A DEFICIENCY IN ADDRESSING CAMPUS SEXUAL ASSAULT: THE LACK OF WOMEN LAW ENFORCEMENT OFFICERS

KAREN OEHME,* NAT STERN,** ANNELISE MENNICKE***

The federal government has taken a range of measures to combat the scourge of sexual assault afflicting college campuses across the nation. Whatever the efficacy of these policies, however, they fail to address a major obstacle to curbing sexual violence on campus: the chronically low rate of reporting of this crime to police. Research on crime data has produced evidence that as female representation among police officers increases, more crimes against women are reported. Yet, most university campus law enforcement agencies—tasked with taking a “central role” in combatting sexual assault—include strikingly few female officers. This Article proposes an increase in women’s representation in campus police agencies to foster more reporting by victims and argues that schools failing to demonstrate consistent, ongoing, and genuine efforts to hire female officers are contributing to a hostile environment for complainants in Title IX litigation.

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INTRODUCTION

Sexual violence is harrowingly common in the United States, where a sexual assault occurs about every two minutes.1 Nearly one in five women

* Director, Florida State University Institute for Family Violence Studies; Florida State University Distinguished University Scholar.
** John W. and Ashley E. Frost Professor of Law, Florida State University College of Law.
*** Doctoral candidate, Florida State University College of Social Work.

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1 Statistics, RAPE, ABUSE & INCEST NAT’L NETWORK, https://rainn.org/statistics, archived at https://perma.cc/28TA-4BJ9 (also noting that there are about 293,000 victims of sexual assault each year).
(18.3%) and one in seventy-one men (1.4%) have been raped.\(^2\) Rape is such a common crime that researchers have hypothesized that women live under a "shadow of sexual assault" that influences how they think about their risk for victimization and crime generally.\(^3\) Sexual violence on campus is an especially visible instance of this grimly pervasive phenomenon in American society. Like victims elsewhere, college and university students who are sexually assaulted suffer varied and often protracted traumatic injuries.\(^4\) What their experience highlights in particular is the serious problem of chronic underreporting of this crime. Colleges have an explicit responsibility to work to prevent sexual harassment (including sexual assault);\(^5\) they need to know about the perpetration of such crimes in order to achieve that goal.

As the country responds to a crisis of sexual assault on college campuses that has reached "epidemic proportions,"\(^6\) a flood of federal policy recommendations and laws to increase prevention, arrest, prosecution, and victim services have taken aim at this widespread crime. Though all of these recent steps are important, this Article contends that the reporting of the crime to police—arguably the most critical step in reducing it—will remain chronically low unless a significant gap in law and campus policy is addressed. Unfortunately, even the most stringent response to sexual assault will accomplish little unless policies exist to ensure that student victims feel comfortable reporting this devastating crime. Part One of this Article describes federal efforts to address sexual assault on American college and university campuses and increase prevention and intervention efforts. Part Two describes the prevalence of sexual assault on campuses, its effects on victims, and the costs of the disturbingly low reporting rates for the crime. Part Three describes the low numbers of female officers in campus law enforcement agencies, research on how women officers respond to victims, and new research on long-term crime data showing that reporting of crimes against women increases as female representation among officers increases. Part Four argues for an immediate increase in women’s representation in campus police agencies to promote more reporting by victims and asserts that schools that do not demonstrate consistent, ongoing, and genuine efforts to hire female officers are contributing to a hostile environment for complainants in Title IX litigation.

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\(^4\) See infra note 76 and accompanying text.

\(^5\) See infra notes 42–70 and accompanying text.

I. THE FEDERAL RESPONSE TO RAMPANT SEXUAL ASSAULT AT UNIVERSITIES

The federal government has enacted several pieces of legislation intended to curb sexual violence at universities. While these laws represent constructive steps toward addressing this crime, they have left gaps that must be filled by other means. An increase in women’s representation in campus police agencies would be such a supplemental approach. For the reasons discussed later in this Article, a higher proportion of women in the ranks of campus police would serve a need not met by existing federal regulation.

Both federal legislation and increasing the number of women in campus police agencies, of course, seek to improve the manner in which colleges and universities address sexual violence in their midst. Reporting sexual assault is an essential first step in obtaining services for victims and holding perpetrators accountable. Without reporting, victims remain voiceless. Unfortunately, many institutions have done an inadequate—even abysmal—job of dealing with sexual assaults that are reported. A recent study indicated that the ordinary practice of universities is to undercount incidents of sexual assault; only during periods in which schools are audited do they appear to offer a more complete picture of sexual assault levels on campus. In 2010, the Center for Public Integrity conducted an investigation into campus sexual assaults. In addition to interviewing experts on campus disciplinary policies and female victims, they reviewed U.S. Department of Education records of sexual assault complaints filed against colleges and universities. Among other findings, the Center reported that students who were found to be responsible for the sexual assault of other students were rarely punished. In fact, the perpetrators tended to remain on campus, while the victims often dropped out of school. Universities expelled only a fraction of the perpetrators, about ten to twenty-five percent. Universities have been sharply criticized for their alleged lack of concern for victims. Reflecting the

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7 See infra Parts III, IV.
8 See Corey Rayburn Yung, Concealing Campus Sexual Assault: An Empirical Examination, 21 PSYCHOL. PUB. POL’Y & L. 1, 6 (2015).
10 See id.
11 See id.
13 See id.
14 See, e.g., Walt Bogdanich, A Star Player Accused, and a Flawed Rape Investigation, N.Y. TIMES, Apr. 16, 2014, archived at http://perma.cc/85ZY-JMYR [hereinafter Bogdanich, A Star Player Accused] (examining a Florida State University student’s report that a football player had sexually assaulted her and finding that “there was virtually no investigation at all, either by the police or the university”); Walt Bogdanich, Report-
magnitude of this issue, media outlets and newspapers in 2014 published countless articles on the issue of campus sexual assault and the government’s response to the epidemic.15

In attempting to curb campus sexual assault and to protect victims, the federal government has acted in a variety of ways. For example, the government has recognized the importance of obtaining and disseminating information on campus crimes, as evidenced by the 1990 passage of the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act. The Act aimed to collect accurate statistics on campus crime to raise awareness about such crime. Under the Act, colleges and universities that participate in federal financial aid programs are required to record and disseminate information about crime on and near campus. The U.S. Department of Education monitors compliance with the Act. Violations of the Act can result in financial penalties of $35,000 per violation. The Act requires a public record of all crimes reported to campus law enforcement; these include homicide, sex offenses, robbery, aggravated assault, motor vehicle theft, burglary, drug and liquor law violations, arson, and illegal weapons possession. The Clery Act, named after a young woman who was raped and murdered by another student in a university campus residence, has brought public attention to the risk of victimization on campus. Clery reports come from a variety of sources and primarily reflect only a statistical accounting of statistics’ mishandling of campus sexual assault reports and failure to follow statutory requirements; Eliza Gray, Why Victims of Rape in College Don’t Report to the Police, Time (June 23, 2014), http://time.com/2908637/campus-rape-assault-prosecution/, archived at http://perma.cc/BUM3-WVDL [hereinafter Gray, Why Victims Don’t Report] (reporting on the roundtable discussion hosted by Sen. McCaskill about law enforcement involvement in campus sexual assaults).

