0.01	1.39	0.01	.99
Post-Int Trend	4.88	0.27	17.90	< .001*
Change in Trend	4.83	0.32	15.17	< .001*
Very Large				
Base Level	15.55	0.30	51.27	< .001*
Pre-Int Trend	-0.38	0.07	-5.21	< .001*
Change in Level	1.28	0.93	1.37	.19
Post-Int Trend	5.49	0.15	37.39	< .001*
Change in Trend	5.87	0.16	36.60	< .001*

Table 4.10. Institution Size Single-Group Interrupted Time-Series Analyses. $p < .05$ is significant (*).

The base level of Clery Act reports of sexual violence per 100,000 students of very small institutions (Very Small Institution Reports) was significant at 12.94 ($p < 0.001$). From 2001-2010 these reports significantly increased at a rate of 0.93 per year ($p = 0.01$). At the point of intervention, there was a non-significant change in level of -2.63 ($p = 0.35$). After the intervention period there was a significant increase in Very Small Institution Reports of 7.49 per year ($p < 0.001$); this change in trend was significant ($p < 0.001$).

The base level of Clery Act reports of sexual violence per 100,000 students of small institutions (Small Institution Reports) was significant at 21.18 ($p < 0.001$). Prior to the intervention period, there was a significant increase in the number of reports per year of 0.34 ($p = 0.04$). At the point of intervention, there was a non-significant increase in the number of reports of 3.93 ($p = 0.09$). Following the intervention there was a significant increase in the number of reports per year of 11.49 ($p < 0.001$); this change in trend was significant ($p < 0.001$).

The base level of Clery Act reports of sexual violence per 100,000 students of medium and large institutions (Medium and Large Institution Reports) was significant at 12.39 ($p < 0.001$). Prior to the intervention, there was no significant change in the rate of reports ($B = 0.72, p = 0.72$). At the point of intervention, there was no significant change in the number of reports ($B = 0.01, p = 0.99$). Following the intervention there was an significant increase in the number of reports by 4.88 per year ($p < 0.001$); this change in trend was significant ($p < 0.001$).

The base level of Clery Act reports of sexual violence per 100,000 students of very large institutions (Very Large Institution Reports) was significant at 15.55 ($p < 0.001$). From 2001-2010, these reports significantly decreased at a rate of 0.38 per year ($p < 0.001$). There was a non-significant change in level of 1.28 ($p = 0.19$) at the point of intervention. From 2011-2017, Very Large Institution Reports increased at a rate of 5.49 per year ($p < 0.001$); this change in rate was significant ($p < 0.001$).

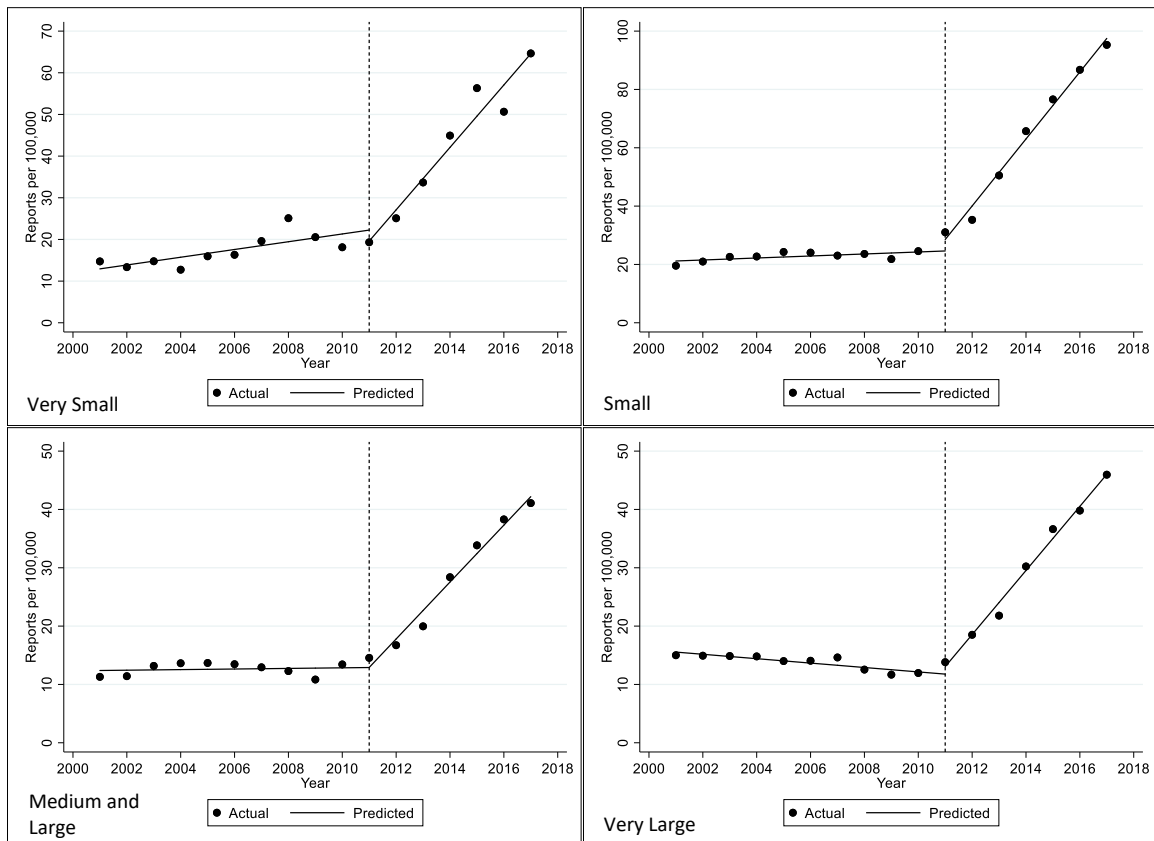


Figure 4.10. Institution Size Single-Group Interrupted Time-Series Analyses. Very small institutions are represented in the top-left figure. Small institutions are represented in the top-right figure. Medium and large institutions are represented in the bottom-left figure. Very large institutions are represented in the bottom-right figure. Regression with Newey-West standard errors - lag(1).

The results of the multiple-group interrupted time-series analyses between Very Small Institution Reports, Small Institution Reports, Medium and Large Institution Reports, and Very Large Institution Reports can be seen in Table 4.11 below. A Bonferroni Correction was utilized for these analyses; since three analyses were conducted, $p < 0.008$ is considered significant. Visualization of these results can be viewed in Figure 4.11.

Factor	B	SE	t	p
Very Small compared to Small				
Base Level Difference	-8.24	1.41	-5.86	< .001*
Pre-Int Trend Difference	0.59	0.35	1.69	.10
Change in Level Difference	-6.56	3.44	-1.91	.07
Post-Int Trend Difference	-4.00	0.68	-5.90	< .001*
Change in Trend Difference	-4.59	0.77	-5.96	< .001*
Very Small compared to Medium and Large				
Base Level Difference	0.55	1.36	0.40	.69
Pre-Int Trend Difference	0.88	0.34	2.57	.016
Change in Level Difference	-2.65	3.05	-0.87	.39
Post-Int Trend Difference	2.61	0.56	4.64	< .001*
Change in Trend Difference	1.73	0.67	2.59	.02
Very Small compared to Very Large				
Base Level Difference	-2.61	1.15	-2.27	.03
Pre-Int Trend Difference	1.31	0.32	4.08	< .001*
Change in Level Difference	-3.91	2.87	-1.36	.18
Post-Int Trend Difference	2.00	0.51	3.88	.001*
Change in Trend Difference	0.69	0.61	1.13	.27
Small compared to Medium and Large				
Base Level Difference	8.79	1.17	7.50	< .001*
Pre-Int Trend Difference	0.29	0.21	1.42	.17
Change in Level Difference	3.92	2.53	1.55	.13
Post-Int Trend Difference	6.61	0.54	12.28	< .001*
Change in Trend Difference	6.32	0.59	10.76	< .001*

Table 4.11. Institution Size Multiple-Group Interrupted Time-Series Analyses.
Bonferroni Correction: $p < .008$ is significant (*).

Factor	B	SE	t	p
Small compared to Very Large				
Base Level Difference	5.63	0.92	6.14	< .001*
Pre-Int Trend Difference	0.72	0.17	4.32	< .001*
Change in Level Difference	2.65	2.31	1.15	0.26
Post-Int Trend Difference	6.00	0.49	12.31	< .001*
Change in Trend Difference	5.28	0.52	10.16	< .001*
Medium and Large compared to Very Large				
Base Level Difference	-3.16	0.85	-3.74	.001*
Pre-Int Trend Difference	0.43	0.16	2.72	.01
Change in Level Difference	-1.27	1.68	-0.76	.46
Post-Int Trend Difference	-0.62	0.31	-1.99	.06
Change in Trend Difference	-1.04	0.36	-2.93	.007*

Table 4.11. Institution Size Multiple-Group Interrupted Time-Series Analyses (cont.). Bonferroni Correction: $p < .008$ is significant (*).

There was significant difference between Very Small Institution Reports and Small Institution Reports in the base level ($p < 0.001$), post-intervention trend ($p < 0.001$), and change in trend ($p < 0.001$). There were no significant differences in the pre-intervention trend ($p = 0.10$) and change in level ($p = 0.07$).

In comparing Very Small Institution Reports with Medium and Large Institution Report there was a significant difference in post-intervention trend ($p < 0.001$). There were no significant differences in base level ($p = 0.69$), pre-intervention trend ($p = 0.016$), change in level ($p = 0.39$), and change in trend ($p = 0.02$).

In the comparison between Very Small Institution Reports with Very Large Institution Reports, there were significant differences in the pre-intervention trend ($p < 0.001$) and post-intervention trend ($p = 0.001$). There were no significant differences in base level ($p = 0.03$), change in level ($p = 0.18$), and change in trend ($p = 0.27$).

There were significant differences between Small Institution Reports and Medium and Large Institution Reports in the base level, post-intervention trend and change in trend. There were no significant differences in pre-intervention trend ($p = 0.17$) and change in level ($p = 0.13$).

In the comparison between Small Institution Reports and Very Large Institution Reports there were significant differences in base level ($p < 0.001$), pre-intervention trend ($p < 0.001$), post-intervention trend ($p < 0.001$), and change in trend ($p < 0.001$). There was not a significant difference in the change of level ($p = 0.26$).

In comparing Medium and Large Institution Reports and Very Large Institution Reports, there were significant differences in base level ($p = 0.001$) and change in trend ($p = 0.007$). There were no significant differences in pre-intervention trend ($p = 0.01$), change in level ($p = 0.46$), and post-intervention trend ($p = 0.06$).

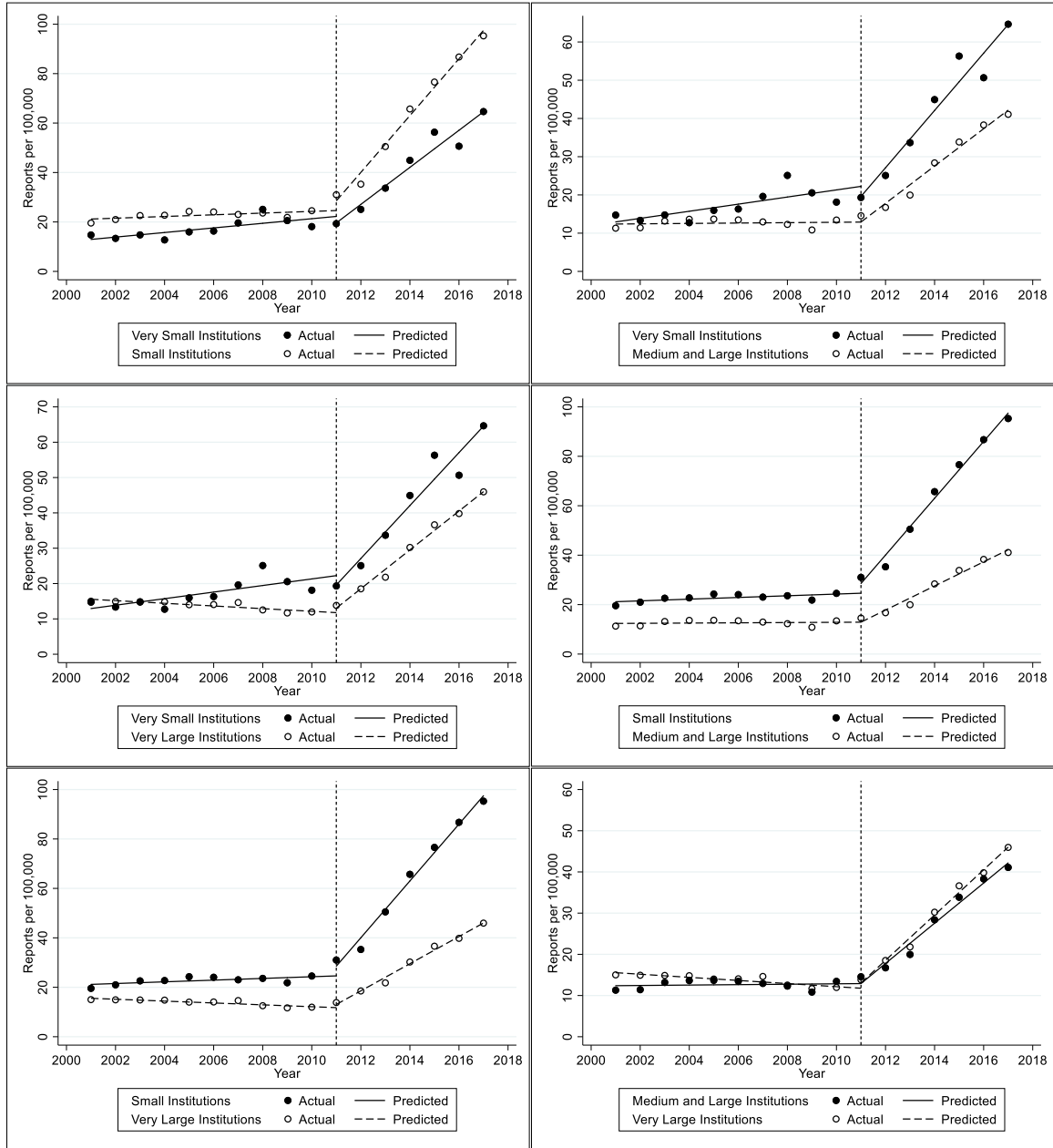


Figure 4.11. Institution Size Multiple-Group Interrupted Time-Series Analyses. Very small institutions compared to small institutions is represented in the top-left figure. Very small institutions compared to medium and large institutions is represented in the top-right figure. Very small institutions compared to very large institutions is represented in the center-left figure. Small institutions compared to medium and large institutions is represented in the center-right figure. Small institutions compared to very large institutions is represented in the bottom-left figure. Medium and large institutions compared to very large institutions is represented in the bottom-right figure. Regression with Newey-West standard errors - lag(1).