17 See id. §§ 1092(f)(1), 1092(f)(5)(B); FLA. ATL. UNIV., CLERY INCIDENT REPORT 1, archived at http://perma.cc/E8N5-2DBB (“One purpose of CLERY is to encourage reporting and the accurate collection of campus crime statistics to promote crime awareness and to enhance campus safety through reliable statistical records.”).
of crimes that happen on or near campus. It is common for campuses—including universities among the largest in the nation—to report very small numbers of sexual assaults in Clery reports.

Additionally, the government has expanded longstanding prevention and victim services and established new guidelines for victim redress under civil rights laws. Expanded guidelines under Title IX of the Education Amendments of 1972 were promulgated in 2011 and require schools receiving federal funding to promptly investigate sexual violence allegations and take immediate steps to address the effects of violence. The Violence Against Women Act—which for twenty years has provided funding for innovative programs to reduce rape, interpersonal violence, and stalking—has also improved the ability of universities to create a coordinated response to campus sexual assault and dating violence. Just as previous administrations have emphasized the need to reduce campus violence and protect victims, the Obama Administration weighed in directly on the issue of sexual assault in 2014, calling on campus law enforcement to play a central role in responding to sexual assault.


26 20 U.S.C. §§ 1681–1688 (2012). For further discussion, see infra note 49 and accompanying text.


29 For example, President George H.W. Bush signed the Federal Campus Sexual Assault Victim’s Bill of Rights, amending the Clery Act, in 1992. The Federal Campus Sexual Assault Victims’ Bill of Rights, CLEY CTR. FOR SEC. ON CAMPUS, http://clerycenter.org/federal-campussexual-assault-victims%E2%80%99-billrights, archived at http://perma.cc/J5D3-QTH5. The law defined rights, including that “survivors shall be notified of their options to notify law enforcement”; the “accuser and accused must have the same opportunity to have others present”; “both parties shall be informed of the outcome of any disciplinary proceeding”; “survivors shall be notified of counseling services”; and “survivors shall be notified of options for changing academic and living situations.” Id.

Funds furnished through the Violence Against Women Act have served as a major source of efforts to improve campuses’ response to helping victims. Originally enacted in 1994, VAWA was the first comprehensive attempt by Congress to address domestic violence and sexual assault and “forms the backbone” of the nation’s response to them. The Act has provided millions of dollars in grants to increase prosecution of violent crimes against women. Since its inception, VAWA has improved the nation’s response to domestic violence, sexual assault, dating violence, and stalking, and the act provides for grants to states in order to improve law enforcement’s response to violence against women and to encourage a coordinated community response to domestic violence and sexual assault. VAWA also authorized a commission to evaluate increasing the penalties for rape tried in federal court. VAWA was reauthorized in 2000 as part of the Victims of Trafficking and Violence Protection Act. It was reauthorized again in 2005, creating the Sexual Assault Services Program—the first federal funding source dedicated to direct services for victims of sexual assault. Most recently, the 2013 reauthorization of VAWA includes additional funding for

32 Weisberg, supra note 2, at 530.
sexual assault response teams and funding for Sexual Assault Nurse Examiners (SANE).

Federal law has also specifically addressed sexual violence on campus. The 2013 reauthorization of VAWA included millions of dollars for domestic violence programs, including “train[ing] all campus law enforcement to respond effectively to domestic violence, dating violence, sexual assault and stalking.” Additionally, the Campus SaVE Act, which amends the Jeanne Clery Act, expanded the duties of universities to maintain a public record of sexual offenses and other campus crimes. The Campus SaVE Act requires colleges and universities to implement a recording process for incidents of dating violence, as well as to formally report crimes that occur on public property near college campuses. In addition, schools are required to create plans to prevent sexual violence and to educate victims on existing advocacy, legal assistance, and mental health programs. Federal funds through the Grants to Reduce Domestic Violence, Dating Violence, Sexual

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31 See id. at § 102(a)(1)(A)(ix) (codified at 42 U.S.C. § 3796hh(b)(17)).
33 Id. at § 303(a)(B) (codified at 42 U.S.C. § 14045b(d)(3)(C)).
34 Campus SaVE is section 304 of the 2013 Reauthorization of the Violence Against Women Act. See id. at § 304. Campus SaVE updates the Clery Act to address the current national trend of the “highest rates of stalking and intimate partner violence as well as high rates of rape and attempted rape.” It includes sections on transparency of campus crime statistics, including providing a written copy of their rights to victims and provides accountability through minimum standards for disciplinary procedures, educational programs, and partnerships with the U.S. Department of Justice. See The Campus Sexual Violence Elimination (SaVE) Act, CLERY CTR. FOR SEC. ON CAMPUS, http://clerycenter.org/campus-sexual-violence-elimination-save-act, archived at http://perma.cc/PS32-AT82.
35 VAWA Reauthorization, CLERY CTR. FOR SEC. ON CAMPUS, http://clerycenter.org/article/vawaiwaruthorization, archived at http://perma.cc/RF9E-C2VM (noting that these provisions apply to all post-secondary institutions that participate in federal financial aid programs under Title IV).
Assault, and Stalking on Campus Program (also funded through VAWA\(^47\)) have “significantly expanded” universities’ ability to adopt a comprehensive response to these crimes.\(^48\)

Redress for a school’s improper response to sexual assault can be derived from federal legislation under Title IX of the Education Amendments of 1972.\(^49\) Title IX was ground-breaking civil rights legislation that banned sex discrimination in schools that receive federal funding.\(^50\) It states that “[n]o 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.”\(^51\) Sexual violence—rape, sexual assault, sexual battery, and sexual coercion—are all forms of sexual harassment covered under Title IX\(^52\) because they “interfere with students’ rights to receive an education free from discrimination.”\(^53\) In 2001, the Department of Education’s Office of Civil Rights (OCR) published a guide explaining that when a student sexually harasses another student, the harassing conduct creates a “hostile environment” if the conduct is “sufficiently serious to deny or limit the student’s ability to participate in or benefit from the school’s program.”\(^54\) Plaintiffs do not need to show a repetitive series of incidents to successfully prove the existence of a hostile environment, particularly if the harassment is physical in nature.\(^55\) Educational institutions have an unqualified responsibility under Title IX to take immediate and effective steps to end sexual harassment and sexual violence and to create and maintain a learning environment free of such harms and distractions.\(^56\)

The OCR again issued guidelines in its “Dear Colleague Letter” in 2011 to help universities that receive federal funding navigate Title IX re-
quirements. In this letter, the OCR advises that schools make all attempts to remedy sexual harassment and sexual assault in schools as well as to take proactive measures to prevent this behavior and to work diligently to prevent its recurrence. These recommendations of responsibilities of educational institutions to address student complaints of sexual assault under Title IX provide that once a school learns of a sexual assault, it must promptly take a number of steps to investigate the incident, help the victim, and remedy the issue. While a complaint is being investigated, institutions are encouraged to offer some remedies to victims proactively, such as offering services to protect the victim from the alleged offender. Schools must also use a preponderance of the evidence standard to resolve complaints and offer equal opportunities for both parties to present evidence and witnesses on their behalf.