Chapter Summary

The purpose of this study is to better understand the impact of the 2011 Dear Colleague Letter on the reporting of sexual misconduct by institutions of higher education through the Clery Act. This results chapter reviewed 14 single-group interrupted time-series analyses and 14 multiple-group interrupted time-series analyses. Several of the multiple-group interrupted time-series analyses implemented a Bonferroni Correction to compare several analyses at once. Using these results and the information from each of the chapters, the study will be discussed in chapter five of this dissertation.

DISCUSSION

Introduction

The purpose of this study was to determine the impacts of the 2011 Dear Colleague Letter on the management of sexual violence by institutions of higher education. It further examined institution characteristics and the impact these had on how institutions implemented the guidance by the United States Department of Education. To accomplish this, the study evaluated data provided by the U.S. Department of Education, the Integrated Postsecondary Education Data System, and Uniform Crime Reports.

A quasi-experimental quantitative research design was used to answer each of the research questions; this was accomplished utilizing interrupted time-series analysis and multiple-group interrupted time-series analysis methods. The primary analytic sample used in this study consisted of 3,634 institutions of higher education, which provided data to Campus Safety and Security for every year from 2001-2017. Three research questions guided this study; they include:

1. What was the impact of the 2011 Dear Colleague Letter on the rates of managing sexual violence reports by institutions of higher education?
2. Was there a change in the rates of sexual violence reported by law enforcement agencies to the U.S. Department of Justice from 2000-2017, and how does this compare to the rates of sexual violence reported by institutions of higher education?
3. Was there a differing impact of the 2011 Dear Colleague Letter based on institution classifications (degree program, sector, residential classification, or

size) on the rates of managing sexual violence reports by institutions of higher education?

This chapter begins with an individual discussion of each research question based on the literature review, methods, and results. Then, the policy cycle theory is discussed, and possible changes to this theory are proposed. Next, implications for practice, future research, and future policies are posed based on the entirety of this study. Finally, this section and dissertation provide conclusions conferred from the totality of this work.

Research Question 1

This section works to discuss the research question: What was the impact of the 2011 Dear Colleague Letter on the rates of managing sexual violence reports by institutions of higher education? The data for this discussion can be seen in Tables 4.1 and C.1, and Figure 4.1. Prior to the implementation of the 2011 Dear Colleague Letter (2011 DCL), the base level of Clery Act reports per 100,000 (Clery Act reports) students was 15.13, with the lowest year occurring in 2009 with 13.45 reports per 100,000 students. As presented in the literature review, the 2001 Dear Colleague Letter (2001 DCL) outlined that institutions were responsible for responding to reports of sexual harassment (Office for Civil Rights, 2001a). The Office for Civil Rights (2001a) defined sexual harassment as: “Conduct of a sexual nature is sufficiently severe, persistent, or pervasive to limit a student’s ability to participate in or benefit from the education program, or to create a hostile or abusive education environment (U.S. Department of Education, 1997); this definition was deemed, “consistent” with the *Davis v. Monroe County Board of Education* (1999) (Office for Civil Rights, 2001a, p. vi). Despite this

clear guidance, the number of reports changed very little during the pre-intervention timeframe of 2001-2010, reaching a maximum of 15.85 reports per 100,000 students in 2005 (see Appendix C, Table C.1). The Office for Civil Rights (2011) further pressed the responsibility of institutions of higher education by stating, “the requirements of Title IX pertaining to sexual harassment also covers sexual violence” (p. 1).

In 2011, the year that the 2011 DCL was implemented, there were 17.43 reports per 100,000 students; however, despite this number being higher than any year in the pre-intervention time-frame it was statistically insignificant. It was also lower than the year-to-year increases which were seen following 2011 and will later be discussed in this section. A reason for this occurrence might be the immediate implementation of the guidance presented by the 2011 DCL. As discussed in the literature review, the 2011 DCL established several responsibilities of institutions of education which took both time and resources to implement (Office for Civil Rights, 2011). This would cause a delay in meeting all the guidance put forth in the 2011 DCL. Another reason there may not have been a sharp increase in reports in 2011 could have been because of unfavorable views of the policy by personnel at institutions of higher education as described in the research by Poole (2014) and Jones (2017). This could have caused initial hesitancy in the uptake of this new guidance until institutions began receiving compliance investigations by the Office for Civil Rights as discussed by Schaffer nee Malone (2017), and lawsuits as described by Damron-Litchford (2015). Despite these possible reasons for the initial lag in the increase of reports, the post-intervention period of 2012-2017, shows institutions of higher education quickly implemented the guidance.

Following the implementation of the 2011 DCL, there was an increase in reports per 100,000 students by 6.30 per year from 2012-2017. The highest year of these reports was 2017 with 52.89; this is 3.50 times higher than the base-level of reports. There are three scenarios which could describe this increase in reports from year-to-year. First, there could have been an increase in sexual violence from 2012-2017; this will be evaluated further in the discussion of research question two. If there was an increase in sexual violence occurring during this timeframe, it would result in a high number of reported incidents. Second, institutions could be managing sexual violence at a higher rate with no change in the number of incidents occurring. Third, there could be a combination of events occurring in which both the number of incidents and number of cases being managed by institutions of higher education are occurring. While additional policies passed following 2011 could have contributed to the increase in reports during the post-intervention period, it is clear from the results that the 2011 DCL has a statistically significant impact on the trend of reports from 2012-2017. This evidence and the evidence from the pre-intervention period, and intervention period (2011), gives an answer to the research question posed.

The 2011 DCL did cause a change in the management of sexual violence by institutions of higher education. This can primarily be seen in the evidence related to the post-intervention period of 2012-2017. This evidence and this proposed finding are limited by multiple factors, including: Clery Act data only pertaining to on-campus crime, and not knowing if the increase in reporting is being caused by increase in incidence. These limitations were initially discussed in the introduction of this

dissertation and will be further addressed in the discussion of research questions two and three.

Research Question 2

Research question two was: Was there a change in the rates of sexual violence reported by law enforcement agencies to the U.S. Department of Justice from 2000-2017, and how does this compare to the rates of sexual violence reported by institutions of higher education? The data for this discussion can be seen in Tables 4.2-4.3, Table C.1-C.2, and Figures 4.2-4.3. This section will focus on the comparison of the Uniform Crime Reports with the Clery Act reports. A review of UCR on its own would be out of the scope of this dissertation, and is therefore not included. Additionally, despite there being significant differences in the pre-intervention base-level and pre-intervention trend, these numbers were not relevant to answering the research question and will not be discussed. The discussion for research question two starts at the point of intervention, when the 2011 DCL was implemented.

In 2011 there was not a significant difference between the change in level between Clery Act Reports and Uniform Crime Reports. Uniform Crime Reports had an insignificant decrease of -2.37 reports of Legacy Rape per 100,000 people (Legacy Rape reports) that year, and Clery Act reports saw an insignificant increase of 1.05. As discussed for research question one, there are many reasons why there was no significant change the year the 2011 DCL was implement despite significant changes in the trend from 2012-2017. In relation to research question two, there is evidence to support rates of Legacy Rape being reported to law enforcement agencies did not change in 2011.

From 2012-2017, there was a significant difference in the post-intervention trend between the two datasets. During this timeframe, Legacy Rape reports increased significantly by 0.69 per year, while Clery Act reports increased significantly by 6.30 per year; the differences in these trends was significant. Additionally, by looking at the year-to-year data provided in Table C.1 and Table C.2, there was a noticeable difference between the two data sets. Clery Act reports saw year-to-year increases for every year from 2011-2017, the Legacy Rape reports saw only an increase of 0.1 from 2011-2012, a decrease from 2012-2013 of 1.2, followed by year-to-year increases. The evidence discussed allows us to answer research question two.

Given the evidence provided, there is no indication that an increase in sexual violence crimes in the United States was the reason Clery Act reports increased year-to-year from 2012-2017. This was seen both in the multiple-group analysis and the year-to-year data provided. These findings mitigate the limitation discussed in research question one. There were two limitations to these findings which were discussed in the first chapter; they include: differences between the definitions of Legacy Rape and Sex Offenses – Forcible, and uncontrolled demographic differences between the Uniform Crime Reports and Clery Acts statistics.

Research Question 3

This section works to discuss the following research question: Was there a differing impact of the 2011 Dear Colleague Letter based on institution classifications (degree program, sector, residential classification, or size) on the rates of managing sexual violence reports by institutions of higher education? The conclusions drawn from

the results rely on the researcher's experience and education in the field of education as discussed in the methodology chapter. The purpose of utilizing institution classifications was to further explore the impacts of the 2011 DCL on institutions of higher education. Throughout this section multiple classifications will be discussed including: degree program, sector, residential classification, and size. A response to research question three, which will explore all four classifications, will be provided at the end of this section.

Degree Program

Degree program was derived from the Integrated Postsecondary Education Data System's (IPEDS) "Sector of institution" category as discussed in the methodology chapter. Two-year and four-year institutions were included in this analysis. The data related to this discussion can be viewed in Tables 4.4-4.5, Table C.3, and Figures 4.4-4.5

Prior to the 2011 DCL, there were significant differences in the base-level of 2-year institutions of higher education reports of sexual violence per 100,000 students (2-Year Reports) and those of 4-year institutions (4-Year Reports). The base level of 2-Year Reports (1.91) was 20.48 lower than 4-Year Reports (22.39). From 2001-2010, 2-Year Reports were significantly increasing year-to-year by 0.15, while 4-Year Reports saw no significant change. Differences in these base levels could be attributed to a variety of factors. First, the percentage of students living on-campus could differ between the degree programs; however, further analysis is needed to determine how different the twodegree programs are. An attempt was made to evaluate the number of institutions from each degree program were represented in the different residential classifications

which will later be discussed; however, less than 10 2-year institutions were included in this data. Second, due to the commuter nature of many 2-year institutions of higher education, students might not be as aware of resources or be willing to use them. This would suppress reporting because the institution is not receiving reports when crimes occur.

When the 2011 DCL was implemented, there was no significant difference seen in the interrupted time-series analysis. Both 2-year and 4-year institutions of higher education had no significant change in their reports in 2011. As discussed in the Clery Act Reports section of this discussion, there are several reasons this could have occurred, and those reasons may have differed between 2-year and 4-year institutions. Further research which can extend the discussion on these differences will be present later in this chapter.

There were significant differences between the trend of 2-Year Reports and 4-Year Reports from 2012-2017. There was also a significant increase of 8.83 4-Year Reports per year and 0.96 2-Year Reports per year. These differences could be related to the base-level differences between degree programs as discussed earlier in this session, rather than a difference in how the 2011 DCL was implemented. This is further seen in a look at the 2-Year Reports and 4-Year Reports in 2017 compared to the base-level reported from the interrupted time-series analyses; 2-Year Reports increased by 445% (1.91 to 8.49) and 4-Year Reports increased by 337% (22.39 to 75.36). While 4-Year Reports saw year-to-year increases from 2012-2017, 2-Year Reports declined in 2017. This anomaly could be related to the implementation of the 2017 Dear Colleague Letter

(2017 DCL); a similar study to the present dissertation could be conducted to evaluate this.

Sector

Similar to degree program, sector was derived from the IPEDS' category of "Sector of institution." The analysis for this section includes public institutions, private non-profit institutions, and private for-profit institutions. The results utilized in this discussion can be viewed in Tables 4.6-4.7, Table C.4, and Figures 4.6-4.7.

There were significant differences between all three classifications in base-level. The base level of Clery Reports of public institutions of higher education per 100,000 students (Public Reports) were 11.89, private non-profit institution reports per 100,000 students (Private Non-Profit Reports) were 29.98, and private for-profit institution reports per 100,000 students (Private For-Profit Reports) were 1.10. There were multiple reasons which could have contributed to these differences. First, like degree program, there could be differences between students living on-campus between these three groups. This was further evaluated, and while 85.2% of private non-profit institutions were either highly residential or primarily residential, only 53.1% of public institutions and 8.7% of private for-profit institutions fell into the same category. This will be evaluated further in the discussion of residential classification. Second, there could be differences in the amount of resources available between these different types of institutions. The ability to fund programs and services related to sexual violence could have an impact on the rates of reports.

When the 2011 DCL was implemented none of the sectors defined had a significant change in level, and there were no significant differences between any of the groups. This was described in the discussion of research question one, and no emergent points were apparent.

From 2012-2017, there were significant differences between each institution sector in both trend and change in trend. It could be argued that these differences could be attributed to the base-level differences discussed previously, rather than certain sectors refusing to implement the 2011 DCL guidance. Private For-Profit Reports were the lowest in 2017 at 10.47 but had risen 952% from the base level; Public Reports rose 320% (11.89 to 38.03) and Private Non-Profit Reports rose 394% (28.98 to 114.17). There could be an argument made that remaining eligible for federal funding could drive private for-profit institutions to more aggressively implement the 2011 DCL guidance. This would result in an increase in reports.

Residential Classification

Residential classification was retrieved from IPEDS and was originally defined as Size and Setting (National Center for Education Statistics, 2019). Setting referred to residential classification as defined by Carnegie (2019). Residential classification was isolated from size as described in the methodology chapter. The following is how each of the residential classifications was defined by Carnegie (2019):

- Primarily Non-Residential: “25% of degree-seeking undergraduates live on campus and at least 50% attend fulltime.”

- Primarily Residential: “25-49% of degree-seeking undergraduates live on campus and at least 50% attend fulltime.”
- Highly Residential: “At least half of degree-seeking undergraduates live on campus and at least 80% attend fulltime.”

The results of residential classification related to this discussion can be viewed in Tables 4.8-4.9, Table C.5, and Figures 4.8-4.9.

From 2001-2010, the base levels of all three classifications were significant. Highly Residential institutions of higher education had the highest number of reports of sexual violence per 100,000 students with 45.37 (Highly Residential Reports); this was followed by Primarily Residential institutions with 25.25 (Primarily Residential Reports) and Primarily Non-Residential institutions with 10.29 (Primarily Non-Residential Reports). There were significant differences between all three classification's base levels. As stated in the methodology chapter, due to the Clery Act only requiring institutions to report crimes which occur on-campus (Department of Education, 2016), utilizing residential classification could give a more accurate representation of the actual rates sexual violence was being managed at institutions of higher education. This appears to hold true given Highly Residential Reports had the highest reports in the base level.

Only Primarily Residential Reports had a significantly changing trend prior to the 2011 DCL, this was a decrease of 0.39 reports per year. Table C.5 showed an average of 24.17 reports from 2001-2008 followed by a drop to 20.72 for 2009-2010. This drop was present in the Primarily Non-Residential Reports in 2008-2009. It is unclear why this change might have occurred given the review of the literature.

When the 2011 DCL was implemented, changes in levels of all three levels were not significant. Highly Residential Reports were just shy of being significant with a p-value of 0.06 and an increase in reports of sexual violence by 7.77. Again, although not significant, this is the most accurate representation of the changes in sexual violence management at institutions of higher education.

From 2012-2017, each classification saw significant year-to-year increases in the number of reports per 100,000 students. Highly Residential Reports increased by 20.13 per year (45.37 to 172.37, or 380%), Primarily Residential Reports increased by 8.37 per year (25.25 to 75.74, or 300%), and Primarily Non-Residential Reports increased by 4.50 per year (10.29 to 35.38, or 344%). The differences between these changes in trend were significant, again highlighting how on-campus populations of students has an impact on the reporting of crimes through the Clery Act.

Size

The institution size classification was taken from the IPEDS definition. As discussed in the methodology section, the medium and large institutions were combined into a single group to aid analysis (see Appendix E). The National Center for Education Statistics (2019) broke up size as follows:

- Very Small: Under 1,000 students.
- Small: 1,000 to 5,000 students.
- Medium-to-Large: 5,000-19,999 students.
- Very Large: 20,000 students or more.

The data for this section of the discussion can be seen in Tables 4.10-4.11, Table C.6, and Figures 4.10-4.11.

Each of the size classifications had significant base levels in sexual violence reporting through the Clery Act. The highest was small institutions with 21.18 reports per 100,000 students (Small Institution Reports); this was followed by very large institutions with 15.55 reports (Very Large Institution Reports), very small institutions with 12.94 reports (Very Small Institution Reports), and medium and large institutions with 12.39 reports (Medium and Large Institution Reports). There were no significant differences between the base levels of Very Small Institution Reports and Medium and Large Institution Reports, and no significant differences between Very Small Institution Reports and Very Large Institution Reports; this was the only time this occurred for any of the multiple-group analyses conducted in this study. Small Institution Reports had significant base level differences from all other size classifications. To see if this was related to residential classification, the percentage of primarily residential and highly residential was evaluated for each of the size classifications. Small institutions were 78.9% primarily residential and highly residential (42.8% small institutions did not have a residential classification); this was followed by medium and large institutions at 61.5% (48.9% were not classified), very small institutions at 59.7% (82.0% were not classified), and very large institutions at 51.0% (29.8% were not classified). This suggests residential classification could be related to these base level differences. Additionally, there could be differences in community and the ratio of programs and services per student. Small institutions may have a more tight-knit community, which would make the

existence of programs and services related to sexual violence more widely-known. A lower number of students would also allow for clear advertising of programs and services, again, making them more widely known to students.

When the 2011 DCL was implemented, there were no significant changes to level. Small Institution Reports had the highest change in level, increasing by 3.93 reports ($p = 0.09$) this was also the closest to reaching statistical significance.

From 2012-2017, all four classifications saw significant year-to-year increases in their reports. Small Institution Reports had the highest year-to-year increases with 11.49; this was followed by Very Small Institution Reports with 7.49, Very Large Institution Reports with 5.49, and Medium and Large Institution Reports with 4.88. There was not a significant difference between this change in trend for Medium and Large Institution Reports and Very Large Institution Reports; however, there were significant differences in the change in trend. This was a very interesting finding, as it was the only analysis in this study which suggests there were differences in how 2011 DCL guidance was implemented. Due to the exploratory nature of this study, it is unclear why this occurred; however, this will be discussed further in the future research section of this chapter.

Summary

Throughout this section each of the institutional classifications have been evaluated in order to determine if they had any impact on the management of sexual violence following the implementation of the 2011 DCL. While there were noticeable differences found within each of the classifications prior to the implementation of the 2011 DCL (2001-2010), at the point of implementation (2011), and following

implementation, only one finding gave evidence towards a difference in how institutions implemented this guidance; this was found in the comparison between Medium and Large Institution Reports and Very Large Institution Reports. As discussed in the methodology chapter, the Highly Residential Reports likely provide the clearest picture of the management of sexual violence before, at the point of, and after implementation of the 2011 DCL.

Policy Cycle Theory

In the introduction chapter, the policy cycle theory was introduced (see Figure 1.1). This theory suggested policies go through a cycle of agenda setting, policy formation, implementation, and then evaluation and termination (Werner & Kai, 2006). While this aligns with policies like the 2011 DCL which was terminated by the 2017 Dear Colleague Letter (Office for Civil Rights, 2017), policies like Title IX of the Education Amendments of 1972 which at the time of this writing was 47 years old (Title IX, 1972). A change which might be more realistic would be a model akin to Figure 5.1 which can be seen below:

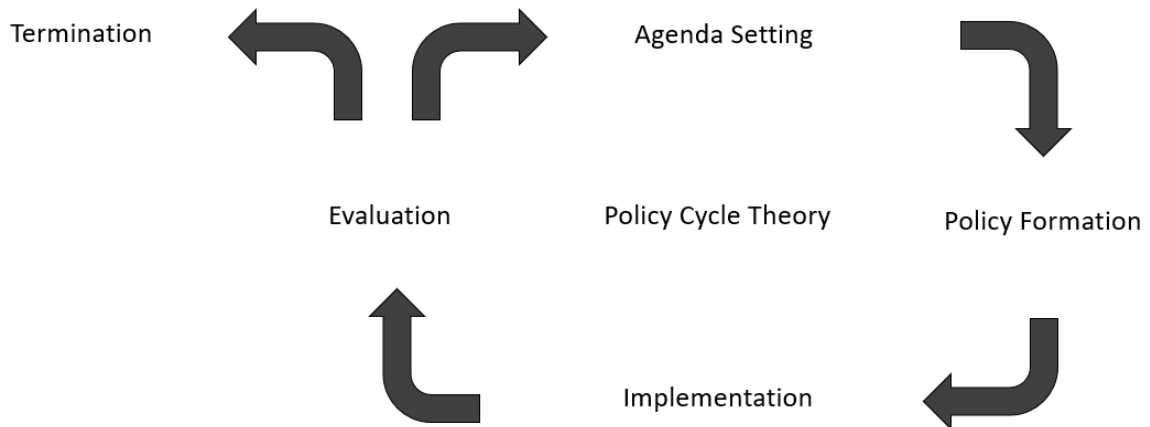


Figure 5.1. Proposed Policy Cycle Theory. An adaption of Werner and Kai's (2006) four-stage Policy Cycle Theory.

This update to the policy cycle theory proposed by Werner and Kai (2006) removes the inevitable termination of a policy, and instead leaves room for adaptations following evaluation of the policy. For example, Title IX of the Education Amendments of 1972 has continued to be evaluated with additional guidance implemented through the process shown above to modernize the policy. These changes have allowed Title IX to keep up with political and societal changes which inevitably occur through time. Similarly, while there have been changes to modernize the Crime Awareness and Campus Security Act (1990), this policy has been in place for 29 years at the time of this writing.

Implications

This study was an exploratory investigation, meant to provide understanding of how the 2011 DCL impacted the management and reporting of sexual violence at institutions of higher education. Due to the exploratory nature of the dissertation, several implications for practice, future research, and future policies are made in this section.

Many of these implications resulted from the lack of significant level change in 2011, when the 2011 DCL was implemented.

Practice

There are two implications from the findings which pertain to how institutions of higher education could better respond to guidance changes by the United States Department of Education. First, institutions of higher education could have a sexual violence policy expert who can evaluate guidance changes by the U.S. Department of Education and provide recommendations for institutional changes, if any. By having this policy expert, resources could be allocated towards keeping up to date and understanding changes to policy by the U.S. Department of Education. This would result in faster adherence to policy changes by institutions of higher education. Second, institutions of higher education could prepare for rapidly changing policies from the U.S. Department of Education by removing barriers to structural and internal policy changes. The U.S. Department of Education has released 22 Dear Colleague Letters pertaining to Title IX of the Education Amendments of 1972 (Title IX) since 1991 (Office for Civil Rights, 2018).

Future Research

Given the many findings of this dissertation, there are several general and many specific suggestions for future research. General suggestions are those which could impact multiple future studies. The specific suggestions are those which were identified in evaluating the findings of this study.

There are two general suggestions posed from this research. First, qualitative methods should be employed for a look at how institutions of higher education have

adjusted to Department of Education guidance on how to manage sexual violence. These should include interviews with both institution of higher education employees (*i.e.*, Title IX Coordinators and Investigators). While, both Poole (2014) and Jones (2017) conducted studies on the 2011 DCL with qualitative methods, these were limited in that they only studied a single state and a single institution. In future research, it will be important to gather a more nation-wide understanding of how institutions reacted to this guidance. Next, mixed methods studies could be used to bring the results of interrupted time-series analysis to Title IX administrators for their interpretation of the findings using open-ended questions. This approach could uncover how institutions respond-to and manage the Office for Civil Rights' guidance, and give more specific implications for practice, research, and policy.

The two specific suggestions for future research are research leads which stood out to the primary investigator as they reviewed the results and discussion. First, the future of studying Title IX guidance. The Questions and Answers about Title IX and Sexual Violence will be the next policy which can be studied given the timeline and release of Clery Act statistics (Office for Civil Rights, 2014). The use of interrupted time-series methods to conduct this study would be complicated by the Violence Against Women Reauthorization Act of 2013 falling in the same time-frame (U.S. Department of Education, 2018). Similarly, the 2017 Dear Colleague Letter and 2017 Questions and Answers on Campus Sexual Misconduct (Office for Civil Rights, 2017^a; Officer for Civil Rights, 2017^b) guidance is limited in the use of these methods due to changes in social engagement in the topic of sexual violence in 2017 through the “MeToo” movement

(Tippett, 2018). An approach to navigating the complexity of these studies could be to use interrupted time-series analysis with qualitative approaches in a mixed methods study. Next, each of the classifications (degree program, sector, residential classification, and size) used in this study showed significant differences between the classifications which could be further evaluated. Future research into the 2011 DCL could specifically compare one set of these classifications to determine what differences exist between these different institutions. In the discussion regarding research question three, residential classification may impact several different classifications, and could be controlled for in the future (*e.g.*, only including institutions defined as highly residential).

Future Policies

There are several policy implications which are apparent from the findings of this study. These changes would increase the adherence of institutions of education to federal guidance and provide better access to information for researchers of sexual violence at institutions of higher education. There are four changes which are presented below.

First, the United States Department of Education could implement a gap of publishing guidance and when this guidance comes into effect. There was no change in the level of reports in 2011, the year the 2011 DCL guidance was implemented; however, institutions of higher education were expected to follow the guidance immediately. There was also no indication of any type of institution not implementing the guidance put forth by the U.S. Department of Education, but different types of institutions have the resources to implement these shifts in policy quicker. This policy change would give

institutions time to assess the guidance and make appropriate changes to their organizational structure and policies, resulting in immediate adherence to policy.

Second, the U.S. Department of Education could consolidate all guidance into a single location; providing updates and notifications to institutions of education whenever this information changes. Again, there was no change in level seen in the interrupted time-series analysis when the 2011 DCL was first implemented. Since 1991, there have been 59 Dear Colleague Letters, 22 of which were directly related to Title IX (Office for Civil Rights, 2018); additionally, there have been several changes to responsibilities presented in the Clery Act (Clery Center, 2018). By consolidating this information, institutions of education could better respond to changes; especially if these changes gave time for change prior to implementation as described earlier in this section.

Third, the U.S. Department of Education could provide a structural suggestion document with multiple models and policies which would adhere to their guidance change. Institutions should not need to be reliant on private organizations and associations to provide expert advice regarding how to respond to policies implemented through the federal government. It is clear from the documentation found on the Association of Title IX Administrators (ATIXA) webpage, that it was formed due to a lack of support as seen from this statement:

“Colleges and universities have made significant progress since the April 4th, 2011 Dear Colleague Letter on campus sexual violence gave us greater insight into the role and responsibilities of the Coordinator...Once again, schools are scrambling to update policies, implement training, and understand the Office for Civil Rights’ (OCR) expectations, all while some have yet to achieve full compliance with the new mandates set out by VAWA Section 304 in 2015.” (ATIXA, 2019).

While associations of professionals form naturally, they should be formed to provide networking opportunities and a platform to share ideas at local conferences, not to get much needed certifications, trainings, and resources (*see* ATIXA, 2019).