Under Title IX, higher learning institutions can be held legally responsible for monetary damages if a student suffers harassment (including sexual assault) committed by staff, faculty, or another student, and the school had authority over both the perpetrator and the environment in which the harassment took place. Title IX claims may also be raised based on the existence of “a hostile educational environment.” As a threshold matter, plaintiffs must show that that they subjectively perceived the environment to be hostile or abusive; in addition, they must demonstrate that the environment objectively was hostile or abusive; this condition is met if the environment was “permeated with discriminatory intimidation, ridicule, and insult sufficiently severe or pervasive to alter the condition” of the educational environment. Courts have found liability in instances when the school’s response to the harassment was “clearly unreasonable” in light of known circumstances when sufficient evidence demonstrated that a university acted with “deliberate indifference” to the sexual harassment of which the university

57 DEAR COLLEAGUE LETTER, supra note 27, at 2.
58 See id.
59 See id. at 3–14.
60 See id. at 16–17.
61 See id. at 11.
62 Id. at 1 (“Sexual harassment of students, which includes acts of sexual violence, is a form of sex discrimination prohibited by Title IX.”).
64 See Hayut v. State Univ. of N.Y., 352 F.3d 733, 750 (2d Cir. 2003).
65 See Papelino v. Albany Coll. of Pharmacy of Union Univ., 633 F.3d 81, 89 (2d Cir. 2011).
66 See id. (citations omitted).
67 Davis, 526 U.S. at 630.
has actual knowledge;\textsuperscript{68} and when the harassment was “so severe, pervasive, and objectively offensive that it can be said to deprive the victims access to the educational opportunities or benefits provided by the school.”\textsuperscript{69} Even a single sexual assault by a student on a peer can be sufficient to create and sustain a hostile environment claim under Title IX.\textsuperscript{70}

II. THE PROBLEM OF UNDERREPORTING

The federal government’s efforts to curb sexual assault on campus, though substantial, suffer from an inherent limitation. For despite the disturbingly common incidence of the crime, rape is also the most underreported of all violent crimes.\textsuperscript{71} At colleges, victims often do not make formal reports of the crime to police; estimates of formal reports range only from 5% to 33%.\textsuperscript{72} Both on campuses and in society at large, victims more frequently disclose the violence to informal support systems such as family and friends.\textsuperscript{73} Much research has revealed the importance of a supportive reaction by those who receive the victim’s disclosure.\textsuperscript{74} In particular, supportive responses by the recipient of the disclosure increase the victim’s likelihood of seeking assistance.\textsuperscript{75} This dynamic is crucial because the damage inflicted by rape does not end with the act itself. Rather, it is common for victims to experience a wide range of significant physical and emotional traumas from the crime: flashbacks, posttraumatic stress, depression, anxiety, sleep disorders, eating disorders, and other negative and persisting consequences.\textsuperscript{76} Re-

\textsuperscript{68} See Simpson v. Univ. of Colo. Boulder, 500 F.3d 1170, 1176–78 (10th Cir. 2007).
\textsuperscript{69} Davis, 526 U.S. at 650.
\textsuperscript{70} See S.S. v. Alexander, 177 P.3d 724, 742–43 (Wash. Ct. App. 2008); see also Brown v. Hot, Sexy & Safer Prods., Inc., 68 F.3d 525, 541 n.13 (1st Cir. 1995) (noting that a “one-time episode is [not] per se incapable of sustaining a hostile environment claim”).
\textsuperscript{71} W. David Allen, The Reporting and Underreporting of Rape, 73 S. Econ. J. 623, 623 (2007).
\textsuperscript{72} Lisa A. Paul et al., College Women’s Experiences with Rape Disclosure: A National Study, 19 Violence Against Women 486, 487 (2013).
\textsuperscript{74} See Ullman & Filipas, supra note 73, at 1029.
\textsuperscript{75} See Paul et al., supra note 72, at 487; Ullman & Filipas, supra note 73, at 1029.
searchers have described the psychological condition often resulting from the profound suffering of victims as Rape Trauma Syndrome. That the overall rate of reporting sexual assault has not significantly increased since the 1990s reflects a critical deficiency in the justice system’s efforts to reduce this crime. Formal reporting to law enforcement authorities, both on and off campus, despite its relatively infrequent nature, is crucial “input” into the system for several reasons. First, reporting is the only way in which an individual victim can pursue legal action against a perpetrator. If the perpetrator will ever be held accountable for the crime, it will likely only be through the external criminal justice system; thus, reporting the crime is an essential first step in preventing others like it. Second, in a global sense, victim reporting increases the probability that authorities will detect perpetrators. Conversely, not reporting reduces the probability of detection; accordingly, officials are prevented from gaining essential information to apprehend offenders. Under this economic model of crime in which a victim possesses a scarce resource—information about a rape—that she can give up only at significant cost to herself, underreporting weakens the link between crime and perpetrator accountability. Finally, reporting the crime links victims to resources that can be vital to the healing process. Unreported sexual assault, on the other hand, “eliminates the possibility that an offender will be arrested or convicted.” If those who sexually assault women perceive the likelihood of apprehension from authorities to be low, this calculation can undermine any deterrent value the legal system has in