Last, the federal government should make available information regarding the number and types of cases managed available to the public. While this study was able to leverage Clery Act statistics as a way to better understand the management of the 2011 DCL, data related directly to the management of these reports would provide a clearer picture of the overall impacts of these policy changes. There would need to be further discussion regarding providing this data by each institution due to privacy concerns, especially at institutions where the number of overall cases is low.

Conclusion

In the discussion of all three research questions, multiple conclusions were drawn based on the results of the interrupted time-series analysis. Five primary conclusions can be presented based on this work:

1. The 2011 DCL had and continues to have a positive impact on the management of sexual violence by institutions of higher education.
2. The 2011 DCL may have increased the reporting of sexual violence to law enforcement organizations.
3. Increases in the rates of sexual violence managed by institutions of higher education are not due to an increase in incidence in the general population.
4. All types of institutions of higher education in the United States implemented the 2011 DCL guidance.

5. Institutions of higher education are still managing only a small fraction of incidents which their students experience.

As presented by Cantor et al. (2015), there are 81 “completed acts of nonconsensual sexual contact involving force or incapacitation” per 1,000 undergraduate students (p.24). Using similar measurements, this would bring the number of completed acts of sexual violence to 8,100 per 100,000 students per year. This indicates that undergraduate students at institutions of higher education could be experiencing 153 times more sexual violence than is currently being reported through the Clery Act statistics. While this conclusion is likely inflated due to Clery Act statistics only measuring on campus crime, there is evidence to support institutions still have a long way to go. Students attending institutions of higher education should not be in an environment where they are 40.5 times more likely to experience sexual assault than the general population. The 2011 DCL achieved its goal of changing how institutions of higher education respond to reports of sexual violence and how they manage these reports (Office for Civil Rights, 2011). As we look towards the future of education policy and guidance related to sexual violence management, lawmakers and government officials need to use an objective lens to evaluate and implement future policies. Sexual violence at institutions of higher education in the United States is a national crisis and must be a priority for leaders at all level to address and implement proven interventions. In implementing these policies, we cannot afford to move backwards, further subjecting our students to a culture of sexual violence.

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APPENDICES

APPENDIX A

2011 DEAR COLLEAGUE LETTER



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

April 4, 2011

Dear Colleague:

Education has long been recognized as the great equalizer in America. The U.S. Department of Education and its Office for Civil Rights (OCR) believe that providing all students with an educational environment free from discrimination is extremely important. The sexual harassment of students, including sexual violence, interferes with students' right to receive an education free from discrimination and, in the case of sexual violence, is a crime.

Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. §§ 1681 *et seq.*, and its implementing regulations, 34 C.F.R. Part 106, prohibit discrimination on the basis of sex in education programs or activities operated by recipients of Federal financial assistance. Sexual harassment of students, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX. In order to assist recipients, which include school districts, colleges, and universities (hereinafter "schools" or "recipients") in meeting these obligations, this letter¹ explains that the requirements of Title IX pertaining to sexual harassment also cover sexual violence, and lays out the specific Title IX requirements applicable to sexual violence.² Sexual violence, as that term is used in this letter, refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability. A number of different acts fall into the category of sexual violence, including rape,

¹ The Department has determined that this Dear Colleague Letter is a "significant guidance document" under the Office of Management and Budget's Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. 3432 (Jan. 25, 2007), available at: http://www.whitehouse.gov/sites/default/files/omb/assets/regulatory_matters_pdf/012507_good_guidance.pdf. OCR issues this and other policy guidance to provide recipients with information to assist them in meeting their obligations, and to provide members of the public with information about their rights, under the civil rights laws and implementing regulations that we enforce. OCR's legal authority is based on those laws and regulations. This letter does not add requirements to applicable law, but provides information and examples to inform recipients about how OCR evaluates whether covered entities are complying with their legal obligations. If you are interested in commenting on this guidance, please send an e-mail with your comments to OCR@ed.gov, or write to us at the following address: Office for Civil Rights, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202.

² Use of the term "sexual harassment" throughout this document includes sexual violence unless otherwise noted. Sexual harassment also may violate Title IV of the Civil Rights Act of 1964 (42 U.S.C. § 2000c), which prohibits public school districts and colleges from discriminating against students on the basis of sex, among other bases. The U.S. Department of Justice enforces Title IV.

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sexual assault, sexual battery, and sexual coercion. All such acts of sexual violence are forms of sexual harassment covered under Title IX.

The statistics on sexual violence are both deeply troubling and a call to action for the nation. A report prepared for the National Institute of Justice found that about 1 in 5 women are victims of completed or attempted sexual assault while in college.³ The report also found that approximately 6.1 percent of males were victims of completed or attempted sexual assault during college.⁴ According to data collected under the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (Clery Act), 20 U.S.C. § 1092(f), in 2009, college campuses reported nearly 3,300 forcible sex offenses as defined by the Clery Act.⁵ This problem is not limited to college. During the 2007-2008 school year, there were 800 reported incidents of rape and attempted rape and 3,800 reported incidents of other sexual batteries at public high schools.⁶ Additionally, the likelihood that a woman with intellectual disabilities will be sexually assaulted is estimated to be significantly higher than the general population.⁷ The Department is deeply concerned about this problem and is committed to ensuring that all students feel safe in their school, so that they have the opportunity to benefit fully from the school's programs and activities.

This letter begins with a discussion of Title IX's requirements related to student-on-student sexual harassment, including sexual violence, and explains schools' responsibility to take immediate and effective steps to end sexual harassment and sexual violence. These requirements are discussed in detail in OCR's *Revised Sexual Harassment Guidance* issued in 2001 (*2001 Guidance*).⁸ This letter supplements the *2001 Guidance* by providing additional guidance and practical examples regarding the Title IX requirements as they relate to sexual violence. This letter concludes by discussing the proactive efforts schools can take to prevent sexual harassment and violence, and by providing examples of remedies that schools and OCR may use to end such conduct, prevent its recurrence, and address its effects. Although some examples contained in this letter are applicable only in the postsecondary context, sexual

³ CHRISTOPHER P. KREBS ET AL., *THE CAMPUS SEXUAL ASSAULT STUDY: FINAL REPORT* xiii (Nat'l Criminal Justice Reference Serv., Oct. 2007), available at <http://www.ncjrs.gov/pdffiles1/nij/grants/221153.pdf>. This study also found that the majority of campus sexual assaults occur when women are incapacitated, primarily by alcohol. *Id.* at xviii.

⁴ *Id.* at 5-5.

⁵ U.S. Department of Education, Office of Postsecondary Education, Summary Crime Statistics (data compiled from reports submitted in compliance with the Clery Act), available at

<http://www2.ed.gov/admins/lead/safety/criminal2007-09.pdf>. Under the Clery Act, forcible sex offenses are defined as any sexual act directed against another person, forcibly and/or against that person's will, or not forcibly or against the person's will where the victim is incapable of giving consent. Forcible sex offenses include forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling. 34 C.F.R. Part 668, Subpt. D, App. A.

⁶ SIMONE ROBERTS ET AL., *INDICATORS OF SCHOOL CRIME AND SAFETY: 2010* at 104 (U.S. Dep't of Educ. & U.S. Dep't of Justice, Nov. 2010), available at <http://nces.ed.gov/pubs2011/2011002.pdf>.

⁷ ERIKA HARRELL & MICHAEL R. RAND, *CRIME AGAINST PEOPLE WITH DISABILITIES*, 2008 (Bureau of Justice Statistics, U.S. Dep't of Justice, Dec. 2010), available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/capd08.pdf>.

⁸ The *2001 Guidance* is available on the Department's Web site at <http://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>. This letter focuses on peer sexual harassment and violence. Schools' obligations and the appropriate response to sexual harassment and violence committed by employees may be different from those described in this letter. Recipients should refer to the *2001 Guidance* for further information about employee harassment of students.

harassment and violence also are concerns for school districts. The Title IX obligations discussed in this letter apply equally to school districts unless otherwise noted.

Title IX Requirements Related to Sexual Harassment and Sexual Violence

Schools' Obligations to Respond to Sexual Harassment and Sexual Violence

Sexual harassment is unwelcome conduct of a sexual nature. It includes unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature. Sexual violence is a form of sexual harassment prohibited by Title IX.⁹

As explained in OCR's *2001 Guidance*, when a student sexually harasses another student, the harassing conduct creates a hostile environment if the conduct is sufficiently serious that it interferes with or limits a student's ability to participate in or benefit from the school's program. The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the harassment is physical. Indeed, a single or isolated incident of sexual harassment may create a hostile environment if the incident is sufficiently severe. For instance, a single instance of rape is sufficiently severe to create a hostile environment.¹⁰

Title IX protects students from sexual harassment in a school's education programs and activities. This means that Title IX protects students in connection with all the academic, educational, extracurricular, athletic, and other programs of the school, whether those programs take place in a school's facilities, on a school bus, at a class or training program

⁹ Title IX also prohibits gender-based harassment, which may include acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on sex or sex-stereotyping, even if those acts do not involve conduct of a sexual nature. The Title IX obligations discussed in this letter also apply to gender-based harassment. Gender-based harassment is discussed in more detail in the *2001 Guidance*, and in the 2010 Dear Colleague letter on Harassment and Bullying, which is available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.pdf>.

¹⁰ See, e.g., *Jennings v. Univ. of N.C.*, 444 F.3d 255, 268, 274 n.12 (4th Cir. 2006) (acknowledging that while not an issue in this case, a single incident of sexual assault or rape could be sufficient to raise a jury question about whether a hostile environment exists, and noting that courts look to Title VII cases for guidance in analyzing Title IX sexual harassment claims); *Vance v. Spencer Cnty. Pub. Sch. Dist.*, 231 F.3d 253, 259 n.4 (6th Cir. 2000) ("[w]ithin the context of Title IX, a student's claim of hostile environment can arise from a single incident" (quoting *Doe v. Sch. Admin. Dist. No. 19*, 66 F. Supp. 2d 57, 62 (D. Me. 1999))); *Soper v. Hoben*, 195 F.3d 845, 855 (6th Cir. 1999) (explaining that rape and sexual abuse "obviously qualify as...severe, pervasive, and objectively offensive sexual harassment"); see also *Berry v. Chi. Transit Auth.*, 618 F.3d 688, 692 (7th Cir. 2010) (in the Title VII context, "a single act can create a hostile environment if it is severe enough, and instances of uninvited physical contact with intimate parts of the body are among the most severe types of sexual harassment"); *Turner v. Saloon, Ltd.*, 595 F.3d 679, 686 (7th Cir. 2010) (noting that "[o]ne instance of conduct that is sufficiently severe may be enough," which is "especially true when the touching is of an intimate body part" (quoting *Jackson v. Cnty. of Racine*, 474 F.3d 493, 499 (7th Cir. 2007))); *McKinnis v. Crescent Guardian, Inc.*, 189 F. App'x 307, 310 (5th Cir. 2006) (holding that "the deliberate and unwanted touching of [a plaintiff's] intimate body parts can constitute severe sexual harassment" in Title VII cases (quoting *Harvill v. Westward Commc'ns, L.L.C.*, 433 F.3d 428, 436 (5th Cir. 2005))).

sponsored by the school at another location, or elsewhere. For example, Title IX protects a student who is sexually assaulted by a fellow student during a school-sponsored field trip.¹¹

If a school knows or reasonably should know about student-on-student harassment that creates a hostile environment, Title IX requires the school to take immediate action to eliminate the harassment, prevent its recurrence, and address its effects.¹² Schools also are required to publish a notice of nondiscrimination and to adopt and publish grievance procedures. Because of these requirements, which are discussed in greater detail in the following section, schools need to ensure that their employees are trained so that they know to report harassment to appropriate school officials, and so that employees with the authority to address harassment know how to respond properly. Training for employees should include practical information about how to identify and report sexual harassment and violence. OCR recommends that this training be provided to any employees likely to witness or receive reports of sexual harassment and violence, including teachers, school law enforcement unit employees, school administrators, school counselors, general counsels, health personnel, and resident advisors.

Schools may have an obligation to respond to student-on-student sexual harassment that initially occurred off school grounds, outside a school's education program or activity. If a student files a complaint with the school, regardless of where the conduct occurred, the school must process the complaint in accordance with its established procedures. Because students often experience the continuing effects of off-campus sexual harassment in the educational setting, schools should consider the effects of the off-campus conduct when evaluating whether there is a hostile environment on campus. For example, if a student alleges that he or she was sexually assaulted by another student off school grounds, and that upon returning to school he or she was taunted and harassed by other students who are the alleged perpetrator's friends, the school should take the earlier sexual assault into account in determining whether there is a sexually hostile environment. The school also should take steps to protect a student who was assaulted off campus from further sexual harassment or retaliation from the perpetrator and his or her associates.

Regardless of whether a harassed student, his or her parent, or a third party files a complaint under the school's grievance procedures or otherwise requests action on the student's behalf, a school that knows, or reasonably should know, about possible harassment must promptly investigate to determine what occurred and then take appropriate steps to resolve the situation. As discussed later in this letter, the school's Title IX investigation is different from any law enforcement investigation, and a law enforcement investigation does not relieve the school of its independent Title IX obligation to investigate the conduct. The specific steps in a school's

¹¹ Title IX also protects third parties from sexual harassment or violence in a school's education programs and activities. For example, Title IX protects a high school student participating in a college's recruitment program, a visiting student athlete, and a visitor in a school's on-campus residence hall. Title IX also protects employees of a recipient from sexual harassment. For further information about harassment of employees, see *2001 Guidance* at n.1.