78 See Kate B. Wolitzky-Taylor et al., Is Reporting of Rape on the Rise? A Comparison of Women With Reported Versus Unreported Rape Experiences in the National Women’s Study-Replication, 26 J. INTERPERSONAL VIOLENCE 807, 821 (2011).
79 See Allen, supra note 71, at 623 (“Reporting by victims reinforces the possibility of detection and the expected cost of illegal activity; these elements are critical to establishing a disincentive for individuals to commit crime.”).
80 See id.
81 See id. at 624.
82 See LYNN LANGTON ET AL., U.S. DEPT. OF JUSTICE, VICTIMIZATIONS NOT REPORTED TO THE POLICE, 2006–2010 1 (2012), archived at http://perma.cc/VEQ6-SN3X (“When crimes are not reported to the police, victims may not be able to obtain necessary services to cope with the victimization, offenders may go unpunished, and law enforcement and community resources may be misallocated due to a lack of accurate information about local crime problems.”).
83 See Allen, supra note 71, at 625 (“Social support can emanate from private sources . . . and from public sources . . . but only if the victim reveals information about the crime.”); The Effects of Sexual Assault and Rape, JOYFUL HEART FOUND., http://www.joyfulheartfoundation.org/learn/sexual-assault-rape/effectssexual-assault-and-rape, archived at http://perma.cc/47WK-6W23 (“[E]ach person will heal according to his or her own methods and own time. Know that no one is alone in their healing process and that there are resources for those who want to seek them out and begin on the restorative pathway to healing.”).
A Deficiency In Addressing Campus Sexual Assault preventing the crime. With respect to sexual assault on campus, the model has a very practical application because very few sexual assaults on campus are reported. In addition, the common assumption that men who commit sexual assault in college make a single bad decision is erroneous. Instead, repeat predators may account for as many as nine out of every ten rapes. Thus, the benefits of reporting are not limited to the individual victim who seeks justice and may experience the salutary effects of knowing that her perpetrator has been punished for his crime against her. More broadly, increased reporting can eventually create an environment in which serial perpetrators have a disincentive to commit the crime—their fear of getting caught. Individual victims possess crucial information about perpetrators, and the reporting of sexual assault to police can have the very real consequence of deterring future crime against other women. As the Rape, Abuse, and Incest National Network’s website informs victims: “Reporting to the police is the key to preventing sexual assault: every time we lock up a rapist, we’re preventing him or her from committing another attack. It’s the most effective tool that exists to prevent future rapes.”

Moreover, university administrators have an important role in holding perpetrators accountable and can take action by suspending or expelling perpetrators or taking protective steps such as helping the victim transfer out of classes she shares with the perpetrator. When they do not hold a perpe-

85 Id.
88 Shapiro, supra note 87; see also Jennifer Peebles & Kristen Lombardi, ‘Undetected Rapists’ on Campus: A Troubling Plague of Repeat Offenders, CTR. FOR PUB. INTEGRITY (May 19, 2014), http://www.publicintegrity.org/2010/02/26/4404/undetected-rapists-campus-troubling-plague-repeat-offenders, archived at http://perma.cc/C22C-Y7XZ (discussing study of serial rape at several colleges finding that 91% of rapists were serial rapists in a research study). For further discussion and statistics regarding repeat offenders, see generally David Lisak & Paul M. Miller, Repeat Rape and Multiple Offending Among Undetected Rapists, 17 VIOLENCE & VICTIMS 73 (2002).
89 See Reporting Rape and Sexual Assault, AFTER SILENCE, http://www.aftersilence.org/reporting-rape.php, archived at http://perma.cc/BWS5C-SUPH (explaining that “rape victims can feel a sense of closure when a rapist is brought to justice and convicted accordingly”).
90 See Allen, supra note 71, at 623.
trator accountable for his actions, those administrators have perpetuated risky and harmful attitudes of campus sexual assault. The resulting ability to commit sexual assault with impunity seems likely both to embolden potential assailants and to discourage victims from disclosing or reporting sexual assault.

III. THE IMPACT OF WOMEN OFFICERS ON SEXUAL ASSAULT REPORTING

Rather than stemming from a single source, the underreporting of sexual assault can be ascribed to a number of causes. Research suggests that a low proportion of female police officers is one factor contributing to the reluctance of rape victims to come forward. For several reasons, greater numbers of women working in police agencies has been found to encourage more reporting by victims. The potential benefit from bolstering the presence of women in police forces takes on heightened focus on college campuses, where nationally women comprise a decided majority of the student population.

Although the number of assaults and the degree of statistical underrepresentation of sexual assault in the United States have proven challenging to calculate with precision, they are undoubtedly large. A majority of victims do not report this crime to police. Victims’ reporting behavior has very real implications because reporting sexual assault to law enforcement is a necessary condition for any police response to, perpetrator accountability for, and future prevention of the crime.

The willingness to report can be hindered by several factors. Victims are often embarrassed and ashamed; as a result, they may not want anyone to learn of their assault. Some may not understand the definition of rape or

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94 See Peter Finn, The Higher Educ. Ctr. for Alcohol and Other Drug Prevention, Preventing Alcohol-Related Problems on Campus: Acquaintance Rape, A Guide for Program Coordinators, 5 (1997), available at http://www.popcen ter.org/problems/rape/PDFs/acqrape.pdf (saying that these myths include “that drinking and sex go together, that forcing a woman to have sex is acceptable, and that the school does not care about the problem”).

95 See infra notes 101–04 and accompanying text.

96 See infra notes 149–54 and accompanying text.


98 Yung, supra note 8, at 1.


100 Bachman, supra note 84, at 9.

101 See Fischer et al., supra note 73, at 32 (inferring from study that some sexual assault victims believe that "a sexual victimization was something sufficiently embar-
are afraid of police reaction. The fear of police reaction to a report of rape often involves a victim’s fear that she will be treated by police with “victim-blaming attitudes, behaviors, and practices.” This fear is not unfounded; the reporting process includes risk to victims, and if a victim experiences harsh treatment from law enforcement when attempting to file a report, she may also experience secondary traumatization.

Victims of sexual assault have complained that police officers have responded to their rape complaints with inappropriate reactions ranging from indifference to skepticism to hostility. When one victim could not describe her assailant in detail, the officer asked, “You don’t even remember the color of his eyes?” Another officer told a woman, “For every single rape I’ve had, I’ve had 20 that are total bullshit.” Other police comments about which victims have complained include: “You can’t be raped by someone you’ve dated,” and women should not “go out, get drunk and expect not to get raped.” One woman reported that a detective in her case informed her that “‘no one had a limb cut off and there was no video of the incident,’ prosecutors ‘wouldn’t see this [the rape] as anything more than a girl getting drunk at a party.’” A student also stated that a school police officer told her, “women need to stop spreading their legs like peanut butter or rape is going to keep on happening ‘til the cows come home.”

rassing or shameful that it should even be kept from their families”); Gray, Why Victims Don’t Report, supra note 15; see also Bachman, supra note 84, at 21 (finding that a major reason for victims not reporting rape to the police was that they considered it to be a “private matter”).

103 Rebecca Campbell et al., Preventing the “Second Rape”: Rape Survivors’ Experiences With Community Service Providers, 16 J. INTERPERSONAL VIOLENCE 1239, 1240 (2001); see also THE WHITE HOUSE COUNCIL ON WOMEN & GIRLS, RAPE AND SEXUAL ASSAULT, supra note 33, at 33 ("Some victims report that law enforcement officers actively discouraged them from reporting, asked questions about their sexual history and dress, and overemphasized prosecution for false reports.").