¹² This is the standard for administrative enforcement of Title IX and in court cases where plaintiffs are seeking injunctive relief. See *2001 Guidance* at ii-v, 12-13. The standard in private lawsuits for monetary damages is actual knowledge and deliberate indifference. See *Davis v. Monroe Cnty. Bd. of Ed.*, 526 U.S. 629, 643, 648 (1999).

investigation will vary depending upon the nature of the allegations, the age of the student or students involved (particularly in elementary and secondary schools), the size and administrative structure of the school, and other factors. Yet as discussed in more detail below, the school's inquiry must in all cases be prompt, thorough, and impartial. In cases involving potential criminal conduct, school personnel must determine, consistent with State and local law, whether appropriate law enforcement or other authorities should be notified.¹³

Schools also should inform and obtain consent from the complainant (or the complainant's parents if the complainant is under 18 and does not attend a postsecondary institution) before beginning an investigation. If the complainant requests confidentiality or asks that the complaint not be pursued, the school should take all reasonable steps to investigate and respond to the complaint consistent with the request for confidentiality or request not to pursue an investigation. If a complainant insists that his or her name or other identifiable information not be disclosed to the alleged perpetrator, the school should inform the complainant that its ability to respond may be limited.¹⁴ The school also should tell the complainant that Title IX prohibits retaliation, and that school officials will not only take steps to prevent retaliation but also take strong responsive action if it occurs.

As discussed in the *2001 Guidance*, if the complainant continues to ask that his or her name or other identifiable information not be revealed, the school should evaluate that request in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. Thus, the school may weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment; the complainant's age; whether there have been other harassment complaints about the same individual; and the alleged harasser's rights to receive information about the allegations if the information is maintained by the school as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 C.F.R. Part 99.¹⁵ The school should inform the complainant if it cannot ensure confidentiality. Even if the school cannot take disciplinary action against the alleged harasser because the complainant insists on confidentiality, it should pursue other steps to limit the effects of the alleged harassment and prevent its recurrence. Examples of such steps are discussed later in this letter.

Compliance with Title IX, such as publishing a notice of nondiscrimination, designating an employee to coordinate Title IX compliance, and adopting and publishing grievance procedures, can serve as preventive measures against harassment. Combined with education and training programs, these measures can help ensure that all students and employees recognize the

¹³ In states with mandatory reporting laws, schools may be required to report certain incidents to local law enforcement or child protection agencies.

¹⁴ Schools should refer to the *2001 Guidance* for additional information on confidentiality and the alleged perpetrator's due process rights.

¹⁵ For example, the alleged harasser may have a right under FERPA to inspect and review portions of the complaint that directly relate to him or her. In that case, the school must redact the complainant's name and other identifying information before allowing the alleged harasser to inspect and review the sections of the complaint that relate to him or her. In some cases, such as those where the school is required to report the incident to local law enforcement or other officials, the school may not be able to maintain the complainant's confidentiality.

nature of sexual harassment and violence, and understand that the school will not tolerate such conduct. Indeed, these measures may bring potentially problematic conduct to the school's attention before it becomes serious enough to create a hostile environment. Training for administrators, teachers, staff, and students also can help ensure that they understand what types of conduct constitute sexual harassment or violence, can identify warning signals that may need attention, and know how to respond. More detailed information and examples of education and other preventive measures are provided later in this letter.

Procedural Requirements Pertaining to Sexual Harassment and Sexual Violence

Recipients of Federal financial assistance must comply with the procedural requirements outlined in the Title IX implementing regulations. Specifically, a recipient must:

- (A) Disseminate a notice of nondiscrimination;¹⁶
- (B) Designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title IX;¹⁷ and
- (C) Adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee sex discrimination complaints.¹⁸

These requirements apply to all forms of sexual harassment, including sexual violence, and are important for preventing and effectively responding to sex discrimination. They are discussed in greater detail below. OCR advises recipients to examine their current policies and procedures on sexual harassment and sexual violence to determine whether those policies comply with the requirements articulated in this letter and the *2001 Guidance*. Recipients should then implement changes as needed.

(A) Notice of Nondiscrimination

The Title IX regulations require that each recipient publish a notice of nondiscrimination stating that the recipient does not discriminate on the basis of sex in its education programs and activities, and that Title IX requires it not to discriminate in such a manner.¹⁹ The notice must state that inquiries concerning the application of Title IX may be referred to the recipient's Title IX coordinator or to OCR. It should include the name or title, office address, telephone number, and e-mail address for the recipient's designated Title IX coordinator.

The notice must be widely distributed to all students, parents of elementary and secondary students, employees, applicants for admission and employment, and other relevant persons. OCR recommends that the notice be prominently posted on school Web sites and at various

¹⁶ 34 C.F.R. § 106.9.

¹⁷ *Id.* § 106.8(a).

¹⁸ *Id.* § 106.8(b).

¹⁹ *Id.* § 106.9(a).

locations throughout the school or campus and published in electronic and printed publications of general distribution that provide information to students and employees about the school's services and policies. The notice should be available and easily accessible on an ongoing basis.

Title IX does not require a recipient to adopt a policy specifically prohibiting sexual harassment or sexual violence. As noted in the *2001 Guidance*, however, a recipient's general policy prohibiting sex discrimination will not be considered effective and would violate Title IX if, because of the lack of a specific policy, students are unaware of what kind of conduct constitutes sexual harassment, including sexual violence, or that such conduct is prohibited sex discrimination. OCR therefore recommends that a recipient's nondiscrimination policy state that prohibited sex discrimination covers sexual harassment, including sexual violence, and that the policy include examples of the types of conduct that it covers.

(B) *Title IX Coordinator*

The Title IX regulations require a recipient to notify all students and employees of the name or title and contact information of the person designated to coordinate the recipient's compliance with Title IX.²⁰ The coordinator's responsibilities include overseeing all Title IX complaints and identifying and addressing any patterns or systemic problems that arise during the review of such complaints. The Title IX coordinator or designee should be available to meet with students as needed. If a recipient designates more than one Title IX coordinator, the notice should describe each coordinator's responsibilities (*e.g.*, who will handle complaints by students, faculty, and other employees). The recipient should designate one coordinator as having ultimate oversight responsibility, and the other coordinators should have titles clearly showing that they are in a deputy or supporting role to the senior coordinator. The Title IX coordinators should not have other job responsibilities that may create a conflict of interest. For example, serving as the Title IX coordinator and a disciplinary hearing board member or general counsel may create a conflict of interest.

Recipients must ensure that employees designated to serve as Title IX coordinators have adequate training on what constitutes sexual harassment, including sexual violence, and that they understand how the recipient's grievance procedures operate. Because sexual violence complaints often are filed with the school's law enforcement unit, all school law enforcement unit employees should receive training on the school's Title IX grievance procedures and any other procedures used for investigating reports of sexual violence. In addition, these employees should receive copies of the school's Title IX policies. Schools should instruct law enforcement unit employees both to notify complainants of their right to file a Title IX sex discrimination complaint with the school in addition to filing a criminal complaint, and to report incidents of sexual violence to the Title IX coordinator if the complainant consents. The school's Title IX coordinator or designee should be available to provide assistance to school law enforcement unit employees regarding how to respond appropriately to reports of sexual violence. The Title IX coordinator also should be given access to school law enforcement unit investigation notes

²⁰ *Id.* § 106.8(a).

and findings as necessary for the Title IX investigation, so long as it does not compromise the criminal investigation.

(C) Grievance Procedures

The Title IX regulations require all recipients to adopt and publish grievance procedures providing for the prompt and equitable resolution of sex discrimination complaints.²¹ The grievance procedures must apply to sex discrimination complaints filed by students against school employees, other students, or third parties.

Title IX does not require a recipient to provide separate grievance procedures for sexual harassment and sexual violence complaints. Therefore, a recipient may use student disciplinary procedures or other separate procedures to resolve such complaints. Any procedures used to adjudicate complaints of sexual harassment or sexual violence, including disciplinary procedures, however, must meet the Title IX requirement of affording a complainant a prompt and equitable resolution.²² These requirements are discussed in greater detail below. If the recipient relies on disciplinary procedures for Title IX compliance, the Title IX coordinator should review the recipient's disciplinary procedures to ensure that the procedures comply with the prompt and equitable requirements of Title IX.²³

Grievance procedures generally may include voluntary informal mechanisms (e.g., mediation) for resolving some types of sexual harassment complaints. OCR has frequently advised recipients, however, that it is improper for a student who complains of harassment to be required to work out the problem directly with the alleged perpetrator, and certainly not without appropriate involvement by the school (e.g., participation by a trained counselor, a trained mediator, or, if appropriate, a teacher or administrator). In addition, as stated in the *2001 Guidance*, the complainant must be notified of the right to end the informal process at any time and begin the formal stage of the complaint process. Moreover, in cases involving allegations of sexual assault, mediation is not appropriate even on a voluntary basis. OCR recommends that recipients clarify in their grievance procedures that mediation will not be used to resolve sexual assault complaints.

²¹ *Id.* § 106.8(b). Title IX also requires recipients to adopt and publish grievance procedures for employee complaints of sex discrimination.

²² These procedures must apply to all students, including athletes. If a complaint of sexual violence involves a student athlete, the school must follow its standard procedures for resolving sexual violence complaints. Such complaints must not be addressed solely by athletics department procedures. Additionally, if an alleged perpetrator is an elementary or secondary student with a disability, schools must follow the procedural safeguards in the Individuals with Disabilities Education Act (at 20 U.S.C. § 1415 and 34 C.F.R. §§ 300.500-300.519, 300.530-300.537) as well as the requirements of Section 504 of the Rehabilitation Act of 1973 (at 34 C.F.R. §§ 104.35-104.36) when conducting the investigation and hearing.

²³ A school may not absolve itself of its Title IX obligations to investigate and resolve complaints of sexual harassment or violence by delegating, whether through express contractual agreement or other less formal arrangement, the responsibility to administer school discipline to school resource officers or "contract" law enforcement officers. See 34 C.F.R. § 106.4.

Prompt and Equitable Requirements

As stated in the *2001 Guidance*, OCR has identified a number of elements in evaluating whether a school's grievance procedures provide for prompt and equitable resolution of sexual harassment complaints. These elements also apply to sexual violence complaints because, as explained above, sexual violence is a form of sexual harassment. OCR will review all aspects of a school's grievance procedures, including the following elements that are critical to achieve compliance with Title IX:

- Notice to students, parents of elementary and secondary students, and employees of the grievance procedures, including where complaints may be filed;
- Application of the procedures to complaints alleging harassment carried out by employees, other students, or third parties;
- Adequate, reliable, and impartial investigation of complaints, including the opportunity for both parties to present witnesses and other evidence;
- Designated and reasonably prompt time frames for the major stages of the complaint process;
- Notice to parties of the outcome of the complaint;²⁴ and
- An assurance that the school will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

As noted in the *2001 Guidance*, procedures adopted by schools will vary in detail, specificity, and components, reflecting differences in the age of students, school sizes and administrative structures, State or local legal requirements, and past experiences. Although OCR examines whether all applicable elements are addressed when investigating sexual harassment complaints, this letter focuses on those elements where our work indicates that more clarification and explanation are needed, including:

(A) Notice of the grievance procedures

The procedures for resolving complaints of sex discrimination, including sexual harassment, should be written in language appropriate to the age of the school's students, easily understood, easily located, and widely distributed. OCR recommends that the grievance procedures be prominently posted on school Web sites; sent electronically to all members of the school community; available at various locations throughout the school or campus; and summarized in or attached to major publications issued by the school, such as handbooks, codes of conduct, and catalogs for students, parents of elementary and secondary students, faculty, and staff.

(B) Adequate, Reliable, and Impartial Investigation of Complaints

OCR's work indicates that a number of issues related to an adequate, reliable, and impartial investigation arise in sexual harassment and violence complaints. In some cases, the conduct

²⁴ "Outcome" does not refer to information about disciplinary sanctions unless otherwise noted. Notice of the outcome is discussed in greater detail in Section D below.

may constitute both sexual harassment under Title IX and criminal activity. Police investigations may be useful for fact-gathering; but because the standards for criminal investigations are different, police investigations or reports are not determinative of whether sexual harassment or violence violates Title IX. Conduct may constitute unlawful sexual harassment under Title IX even if the police do not have sufficient evidence of a criminal violation. In addition, a criminal investigation into allegations of sexual violence does not relieve the school of its duty under Title IX to resolve complaints promptly and equitably.

A school should notify a complainant of the right to file a criminal complaint, and should not dissuade a victim from doing so either during or after the school's internal Title IX investigation. For instance, if a complainant wants to file a police report, the school should not tell the complainant that it is working toward a solution and instruct, or ask, the complainant to wait to file the report.

Schools should not wait for the conclusion of a criminal investigation or criminal proceeding to begin their own Title IX investigation and, if needed, must take immediate steps to protect the student in the educational setting. For example, a school should not delay conducting its own investigation or taking steps to protect the complainant because it wants to see whether the alleged perpetrator will be found guilty of a crime. Any agreement or Memorandum of Understanding (MOU) with a local police department must allow the school to meet its Title IX obligation to resolve complaints promptly and equitably. Although a school may need to delay temporarily the fact-finding portion of a Title IX investigation while the police are gathering evidence, once notified that the police department has completed its gathering of evidence (not the ultimate outcome of the investigation or the filing of any charges), the school must promptly resume and complete its fact-finding for the Title IX investigation.²⁵ Moreover, nothing in an MOU or the criminal investigation itself should prevent a school from notifying complainants of their Title IX rights and the school's grievance procedures, or from taking interim steps to ensure the safety and well-being of the complainant and the school community while the law enforcement agency's fact-gathering is in progress. OCR also recommends that a school's MOU include clear policies on when a school will refer a matter to local law enforcement.

As noted above, the Title IX regulation requires schools to provide equitable grievance procedures. As part of these procedures, schools generally conduct investigations and hearings to determine whether sexual harassment or violence occurred. In addressing complaints filed with OCR under Title IX, OCR reviews a school's procedures to determine whether the school is using a preponderance of the evidence standard to evaluate complaints. The Supreme Court has applied a preponderance of the evidence standard in civil litigation involving discrimination under Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C. §§ 2000e *et seq.* Like Title IX,

²⁵ In one recent OCR sexual violence case, the prosecutor's office informed OCR that the police department's evidence gathering stage typically takes three to ten calendar days, although the delay in the school's investigation may be longer in certain instances.

Title VII prohibits discrimination on the basis of sex.²⁶ OCR also uses a preponderance of the evidence standard when it resolves complaints against recipients. For instance, OCR’s Case Processing Manual requires that a noncompliance determination be supported by the preponderance of the evidence when resolving allegations of discrimination under all the statutes enforced by OCR, including Title IX.²⁷ OCR also uses a preponderance of the evidence standard in its fund termination administrative hearings.²⁸ Thus, in order for a school’s grievance procedures to be consistent with Title IX standards, the school must use a preponderance of the evidence standard (*i.e.*, it is more likely than not that sexual harassment or violence occurred). The “clear and convincing” standard (*i.e.*, it is highly probable or reasonably certain that the sexual harassment or violence occurred), currently used by some schools, is a higher standard of proof. Grievance procedures that use this higher standard are inconsistent with the standard of proof established for violations of the civil rights laws, and are thus not equitable under Title IX. Therefore, preponderance of the evidence is the appropriate standard for investigating allegations of sexual harassment or violence.

Throughout a school’s Title IX investigation, including at any hearing, the parties must have an equal opportunity to present relevant witnesses and other evidence. The complainant and the alleged perpetrator must be afforded similar and timely access to any information that will be used at the hearing.²⁹ For example, a school should not conduct a pre-hearing meeting during which only the alleged perpetrator is present and given an opportunity to present his or her side of the story, unless a similar meeting takes place with the complainant; a hearing officer or disciplinary board should not allow only the alleged perpetrator to present character witnesses at a hearing; and a school should not allow the alleged perpetrator to review the complainant’s

²⁶ See, e.g., *Desert Palace, Inc. v. Costa*, 539 U.S. 90, 99 (2003) (noting that under the “conventional rule of civil litigation,” the preponderance of the evidence standard generally applies in cases under Title VII); *Price Waterhouse v. Hopkins*, 490 U.S. 228, 252-55 (1989) (approving preponderance standard in Title VII sex discrimination case) (plurality opinion); *id.* at 260 (White, J., concurring in the judgment); *id.* at 261 (O’Connor, J., concurring in the judgment). The 2001 Guidance noted (on page vi) that “[w]hile *Gebser* and *Davis* made clear that Title VII agency principles do not apply in determining liability for money damages under Title IX, the *Davis* Court also indicated, through its specific references to Title VII caselaw, that Title VII remains relevant in determining what constitutes hostile environment sexual harassment under Title IX.” See also *Jennings v. Univ. of N.C.*, 482 F.3d 686, 695 (4th Cir. 2007) (“We look to case law interpreting Title VII of the Civil Rights Act of 1964 for guidance in evaluating a claim brought under Title IX.”).

²⁷ OCR’s Case Processing Manual is available on the Department’s Web site, at <http://www2.ed.gov/about/offices/list/ocr/docs/ocrcpm.html>.

²⁸ The Title IX regulations adopt the procedural provisions applicable to Title VI of the Civil Rights Act of 1964. See 34 C.F.R. § 106.71 (“The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 are hereby adopted and incorporated herein by reference.”). The Title VI regulations apply the Administrative Procedure Act to administrative hearings required prior to termination of Federal financial assistance and require that termination decisions be “supported by and in accordance with the reliable, probative and substantial evidence.” 5 U.S.C. § 556(d). The Supreme Court has interpreted “reliable, probative and substantial evidence” as a direction to use the preponderance standard. See *Steadman v. SEC*, 450 U.S. 91, 98-102 (1981).

²⁹ Access to this information must be provided consistent with FERPA. For example, if a school introduces an alleged perpetrator’s prior disciplinary records to support a tougher disciplinary penalty, the complainant would not be allowed access to those records. Additionally, access should not be given to privileged or confidential information. For example, the alleged perpetrator should not be given access to communications between the complainant and a counselor or information regarding the complainant’s sexual history.

statement without also allowing the complainant to review the alleged perpetrator's statement.

While OCR does not require schools to permit parties to have lawyers at any stage of the proceedings, if a school chooses to allow the parties to have their lawyers participate in the proceedings, it must do so equally for both parties. Additionally, any school-imposed restrictions on the ability of lawyers to speak or otherwise participate in the proceedings should apply equally. OCR strongly discourages schools from allowing the parties personally to question or cross-examine each other during the hearing. Allowing an alleged perpetrator to question an alleged victim directly may be traumatic or intimidating, thereby possibly escalating or perpetuating a hostile environment. OCR also recommends that schools provide an appeals process. If a school provides for appeal of the findings or remedy, it must do so for both parties. Schools must maintain documentation of all proceedings, which may include written findings of facts, transcripts, or audio recordings.

All persons involved in implementing a recipient's grievance procedures (e.g., Title IX coordinators, investigators, and adjudicators) must have training or experience in handling complaints of sexual harassment and sexual violence, and in the recipient's grievance procedures. The training also should include applicable confidentiality requirements. In sexual violence cases, the fact-finder and decision-maker also should have adequate training or knowledge regarding sexual violence.³⁰ Additionally, a school's investigation and hearing processes cannot be equitable unless they are impartial. Therefore, any real or perceived conflicts of interest between the fact-finder or decision-maker and the parties should be disclosed.

Public and state-supported schools must provide due process to the alleged perpetrator. However, schools should ensure that steps taken to accord due process rights to the alleged perpetrator do not restrict or unnecessarily delay the Title IX protections for the complainant.

(C) *Designated and Reasonably Prompt Time Frames*

OCR will evaluate whether a school's grievance procedures specify the time frames for all major stages of the procedures, as well as the process for extending timelines. Grievance procedures should specify the time frame within which: (1) the school will conduct a full investigation of the complaint; (2) both parties receive a response regarding the outcome of the complaint; and (3) the parties may file an appeal, if applicable. Both parties should be given periodic status updates. Based on OCR experience, a typical investigation takes approximately 60 calendar days following receipt of the complaint. Whether OCR considers complaint resolutions to be timely, however, will vary depending on the complexity of the investigation and the severity and extent of the harassment. For example, the resolution of a complaint involving multiple incidents with multiple complainants likely would take longer than one involving a single incident that

³⁰ For instance, if an investigation or hearing involves forensic evidence, that evidence should be reviewed by a trained forensic examiner.

occurred in a classroom during school hours with a single complainant.

(D) Notice of Outcome

Both parties must be notified, in writing, about the outcome of both the complaint and any appeal,³¹ *i.e.*, whether harassment was found to have occurred. OCR recommends that schools provide the written determination of the final outcome to the complainant and the alleged perpetrator concurrently. Title IX does not require the school to notify the alleged perpetrator of the outcome before it notifies the complainant.

Due to the intersection of Title IX and FERPA requirements, OCR recognizes that there may be confusion regarding what information a school may disclose to the complainant.³² FERPA generally prohibits the nonconsensual disclosure of personally identifiable information from a student's "education record." However, as stated in the *2001 Guidance*, FERPA permits a school to disclose to the harassed student information about the sanction imposed upon a student who was found to have engaged in harassment when the sanction directly relates to the harassed student. This includes an order that the harasser stay away from the harassed student, or that the harasser is prohibited from attending school for a period of time, or transferred to other classes or another residence hall.³³ Disclosure of other information in the student's "education record," including information about sanctions that do not relate to the harassed student, may result in a violation of FERPA.

Further, when the conduct involves a crime of violence or a non-forcible sex offense,³⁴ FERPA permits a postsecondary institution to disclose to the alleged victim the final results of a

³¹ As noted previously, "outcome" does not refer to information about disciplinary sanctions unless otherwise noted.

³² In 1994, Congress amended the General Education Provisions Act (GEPA), of which FERPA is a part, to state that nothing in GEPA "shall be construed to affect the applicability of title VI of the Civil Rights Act of 1964, title IX of Education Amendments of 1972, title V of the Rehabilitation Act of 1973, the Age Discrimination Act, or other statutes prohibiting discrimination, to any applicable program." 20 U.S.C. § 1221(d). The Department interprets this provision to mean that FERPA continues to apply in the context of Title IX enforcement, but if there is a direct conflict between the requirements of FERPA and the requirements of Title IX, such that enforcement of FERPA would interfere with the primary purpose of Title IX to eliminate sex-based discrimination in schools, the requirements of Title IX override any conflicting FERPA provisions. See *2001 Guidance* at vii.

³³ This information directly relates to the complainant and is particularly important in sexual harassment cases because it affects whether a hostile environment has been eliminated. Because seeing the perpetrator may be traumatic, a complainant in a sexual harassment case may continue to be subject to a hostile environment if he or she does not know when the perpetrator will return to school or whether he or she will continue to share classes or a residence hall with the perpetrator. This information also directly affects a complainant's decision regarding how to work with the school to eliminate the hostile environment and prevent its recurrence. For instance, if a complainant knows that the perpetrator will not be at school or will be transferred to other classes or another residence hall for the rest of the year, the complainant may be less likely to want to transfer to another school or change classes, but if the perpetrator will be returning to school after a few days or weeks, or remaining in the complainant's classes or residence hall, the complainant may want to transfer schools or change classes to avoid contact. Thus, the complainant cannot make an informed decision about how best to respond without this information.

³⁴ Under the FERPA regulations, crimes of violence include arson; assault offenses (aggravated assault, simple assault, intimidation); burglary; criminal homicide (manslaughter by negligence); criminal homicide (murder and

disciplinary proceeding against the alleged perpetrator, regardless of whether the institution concluded that a violation was committed.³⁵ Additionally, a postsecondary institution may disclose to anyone—not just the alleged victim—the final results of a disciplinary proceeding if it determines that the student is an alleged perpetrator of a crime of violence or a non-forcible sex offense, and, with respect to the allegation made, the student has committed a violation of the institution’s rules or policies.³⁶

Postsecondary institutions also are subject to additional rules under the Clery Act. This law, which applies to postsecondary institutions that participate in Federal student financial aid programs, requires that “both the accuser and the accused must be informed of the outcome³⁷ of any institutional disciplinary proceeding brought alleging a sex offense.”³⁸ Compliance with this requirement does not constitute a violation of FERPA. Furthermore, the FERPA limitations on redisclosure of information do not apply to information that postsecondary institutions are required to disclose under the Clery Act.³⁹ Accordingly, postsecondary institutions may not require a complainant to abide by a nondisclosure agreement, in writing or otherwise, that would prevent the redisclosure of this information.

Steps to Prevent Sexual Harassment and Sexual Violence and Correct its Discriminatory Effects on the Complainant and Others

Education and Prevention

In addition to ensuring full compliance with Title IX, schools should take proactive measures to prevent sexual harassment and violence. OCR recommends that all schools implement preventive education programs and make victim resources, including comprehensive victim services, available. Schools may want to include these education programs in their (1) orientation programs for new students, faculty, staff, and employees; (2) training for students who serve as advisors in residence halls; (3) training for student athletes and coaches; and (4) school assemblies and “back to school nights.” These programs should include a

non-negligent manslaughter); destruction, damage or vandalism of property; kidnapping/abduction; robbery; and forcible sex offenses. Forcible sex offenses are defined as any sexual act directed against another person forcibly or against that person’s will, or not forcibly or against the person’s will where the victim is incapable of giving consent. Forcible sex offenses include rape, sodomy, sexual assault with an object, and forcible fondling. Non-forcible sex offenses are incest and statutory rape. 34 C.F.R. Part 99, App. A.

³⁵ 34 C.F.R. § 99.31(a)(13). For purposes of 34 C.F.R. §§ 99.31(a)(13)-(14), disclosure of “final results” is limited to the name of the alleged perpetrator, any violation found to have been committed, and any sanction imposed against the perpetrator by the school. 34 C.F.R. § 99.39.

³⁶ 34 C.F.R. § 99.31(a)(14).

³⁷ For purposes of the Clery Act, “outcome” means the institution’s final determination with respect to the alleged sex offense and any sanctions imposed against the accused. 34 C.F.R. § 668.46(b)(11)(vi)(B).

³⁸ 34 C.F.R. § 668.46(b)(11)(vi)(B). Under the Clery Act, forcible sex offenses are defined as any sexual act directed against another person forcibly or against that person’s will, or not forcibly or against the person’s will where the person is incapable of giving consent. Forcible sex offenses include forcible rape, forcible sodomy, sexual assault with an object, and forcible fondling. Non-forcible sex offenses include incest and statutory rape. 34 C.F.R. Part 668, Subpt. D, App. A.

³⁹ 34 C.F.R. § 99.33(c).

discussion of what constitutes sexual harassment and sexual violence, the school's policies and disciplinary procedures, and the consequences of violating these policies.

The education programs also should include information aimed at encouraging students to report incidents of sexual violence to the appropriate school and law enforcement authorities. Schools should be aware that victims or third parties may be deterred from reporting incidents if alcohol, drugs, or other violations of school or campus rules were involved.⁴⁰ As a result, schools should consider whether their disciplinary policies have a chilling effect on victims' or other students' reporting of sexual violence offenses. For example, OCR recommends that schools inform students that the schools' primary concern is student safety, that any other rules violations will be addressed separately from the sexual violence allegation, and that use of alcohol or drugs never makes the victim at fault for sexual violence.

OCR also recommends that schools develop specific sexual violence materials that include the schools' policies, rules, and resources for students, faculty, coaches, and administrators. Schools also should include such information in their employee handbook and any handbooks that student athletes and members of student activity groups receive. These materials should include where and to whom students should go if they are victims of sexual violence. These materials also should tell students and school employees what to do if they learn of an incident of sexual violence. Schools also should assess student activities regularly to ensure that the practices and behavior of students do not violate the schools' policies against sexual harassment and sexual violence.

Remedies and Enforcement

As discussed above, if a school determines that sexual harassment that creates a hostile environment has occurred, it must take immediate action to eliminate the hostile environment, prevent its recurrence, and address its effects. In addition to counseling or taking disciplinary action against the harasser, effective corrective action may require remedies for the complainant, as well as changes to the school's overall services or policies. Examples of these actions are discussed in greater detail below.