106 Id.
110 Tyler Kingkade, Why It Really Matters When College Officials Say Terrible Things About Rape, HUFFINGTON POST (Nov. 20, 2014), http://www.huffingtonpost.com/2014/
another complained of a police determination that no rape had occurred because the assailant did not orgasm. Sexual assault victims described to Human Rights Watch insensitive and egregious treatment by police officers who reportedly questioned their credibility and minimized their allegations. One woman said, “they just didn’t listen to me, they made me feel completely ashamed of myself, they made me feel like I was lying or like I was too stupid to understand what happened to me, that I was trying to make something a big deal that wasn’t that big of a deal.”

The phenomenon of sexual assault is characterized by a striking incongruity between the gender of victims and that of law enforcement personnel charged with their protection. The crime of sexual assault disproportionately affects women. At the same time, law enforcement personnel assigned to play a “central role” in addressing campus sexual assault are overwhelmingly men. Statistics from the U.S. Department of Justice reveal that women continue to be underrepresented in campus law enforcement positions. Only about 17% of sworn officers at colleges and universities are women; even that number represents an increase from a 1990 study that showed male officers outnumbering females 90% to 10% on large midwestern and southeastern residential campuses. Much of the paucity of women officers—both generally and on campus—can be ascribed to the simple fact that law enforcement agencies have historically been dominated by men. A significant

111 See Kingkade, USC Student, supra note 108.
113 Id.
114 See Weisberg, supra note 2. We do not minimize the impact of rape on male victims. According to the Campus Sexual Assault Study, 6.1% of men were victims of attempted or completed sexual assault in college. Krebs et al., supra note 73, at 5-5.
115 Office of the Press Secretary, Fact Sheet, supra note 31.
116 Many campuses also employ women in non-sworn positions, but these employees, who do not have the power of arrest, are not the subject of this article. See Brian A. Reaves, U.S. DEPT. OF JUSTICE, BUREAU OF JUSTICE STATISTICS: CAMPUS LAW ENFORCEMENT, 2004–05 1 (2008), archived at http://perma.cc/VBX8-XWJE.
117 Id. at 5 (finding also that 31% of sworn campus officers were of a racial or ethnic minority).
118 John J. Sloan, The Modern Campus Police: An Analysis of Their Evolution, Structure and Function, 11 AM. J. POLICE 85, 96, 102 (1992) (studying large, residential campuses in the Midwest and Southeast, including Auburn University, University of Florida, State University of Kentucky, University of Mississippi, Vanderbilt, Indiana University, Michigan State University, Ohio State, and Northwestern); see also Susan Ehrlich Martin & Nancy C. Jurik, Doing Justice, Doing Gender: Women in Legal and Criminal Justice Occupations 51 (2007) (“Before the 1970s, nearly all police officers in the United States were white men; women comprised less than 2 percent of sworn personnel, and ‘policewomen’ served in specialized positions.”).
119 See Philip E. Carlan et al., Officer Preferences for Male Backup: The Influence of Gender and Police Partnering, 26 J. POLICE & CRIM. PSYCHOL. 4, 5 (2011) (“The longstanding and engrained hostilities of policemen toward policewomen have been elsewhere well-documented. It has been suggested that male officers construct barriers to
cant increase in female police began only with the enactment of legislation prohibiting discrimination in employment on the basis of sex.\textsuperscript{120}

This sharp imbalance in the composition of police forces is magnified on college campuses by the disproportionate representation of women.\textsuperscript{121} While in 1947 male students outnumbered female students by more than two to one,\textsuperscript{122} women’s increased enrollment has reversed that gender gap on campus steadily ever since.\textsuperscript{123} Today, more than half of students on college campuses are women: public universities have a male-female ratio of about 43.6 to 56.4%,\textsuperscript{124} and private institutions tend to have even a larger percentage of women, about 40.7% to 59.3%.\textsuperscript{125} Studies on the widening gender gap in college attendance have produced multiple theories for the phenomenon: for example, the rising age of first marriages for women; the increases in girls’ expected economic returns from college attendance; the presence of

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\textsuperscript{120} See Amalia R. Miller & Carmit Segal, Do Female Officers Improve Law Enforcement Quality? 1 (Sept. 16, 2014) (unpublished manuscript), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2335990; Martin & Jurik, supra note 118, at 55–60. For an example of a lawsuit brought under these discrimination laws, see United States v. City of Chi., 485 F. Supp. 543, 554 (N.D. Ill. 1974) (finding that barring females from a certain type of examination that would determine eligibility for employment and placement constituted improper discrimination against women). A more recent example is Lewallen v. City of Beaumont, 394 F. App’x 38, 44 (5th Cir. 2010) (finding that Plaintiff successfully provided evidence to show that the City had a practice of sex discrimination in its hiring procedures and that such discrimination was imbedded in the Department’s hiring practices).

\textsuperscript{121} See Lopez & Gonzalez-Barrera, supra note 97 (“By 2012, the share of young women enrolled in college immediately after high school had increased to 71%, but it remained unchanged for young men at 61.”).


\textsuperscript{123} See, e.g., At Colleges, Women Are Leaving Men in the Dust, N.Y. Times, July 9, 2006, at A1, archived at http://perma.cc/72NP-7UQE (stating that men made up only 42% of the nation’s college students); Lopez & Gonzalez-Barrera, supra note 97.


\textsuperscript{125} Id.

more men in the military, and even boys’ higher incidence of “non-cognitive,” negative behavior creating barriers to college admission.

The presence of overwhelmingly male police forces at predominantly female universities is especially striking in light of studies showing that female officers make distinctive contributions to police culture. In general, according to the National Center for Women and Policing, women officers display better communication skills, use less excessive force, and receive fewer citizen complaints. Some campus law enforcement leaders recognize the special contributions that women officers can make. The police chief of Kent State University told reporters that having both men and women on the force was important, and that women “generally are better at oral and written communication.” Kent State officer Nancy Shefchuk, a member of the Kent State force for two-and-a-half years, said the public views female officers differently: “The public perceives females as kinder and gentler. This . . . makes [the public] more willing to talk.”