Title IX requires a school to take steps to protect the complainant as necessary, including taking interim steps before the final outcome of the investigation. The school should undertake these steps promptly once it has notice of a sexual harassment or violence allegation. The school should notify the complainant of his or her options to avoid contact with the alleged perpetrator and allow students to change academic or living situations as appropriate. For instance, the school may prohibit the alleged perpetrator from having any contact with the complainant pending the results of the school's investigation. When taking steps to separate the complainant and alleged perpetrator, a school should minimize the burden on the

⁴⁰ The Department's Higher Education Center for Alcohol, Drug Abuse, and Violence Prevention (HEC) helps campuses and communities address problems of alcohol, other drugs, and violence by identifying effective strategies and programs based upon the best prevention science. Information on HEC resources and technical assistance can be found at www.higheredcenter.org.

complainant, and thus should not, as a matter of course, remove complainants from classes or housing while allowing alleged perpetrators to remain. In addition, schools should ensure that complainants are aware of their Title IX rights and any available resources, such as counseling, health, and mental health services, and their right to file a complaint with local law enforcement.⁴¹

Schools should be aware that complaints of sexual harassment or violence may be followed by retaliation by the alleged perpetrator or his or her associates. For instance, friends of the alleged perpetrator may subject the complainant to name-calling and taunting. As part of their Title IX obligations, schools must have policies and procedures in place to protect against retaliatory harassment. At a minimum, schools must ensure that complainants and their parents, if appropriate, know how to report any subsequent problems, and should follow-up with complainants to determine whether any retaliation or new incidents of harassment have occurred.

When OCR finds that a school has not taken prompt and effective steps to respond to sexual harassment or violence, OCR will seek appropriate remedies for both the complainant and the broader student population. When conducting Title IX enforcement activities, OCR seeks to obtain voluntary compliance from recipients. When a recipient does not come into compliance voluntarily, OCR may initiate proceedings to withdraw Federal funding by the Department or refer the case to the U.S. Department of Justice for litigation.

Schools should proactively consider the following remedies when determining how to respond to sexual harassment or violence. These are the same types of remedies that OCR would seek in its cases.

Depending on the specific nature of the problem, remedies for the complainant might include, but are not limited to:⁴²

- providing an escort to ensure that the complainant can move safely between classes and activities;
- ensuring that the complainant and alleged perpetrator do not attend the same classes;
- moving the complainant or alleged perpetrator to a different residence hall or, in the case of an elementary or secondary school student, to another school within the district;
- providing counseling services;
- providing medical services;
- providing academic support services, such as tutoring;

⁴¹ The Clery Act requires postsecondary institutions to develop and distribute a statement of policy that informs students of their options to notify proper law enforcement authorities, including campus and local police, and the option to be assisted by campus personnel in notifying such authorities. The policy also must notify students of existing counseling, mental health, or other student services for victims of sexual assault, both on campus and in the community. 20 U.S.C. § 1092(f)(8)(B)(v)-(vi).

⁴² Some of these remedies also can be used as interim measures before the school's investigation is complete.

- arranging for the complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the complainant’s academic record; and
- reviewing any disciplinary actions taken against the complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the complainant being disciplined.⁴³

Remedies for the broader student population might include, but are not limited to:

Counseling and Training

- offering counseling, health, mental health, or other holistic and comprehensive victim services to all students affected by sexual harassment or sexual violence, and notifying students of campus and community counseling, health, mental health, and other student services;
- designating an individual from the school’s counseling center to be “on call” to assist victims of sexual harassment or violence whenever needed;
- training the Title IX coordinator and any other employees who are involved in processing, investigating, or resolving complaints of sexual harassment or sexual violence, including providing training on:
 - the school’s Title IX responsibilities to address allegations of sexual harassment or violence
 - how to conduct Title IX investigations
 - information on the link between alcohol and drug abuse and sexual harassment or violence and best practices to address that link;
- training all school law enforcement unit personnel on the school’s Title IX responsibilities and handling of sexual harassment or violence complaints;
- training all employees who interact with students regularly on recognizing and appropriately addressing allegations of sexual harassment or violence under Title IX; and
- informing students of their options to notify proper law enforcement authorities, including school and local police, and the option to be assisted by school employees in notifying those authorities.

Development of Materials and Implementation of Policies and Procedures

- developing materials on sexual harassment and violence, which should be distributed to students during orientation and upon receipt of complaints, as well as widely posted throughout school buildings and residence halls, and which should include:
 - what constitutes sexual harassment or violence
 - what to do if a student has been the victim of sexual harassment or violence
 - contact information for counseling and victim services on and off school grounds
 - how to file a complaint with the school
 - how to contact the school’s Title IX coordinator

⁴³ For example, if the complainant was disciplined for skipping a class in which the harasser was enrolled, the school should review the incident to determine if the complainant skipped the class to avoid contact with the harasser.

- what the school will do to respond to allegations of sexual harassment or violence, including the interim measures that can be taken
- requiring the Title IX coordinator to communicate regularly with the school’s law enforcement unit investigating cases and to provide information to law enforcement unit personnel regarding Title IX requirements;⁴⁴
- requiring the Title IX coordinator to review all evidence in a sexual harassment or sexual violence case brought before the school’s disciplinary committee to determine whether the complainant is entitled to a remedy under Title IX that was not available through the disciplinary committee;⁴⁵
- requiring the school to create a committee of students and school officials to identify strategies for ensuring that students:
 - know the school’s prohibition against sex discrimination, including sexual harassment and violence
 - recognize sex discrimination, sexual harassment, and sexual violence when they occur
 - understand how and to whom to report any incidents
 - know the connection between alcohol and drug abuse and sexual harassment or violence
 - feel comfortable that school officials will respond promptly and equitably to reports of sexual harassment or violence;
- issuing new policy statements or other steps that clearly communicate that the school does not tolerate sexual harassment and violence and will respond to any incidents and to any student who reports such incidents; and
- revising grievance procedures used to handle sexual harassment and violence complaints to ensure that they are prompt and equitable, as required by Title IX.

School Investigations and Reports to OCR

- conducting periodic assessments of student activities to ensure that the practices and behavior of students do not violate the school’s policies against sexual harassment and violence;
- investigating whether any other students also may have been subjected to sexual harassment or violence;
- investigating whether school employees with knowledge of allegations of sexual harassment or violence failed to carry out their duties in responding to those allegations;
- conducting, in conjunction with student leaders, a school or campus “climate check” to assess the effectiveness of efforts to ensure that the school is free from sexual harassment and violence, and using the resulting information to inform future proactive steps that will be taken by the school; and

⁴⁴ Any personally identifiable information from a student’s education record that the Title IX coordinator provides to the school’s law enforcement unit is subject to FERPA’s nondisclosure requirements.

⁴⁵ For example, the disciplinary committee may lack the power to implement changes to the complainant’s class schedule or living situation so that he or she does not come in contact with the alleged perpetrator.

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- submitting to OCR copies of all grievances filed by students alleging sexual harassment or violence, and providing OCR with documentation related to the investigation of each complaint, such as witness interviews, investigator notes, evidence submitted by the parties, investigative reports and summaries, any final disposition letters, disciplinary records, and documentation regarding any appeals.

Conclusion

The Department is committed to ensuring that all students feel safe and have the opportunity to benefit fully from their schools' education programs and activities. As part of this commitment, OCR provides technical assistance to assist recipients in achieving voluntary compliance with Title IX.

If you need additional information about Title IX, have questions regarding OCR's policies, or seek technical assistance, please contact the OCR enforcement office that serves your state or territory. The list of offices is available at <http://wdcrobcolp01.ed.gov/CFAPPS/OCR/contactus.cfm>. Additional information about addressing sexual violence, including victim resources and information for schools, is available from the U.S. Department of Justice's Office on Violence Against Women (OVW) at <http://www.ovw.usdoj.gov/>.⁴⁶

Thank you for your prompt attention to this matter. I look forward to continuing our work together to ensure that all students have an equal opportunity to learn in a safe and respectful school climate.

Sincerely,

/s/

Russlynn Ali
Assistant Secretary for Civil Rights

⁴⁶ OVW also administers the Grants to Reduce Domestic Violence, Dating Violence, Sexual Assault, and Stalking on Campus Program. This Federal funding is designed to encourage institutions of higher education to adopt comprehensive, coordinated responses to domestic violence, dating violence, sexual assault, and stalking. Under this competitive grant program, campuses, in partnership with community-based nonprofit victim advocacy organizations and local criminal justice or civil legal agencies, must adopt protocols and policies to treat these crimes as serious offenses and develop victim service programs and campus policies that ensure victim safety, offender accountability, and the prevention of such crimes. OVW recently released the first solicitation for the Services, Training, Education, and Policies to Reduce Domestic Violence, Dating Violence, Sexual Assault and Stalking in Secondary Schools Grant Program. This innovative grant program will support a broad range of activities, including training for school administrators, faculty, and staff; development of policies and procedures for responding to these crimes; holistic and appropriate victim services; development of effective prevention strategies; and collaborations with mentoring organizations to support middle and high school student victims.

APPENDIX B

TABLES OF REPORTS

Year	Reports
2001	14.20
2002	14.45
2003	15.57
2004	15.72
2005	15.85
2006	15.74
2007	15.59
2008	14.82
2009	13.45
2010	15.11
2011	17.43
2012	20.91
2013	26.43
2014	36.05
2015	42.90
2016	47.65
2017	52.89

Table B.1. Clery Act Reports per 100,000 students by Year.

Year	Reports
2001	31.8
2002	33.1
2003	32.3
2004	32.4
2005	31.8
2006	31.6
2007	30.6
2008	29.8
2009	29.1
2010	27.7
2011	27.0
2012	27.1
2013	25.9
2014	26.6
2015	28.4
2016	30.0
2017	30.7

Table B.2. Uniform Crime Reports per 100,000 people. This data was provided with only one decimal place worth of information.

Year	2-Year Reports	4-Year Reports
2001	1.77	21.13
2002	2.02	21.50
2003	2.43	22.82
2004	2.00	23.31
2005	2.63	23.09
2006	2.76	22.80
2007	2.89	22.55
2008	3.30	21.30
2009	3.05	19.58
2010	2.90	22.35
2011	3.85	25.28
2012	3.97	30.48
2013	4.69	38.50
2014	6.31	52.04
2015	8.32	60.99
2016	8.59	67.69
2017	8.49	75.36

Table B.3. 2-Year Institution Reports and 4-Year Institution Reports per 100,000 Students.

Year	Public Reports	Private Non-Profit Reports	Private For-Profit Reports
2001	11.30	26.87	1.52
2002	11.18	28.80	1.39
2003	11.80	31.96	0.31
2004	12.35	30.34	1.68
2005	12.02	32.25	1.29
2006	12.00	31.60	2.66
2007	12.06	30.93	2.19
2008	11.07	31.51	1.89
2009	9.80	30.51	1.18
2010	11.23	32.99	2.94
2011	12.82	38.22	3.13
2012	15.28	45.99	2.92
2013	17.70	63.88	3.61
2014	25.10	82.30	7.69
2015	31.04	92.43	7.65
2016	34.22	103.94	6.26
2017	38.03	114.17	10.47

Table B.4. Public Institution Reports, Private Non-Profit Institution Reports, and Private For-Profit Institution Reports per 100,000 Students.

Year	Primarily Non-Residential	Primarily Residential	Highly Residential
2001	9.70	24.13	41.96
2002	9.87	23.89	44.90
2003	10.97	23.43	50.48
2004	10.53	26.28	48.78
2005	10.11	25.01	50.27
2006	11.06	24.99	46.64
2007	12.41	23.07	46.41
2008	9.73	22.55	46.80
2009	8.73	19.83	46.30
2010	11.03	21.62	52.99
2011	10.70	26.45	60.05
2012	15.06	30.69	70.07
2013	16.42	35.53	97.83
2014	24.89	48.80	126.33
2015	29.34	60.79	139.43
2016	34.55	61.30	162.68
2017	35.38	75.74	172.37

Table B.5. Primarily Non-Residential Institution Reports, Primarily Residential Institution Reports, and Highly Residential Institution Reports per 100,000 Students.

Year	Very Small	Small	Medium and Large	Very Large
2001	14.73	19.57	11.30	15.01
2002	13.35	20.99	11.42	14.93
2003	14.77	22.60	13.18	14.87
2004	12.74	22.73	13.63	14.81
2005	15.96	24.28	13.68	14.00
2006	16.32	24.06	13.47	14.06
2007	19.61	23.04	12.94	14.63
2008	25.10	23.61	12.29	12.54
2009	20.55	21.84	10.84	11.68
2010	18.12	24.56	13.44	11.96
2011	19.32	31.03	14.56	13.82
2012	25.08	35.29	16.73	18.51
2013	33.67	50.51	19.96	21.80
2014	44.93	65.70	28.38	30.23
2015	56.31	76.60	33.85	36.63
2016	50.65	86.73	38.29	39.81
2017	64.65	95.28	41.09	45.96

Table B.6. Very Small Institution Reports, Small Institution Reports, Medium and Large Institution Reports, and Very Large Institution Reports per 100,000 Students.

APPENDIX C

AUTOCORRELATIONS

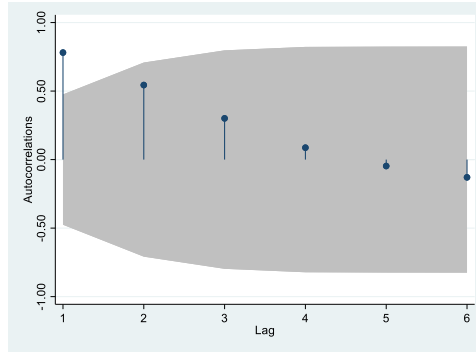


Figure C.1. Clery Act Autocorrelations Reports. Bartlett's formula for MA(q) 95% confidence bands.