Most notably, research indicates that women officers may respond more effectively to incidents of violence against women, a crime that represents approximately half of all violent crime calls to police. Researchers studying the impact of female police officers who investigate gender-based crimes have found that women can be especially effective when working with those victims. A variety of explanations have been offered for this

128 Id. at 4, 18 (finding that disciplinary incidents have a substantial impact on the probability of enrolling in college, even after controlling for cognitive ability, family background, and high school achievement); see also Shannon Moon Leonetti, Letter to the Editor, Why More Black Women than Men Go to College, N.Y. TIMES, May 19, 1990, at 22 L (stating that black men may lack the father figures or mentors whose leadership would increase their chances of going to college). We have no doubt that our families and communities would benefit from having more men participate in higher education, but that issue is beyond the scope of this paper.
129 LONSWAY ET AL., supra note 119, at 2; see also Christina DeJong, Gender Differences in Officer Attitude and Behavior, 15 WOMEN & CRIM. JUST. 1, 4 (2005) (“Female officers have, however, reported higher self-ratings on effective listening skills and consideration for others, while male officers report higher self-ratings on physical strength and use of physical force.”).
131 Id.
133 LONSWAY ET AL., supra note 119, at 7; see also Kelley Foreman, Changing the Letters of the Law: Policewomen, 30 KY. L. ENFORCEMENT 32, 50 (“‘There are a lot of things that we actually can do [because of our gender],’ Spies said. ‘Rape victims feel more comfortable talking to a female; we kind of display that motherly image. Sometimes we can help calm a situation more.’”). One study revealed gender differences in the beliefs, biases, and responses of police officers on college campuses have towards victims of sexual assault. Male officers were more likely to view perpetrator’s claim of
finding. For example, female victims may find discussing the specific and graphic details of a violent crime more difficult when interacting with male officers. In addition, female victims may perceive women officers to be less inclined to be victim-blaming and to be more sensitive. Or it may simply be that many victims of sexual assault feel that other women will have shared experiences and common values and may be more empathetic. One study indicates that most male victims of sexual assault prefer to be examined by female nurses, especially in settings where female practitioners are the norm. Even in their choice of physicians, studies have suggested that women generally report higher satisfaction when being treated by women doctors in emergency room care. Thus, this preference by many women to interact with other women on issues related to women’s sexual health is consistent with the expressed importance of the presence of women in positions of authority and trust related to the sexual health of women.

innocence as credible and less likely to view the complainant as credible compared to female police officers. Regina A. Shuller & Anna Stewart, Police Responses to Sexual Assault Complaints: The Role of Perpetrator/Complainant Intoxication, 24 L. & HUM. BEHAV. 535, 542 (2001).

See Cassia Spohn & Katharine Tellis, Policing and Prosecuting Sexual Assault in Los Angeles City and County: A Collaborative Study in Partnership with the Los Angeles Police Department, the Los Angeles County Sheriff’s Department, and the Los Angeles County District Attorney’s Office 153, 391, 400 (2012), available at https://www.ncjrs.gov/pdffiles1/nij/grants/237582.pdf.

See Kenneth J. Meier & Jill Nicholson-Crotty, Gender, Representative Bureaucracy, and Law Enforcement: The Case of Sexual Assault, 66 PUB. ADMIN. REV. 850, 852 (2006) (“The fear of ‘victim blaming’ . . . may be reduced by victim’s assumption that a woman will have common values and experiences and, as a result, feel sympathetic or even empathetic to the situation.”); Jan Jordan, Will Any Woman Do? Police, Gender and Rape Victims, 25 POLICING: INT’L J. POLICE STRATEGIES & MGMT. 319, 327, 329 (2002) [hereinafter Jordan, Will Any Woman Do?] (“Some women stated strongly their belief that male police officers were unlikely to be able to respond appropriately to rape complainants, since many could not differentiate between ‘rape’ and ‘sex.’”).

See Jo Lovett et al., Home Office Research, Sexual Assault Referral Centres: Developing Good Practice and Maximising Potentials 30–31, 37 (2004), archived at http://perma.cc/2CFL-86JV; see also Linda E. Ledray, Evidence Collection and Care of the Sexual Assault Survivor: The SANE-SART Response, MINNESOTA CTR. AGAINST VIOLENCE AND ABUSE (2001), http://www.mincava.umn.edu/documents/commissioned/2forensicevidence/2forensicevidence.html, archived at http://perma.cc/8CEK-WUUV (finding that half of female rape victims see a male examiner as extremely problematic). Even male victims often prefer to be examined by a woman because they too are most often raped by a man and experience the same generalized fear and anger towards men that female victims experience. See id.

See Kathryn Pitkin Derose et al., Does Physician Gender Affect Satisfaction of Men and Women Visiting the Emergency Department?, 16 J. INTERNAL MED. 218, 221 (2001).

See Career as a Victim Advocate, CAREERS IN PSYCHOLOGY, http://careersinpsychology.org/career-as-a-victim-advocate/, archived at http://perma.cc/H342-BCEK (“Sexual assault victims, for instance, will often be more open to working with a female victim advocate than a man.”). See generally Survivor Services, WOMEN HELPING WOMEN, http://www.womenhelpingwomen.org/services/survivor-services/, archived at http://perma.cc/4HY2-6GSZ, (listing several services, offered by women to other women who have survived sexual assault, encouraging initial reporting, intervention for the immediate after-effects of assault, and ongoing support groups).
of women to assist with both forensic nurses\footnote{See Ledray, \textit{supra} note 137 (citing studies in which women expressed a strong preference for medical treatment and counseling by a woman). In one study, most victims—78.6\%, male and female—preferred Sexual Assault Referral Centre staff to be female. Rima Chowdhury-Hawkins et al., \textit{Preferred Choice of Gender of Staff Providing Care to Victims of Sexual Assault in Sexual Assault Referral Centres (SARCs)}, 15 \textit{J. FORENSIC \\& LEGAL MED.} 363, 363 (2008) (also finding that almost 100\% of victims would continue with the examination if carried out by a female doctor, whereas 43.5\% of victims said they would not if the doctor were male).} in the rape crisis setting and more generally on non-emergency women’s health issues.\footnote{Cf. supra notes 75–76 and accompanying text.}

When a campus has a larger number of women officers, the likelihood increases that a rape victim’s first contact with the law enforcement agency will be with a female officer. Even though rape victims may prefer to be interviewed by women\footnote{Cf. supra note 104, at 266.}, what happens after the report is made is also crucial.\footnote{See, e.g., Rich \\& Seffrin, \textit{supra} note 104, at 274–75 (stating that training and rejection of rape myths are significant predictors of interviewing skill; it is possible that a female officer with poor skills could make a rape reporter feel comfortable initially, but engage in discouraging behaviors and fail to collect good information on the crime).} Thus, it is essential that beyond being “comfortable,” a victim must be sensitively and effectively served by a well-trained officer who does not adhere to myths about rape.\footnote{Rich \\& Seffrin, \textit{supra} note 104, at 266.} Female officers may be less accepting of rape myths than male officers.\footnote{Cf. supra notes 75–76 and accompanying text.} Those myths include beliefs that sometimes a man cannot control himself because the victim is too sexy, that women enjoy rape, that only certain kinds of women are raped, that the victim brought on the rape by her own carelessness, that the victim lied, that the rapist did not mean to rape the victim, and that he was entitled to have sex with her.\footnote{See Diana L. Payne et al., \textit{Rape Myth Acceptance: Exploration of Its Structure and Its Measurement Using the Illinois Rape Myth Acceptance Scale}, 33 \textit{J. RES. PERSONALITY \\& SOC. PSYCHOL.} 295, 298 (1997) (finding that men are more accepting of rape myths than women). One researcher found negative attitudes toward rape victims among women personnel similar to their male colleagues. See Jordan, \textit{Will Any Woman Do?}, \textit{supra} note 135, at 331. This may be because “organizational culture, socialization, and peer pressure can influence personal attitudes” regarding rape myths in the workplace, and “police officers are more likely to endorse rape myths than . . . the general public.” Rich \\& Seffrin, \textit{supra} note 104, at 264–65. However, we argue that having more women officers could shift the culture of police departments and change male officers’ views on rape. See infra notes 168–77 and accompanying text.}
Furthermore, some studies indicate that female officers may be more supportive of victims because they have lower levels of acceptance for aggression against women than male police officers.147

Although the experiences and culture of individual agencies may differ,148 large-scale studies indicate that the presence of women law enforcement officers actually increases the number of reported sexual assault cases. In 2006, a study analyzed the relationship between the percentage of women police officers, the number of reports of sexual assault, and the number of arrests for sexual assault in sixty urban areas over an eight-year period.149 The study found that the percentage of women police officers positively correlates with both reports and arrests for sexual assault.150 More recently, a 2014 study of domestic violence crime data from the National Crime Victimization Survey indicates that increasing the number of female police officers tends to raise reporting of violent crimes against women.151 Additionally, the data also led to the conclusion that such an increase actually improves police quality.152

IV. A CALL FOR MORE WOMEN OFFICERS ON CAMPUS

In this Part, we argue that to reduce the hostile environment for women students—who suffer a heavily disparate impact from sexual crimes153—and to offer them the full benefits of higher education, colleges and universities should make meaningful efforts to hire more women officers.154

147 See Brown & King, supra note 145, at 273.

148 Cf. Meghan A. Alderden & Sarah E. Ullman, Gender Difference or Indifference? Detective Decision Making in Sexual Assault Cases, 27 J. INTERPERSONAL VIOLENCE 3, 13–15 (2012). This 2012 study of a large Midwestern police department found that after a report of rape, female detectives were significantly less likely than male detectives to arrest the suspect, and efforts to hire more women may “undermine efforts to improve victim experiences with the criminal justice system.” Id. at 3–4. We do not find that study compelling for several reasons. First, it examined arrests, which come after the actual report of the crime. We have argued here that an increase in reporting is an essential first step in reducing crime. See supra notes 79–96 and accompanying text. Second, the authors did not address the type of training that officers received at the one agency, and we have made the case that training is essential to avoid victim blaming once an officer investigates a report. See infra notes 198–203 and accompanying text; see also HUMAN RTS. WATCH, IMPROVING POLICE RESPONSE TO SEXUAL ASSAULT 10 (2014), archived at http://perma.cc/5ARF-7JG9.

149 Meier & Nicholson-Crotty, supra note 135, at 856.

150 Id.

151 Miller & Segal, supra note 120, at 4.

152 Id.

153 DEAR COLLEAGUE LETTER, supra note 27, at 2.

154 We neither recommend nor suggest specific quotas, which are constitutionally impermissible at public institutions. See City of Richmond v. J.A. Croson Co., 488 U.S. 469, 507–08, 511 (1989) (striking down city’s use of a quota system for minority employ-
evidence that the heightened presence of female police officers tends to increase the reporting of violent crimes against women\textsuperscript{155} should incentivize universities to boost the hiring and retention of female officers. These data justify hiring women not simply to ensure that the demographics of agencies reflect the population they serve, but more importantly to improve the agency’s ability to protect women. Moreover, genuine efforts to maintain a significant number of women on their police force can bolster the legal position of universities when facing charges of violations of Title IX.\textsuperscript{156}

The case for increasing the number of women police officers at universities to increase reporting is also supported by the theory of representative bureaucracy.\textsuperscript{157} Representative bureaucracy theory holds that when bureaucratic agencies are made up of individuals who represent the people they serve on important demographic and social indicators, the agency makes decisions that benefit the marginalized people they serve.\textsuperscript{158} Used frequently to explain the importance of including racial diversity in bureaucratic structures,\textsuperscript{159} bureaucratic representation\textsuperscript{160} has more recently been applied to gen-

\textsuperscript{155} See supra notes 149–53 and accompanying text.

\textsuperscript{156} See infra notes 211–41 and accompanying text.

\textsuperscript{157} Meier & Nicholson-Crotty, supra note 135, at 852.

\textsuperscript{158} Id. at 851.


\textsuperscript{160} This concept differs from the “community policing” movement promoted by the Department of Justice for the last two decades. Community policing focuses more on community partnerships, organizational change, and increasing police legitimacy than on agency diversity. See U.S. CMTY. ORIENTED POLICING SERVS., DEPT. OF JUSTICE, COMMUNITY POLICING DEFINED 2–7 (2012) (rev. 2014), available at http://ecos-zae-inc.com/Publications/cops-PI57-pub.pdf; Charlotte Gill et al., Community-Oriented Policing to Reduce Crime, Disorder and Fear and Increase Satisfaction and Legitimacy Among Citizens: A Systematic Review, 10 J. EXPERIMENTAL CRIMINOLOGY 399, 403 (2014). Gill conducted a meta-analysis of twenty-five different reports and thirty-seven independent tests that evaluated the effectiveness of community policing. Id. at 399. The researchers found community policing effective in increasing community satisfaction and perception of police, id. at 413, but less effective in reducing actual crime rates or the fear of crime, id. at 419. For further discussion of the effectiveness of community policing, see Commu-
der. Bureaucratic representation occurs at two levels: passive representation and active representation. Passive representation is the process of simply having a bureaucracy that has adequate representation of demographic characteristics of the people the bureaucracy serves. Clients are more inclined to access bureaucratic services because they know the agency comprises, in significant part, individuals who resemble them; that is, clients see a visible connector and are more likely to use the services because of an observable similarity. Commentators have pointed out, for example, that the recent problems in Ferguson, Missouri stemming from a white police officer shooting a black man could have had roots in the stark racial divisions of the community and police force. The implication is that police agencies can benefit from simply being more representative of the communities they serve. Under the theory of passive representation, a university law enforcement agency intrinsically helps the school’s women students when the agency’s makeup reflects to an appreciable degree the gender composition of the student population.