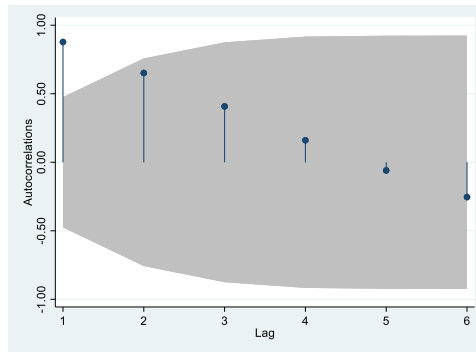


Figure C.2. Uniform Crime Reports Autocorrelations. Bartlett's formula for MA(q) 95% confidence bands.

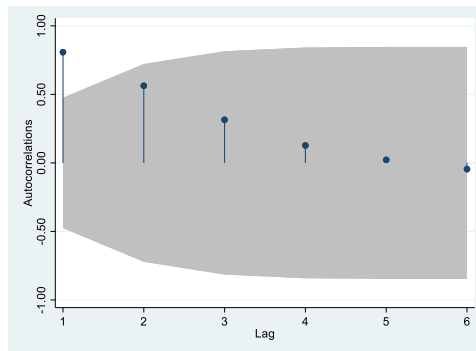


Figure C.3. Two-Year Institutions Autocorrelations. Bartlett's formula for MA(q) 95% confidence bands.

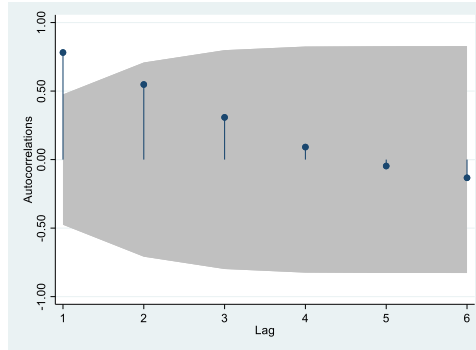


Figure C.4. Four-Year Institutions Autocorrelations. Bartlett's formula for MA(q) 95% confidence bands.

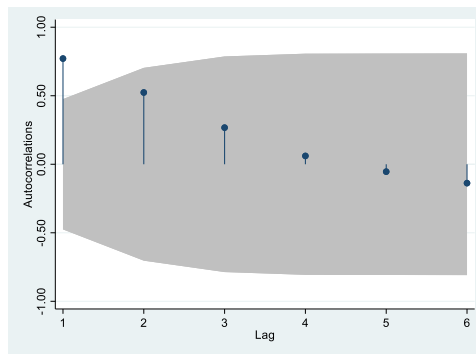


Figure C.5. Public Institutions Autocorrelations. Bartlett's formula for MA(q) 95% confidence bands.

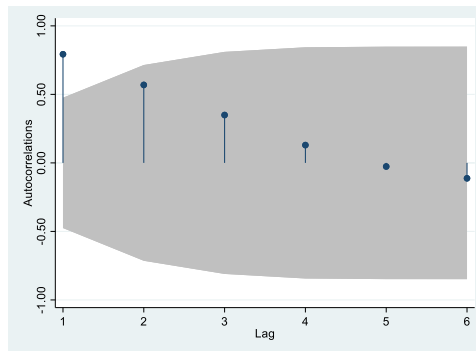


Figure C.6. Private Non-Profit Institutions Autocorrelations. Bartlett's formula for MA(q) 95% confidence bands.

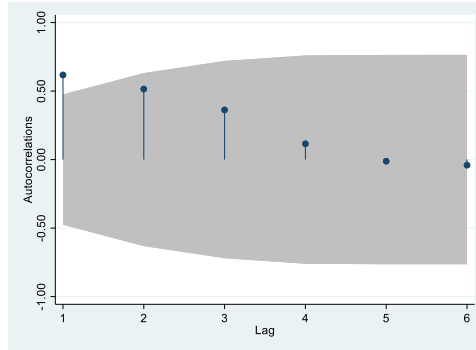


Figure C.7. Private For-Profit Institutions Autocorrelations. Bartlett's formula for MA(q) 95% confidence bands.

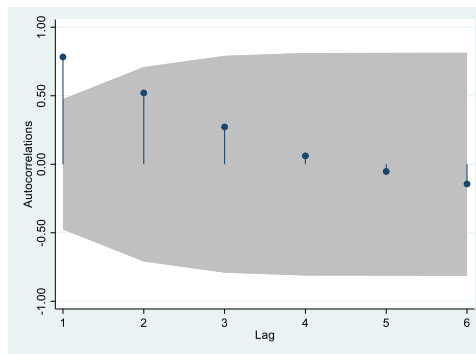


Figure C.8. Primarily Non-Residential Institutions Autocorrelations. Bartlett's formula for MA(q) 95% confidence bands.

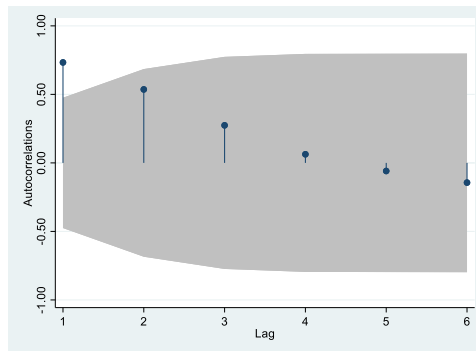


Figure C.9. Primarily Residential Institutions Autocorrelations. Bartlett's formula for MA(q) 95% confidence bands.

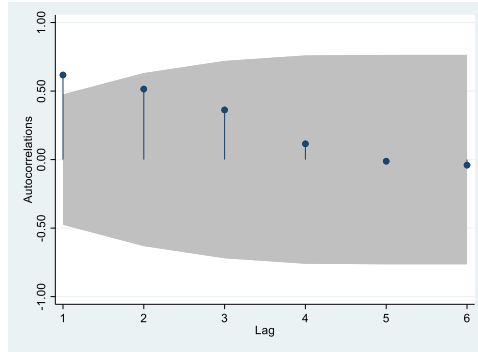


Figure C.10. Highly Residential Institutions Autocorrelations. Bartlett's formula for MA(q) 95% confidence bands.

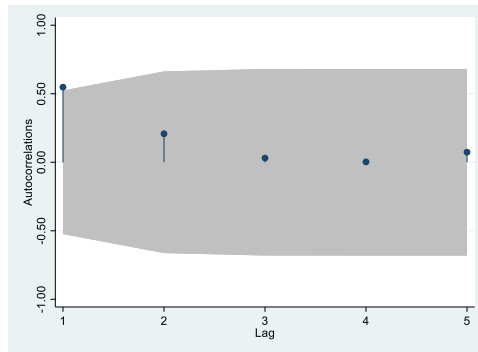


Figure C.11. Very Small Institutions Autocorrelations. Bartlett's formula for MA(q) 95% confidence bands.

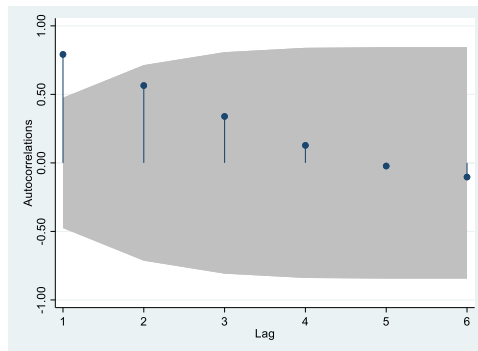


Figure C.12. Small Institutions Autocorrelations. Bartlett's formula for MA(q) 95% confidence bands.

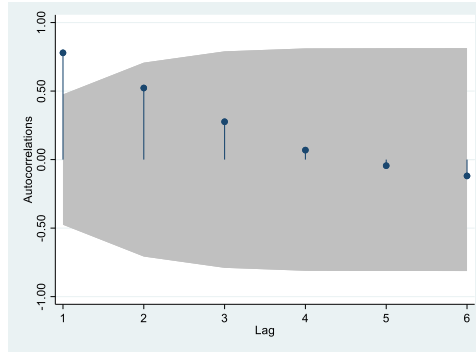


Figure C.13. Medium and Large Institutions Autocorrelations. Bartlett's formula for MA(q) 95% confidence bands.

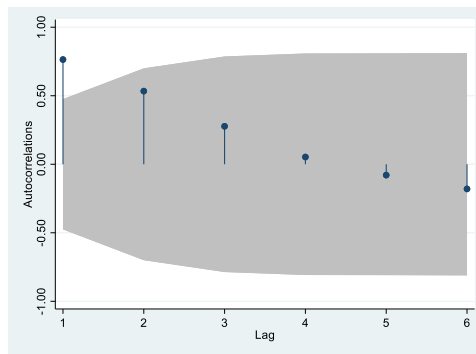


Figure C.14. Very Large Institutions Autocorrelations. Bartlett's formula for MA(q) 95% confidence bands.

APPENDIX D

MEDIUM AND LARGE INSTITUTION ANALYSIS

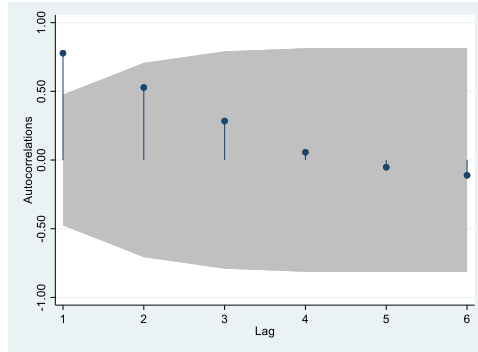


Figure D.1. Medium Institutions Autocorrelations. Bartlett's formula for MA(q) 95% confidence bands.

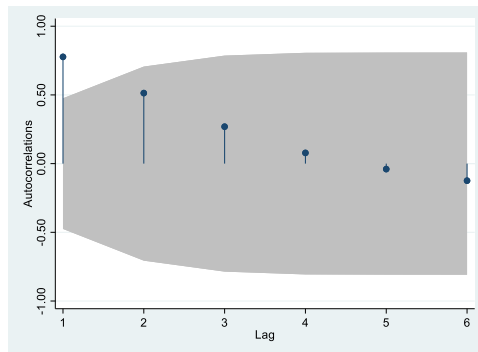


Figure D.2. Large Institutions Autocorrelations. Bartlett's formula for MA(q) 95% confidence bands.

Factor	B	SE	t	p
Medium				
Base Level	12.23	0.99	12.34	< .001*
Pre-Int Trend	0.14	0.18	0.80	0.44
Post-Int Trend	5.10	0.33	15.60	< .001*
Change in Level	0.02	1.84	0.01	0.99
Change in Trend	4.96	0.38	13.17	< .001*
Large				
Base Level	12.50	0.74	16.85	< .001*
Pre-Int Trend	-0.01	0.13	-0.09	0.93
Post-Int Trend	4.73	0.25	18.84	< .001*
Change in Level	0.02	1.18	0.00	1.00
Change in Trend	4.74	0.30	15.89	< .001*

Table D.1. Medium and Large Institutions Single-Group Interrupted Time-Series Analyses. $p < .05$ is significant (*).

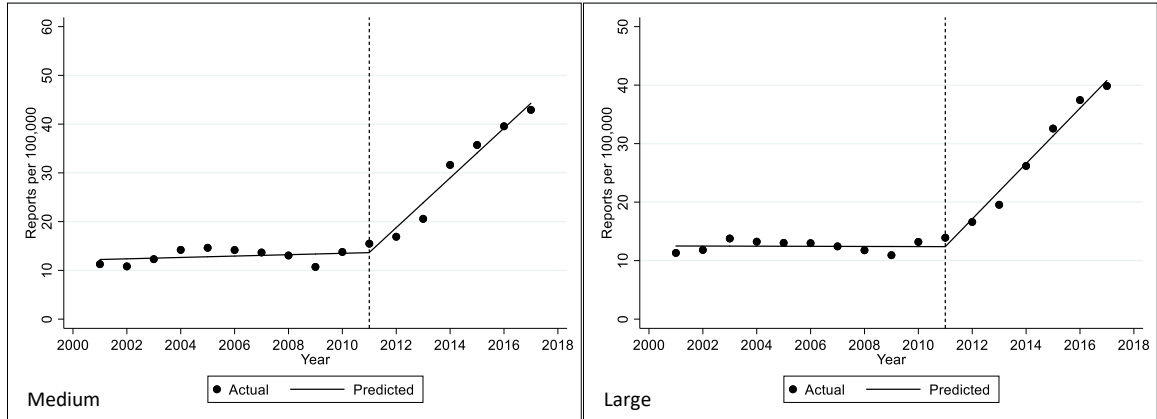


Figure D.3. Medium and Large Single-Group Institutions Interrupted Time-Series Analyses. Medium sized institutions are represented in the left figure. Large sized institutions are represented in the right figure. Regression with Newey-West standard errors - lag(1).

Factor	B	SE	t	p
Base Level Difference	-0.27	1.24	-0.22	0.83
Pre-Int Trend Difference	0.15	0.22	0.70	0.49
Post-Int Trend Difference	0.37	0.41	0.89	0.38
Change in Level Difference	0.02	2.19	0.01	0.99
Change in Trend Difference	0.22	0.48	0.45	0.66

Table D.2. Medium Institutions compared to Large Institutions Multiple-Group Interrupted Time-Series Analysis. $p < .05$ is significant (*).

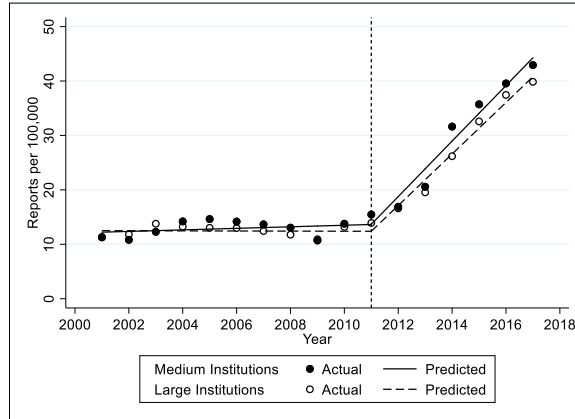


Figure D.4. Medium Institutions Compared to Large Institutions Multiple-Group Interrupted Time-Series Analysis. Regression with Newey-West standard errors - lag(1).