Even just increasing the representation of women on a campus police force ensures benefits to female victims of sexual assault. First, women students who see women law enforcement officers engaging in routine policing activities may be more inclined to turn to the agency after a rape. Women students are undoubtedly familiar with the demographic makeup of the campus police force simply because they routinely interact with police throughout their college experience. Just as a woman is likely to notice how often she sees a “female police officer working security, patrolling a beat, or cruising a neighborhood,” students observe campus police patrolling campus, engaging in traffic and parking enforcement, performing building lockup, responding to calls for service by other students reporting crimes, and police presence at campus special events such as commencement, sports competitions, concerts, large club proceedings, public meetings, and

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161 See Meier & Nicholson-Crotty, supra note 135, at 851.
162 See id.
163 Id. at 852.
164 See, e.g., Braden Goyette, Stark Racial Disparities in Ferguson, Missouri, the Town Where Michael Brown Was Shot, HUFFINGTON POST (Aug. 13, 2014), http://www.huffingtonpost.com/2014/08/12/racial-disparities-ferguson-missouri_n_5671891.html&g_t, archived at http://perma.cc/6GN9-CYV7 (emphasisizing that although Ferguson, Missouri’s population is two-thirds black, the town’s leadership and police force are dominated by white people).
165 See Meier & Nicholson-Crotty, supra note 135, at 852.
166 Id.
167 See REAVES, supra note 116, at 4 (listing functions performed by campus law enforcement agencies).
public safety programs. Studies have also suggested that women are especially aware of the gender mix in their environment. Thus, before a rape even occurs, women students will have noticed that the campus law enforcement agency includes many women officers. By seeing women law enforcement officers patrolling, responding, and investigating, women who are victimized may be more inclined to report their experience because of the belief that their experience is shared and represented by officers within the agency, regardless of the gender of the actual responding officer.

Under the concept of active representation within representative bureaucracy theory, another advantage of hiring more women police officers is the effect their presence may have on the practices and explicit policies and procedures of the agency. When bureaucracies are composed of disenfranchised members who have power and autonomy within the agency, decisions are made that positively impact the disenfranchised population. Well-documented in the case of minority representation within bureaucracies, the theory has more recently been applied to professions that are comprised of a majority of one gender. As such, a meaningful increase in women’s representation within law enforcement agencies has the potential to positively impact rape victims. For example, women officers’ presence may influence their male colleagues’ views of rape. Researchers have theorized that the presence of more women officers at law enforcement agencies works to sensitize male officers to the issues involved in sexual assault and its impact on victims.

The actual effects of greater representation of women on male officers’ attitudes within agencies have not been studied extensively. It seems clear,
that an individual agency’s mere touting of its decision to hire a handful of additional women police officers is not likely to result in meaningful change throughout the agency or campus. Indeed, those few officers may simply absorb the well-established, male-dominated agency culture and reflect that culture in their attitudes and behaviors. At any rate, a token number of female officers would not fulfill the purposes of attaining ample representation of women in campus (and other) law enforcement agencies. To attain these goals, agencies must endeavor to hire, train, and retain women at every level of the organization. Women law enforcement officers who represent a small minority of the force—despite making up approximately half the population (more on most campuses)—have not reached the critical mass necessary to influence culture and policy within the institution. When the number of women reaches a critical mass, women officers may help shift the agency toward more effectively addressing sexual violence against women. This representation also needs to be incorporated throughout the ranks, so that women officers hold positions of power within the agency that can influence policy and procedural decisions. This is particularly relevant to the issue of sexual assault, because officers routinely engage in investigative practices that can affect the outcomes of sexual assault cases. When women are absent, women victims of sexual assault may be more likely to face delays in reporting and investigating their assault, which can result in less effective and less sensitive responses to their needs.

176 See MARTIN & JURIK, supra note 118, at 71 (stating that when women comprise only a small proportion of officers, they are merely “tokens” and are treated paternalistically).

177 See DEBORAH PARSONS & PAUL JESILOW, IN THE SAME VOICE: WOMEN AND MEN IN LAW ENFORCEMENT 31 (2001) (stating that police work is perceived to “require characteristics usually attributed to men, for example, aggression, physical prowess, logic, and stability of emotions. Characteristics commonly considered feminine, such as compassion, empathy, nurturing, and strong emotions, are frequently perceived to be weaker, less appealing, less successful, and especially in terms of policing, possibly dangerous and life-threatening”); Mary Dodge et al., Maintaining Separate Spheres in Policing: Women on SWAT Teams, 20 WOMEN & CRIM. JUST. 218, 224 (2010) (“Many observers have asserted that regular . . . policing is infused with a large dose of masculine values that shape how and why police work is performed and that the ‘right’ way to maintain social order and control is to have men perform police work . . . .”) (citations omitted).

178 Rich & Seffrin, supra note 104, at 264 (noting that “organizational culture, socialization, and peer pressure may influence personal attitudes”).

179 The concept of a critical mass originates in nuclear physics. As Thomas Schelling wrote, some minimum amount of fissionable material must be compacted together to create self-sustaining nuclear fission; once there is enough of this material, an atomic pile “goes critical.” THOMAS C. SCHELLING, MICROMOTIVES AND MACROBEHAVIOR 89 (1978). In social science, critical mass refers to “getting together enough resources to accomplish some goal . . . [I]t takes some minimum number of people or some minimum accumulation of seed money to draw in the participation and contributions of others.” GERALD MARWELL & PAMELA OLIVER, THE CRITICAL MASS IN COLLECTIVE ACTION: A MICRO-SOCIAL THEORY 1 (1993). For further discussion of critical mass in social science and collective action, see generally id.

180 Lael R. Keiser et al., Lipstick and Logarithms: Gender, Institutional Context, and Representative Bureaucracy, 96 AM. POL. SCI. REV. 553, 557 (2002) (“A critical mass may be needed for minorities to take an advocacy role . . . . Organizations with a critical mass of women will be more likely to allow for active representation.”).

181 See id. at 553, 562 (finding that having increased numbers of women in positions of power (“passive representation”) “has consequences for the policy benefits the bureaucracy produces for women”).
hold much discretion in deciding whether to make an arrest, and an officer’s use of discretion is undoubtedly linked to agency culture and attitudes about rape and rape victims. Adequate representation of trained women officers has the potential to sway this discretionary power toward victim-centered practices and away from the victim-blaming attitude so prevalent today.

Further, increases in reporting can produce results that will ultimately effect a reduction in sexual assaults on campus. A higher number of reports can lead to better data on the prevalence of assault, more investigations, more arrests, and thus more consequences for offenders. Colleges and universities can then achieve tangible gains by immediately increasing their efforts to hire more women police officers. As the number of female officers rises, students will more frequently report sexual assaults. As the rate of reporting goes up, universities will be able to garner more resources such as advocates and officers, conduct more campus trainings and programs, and work to overhaul the campus environment to reduce commission of the crime.

A further long-term benefit of more reporting of rape is that it provides campus authorities with better campus crime data. An increase in the number of sexual assault reports by victims to police can lead to better assessment of the specifics of the crime (e.g. where the assault was perpetrated), as well as a statistical likelihood that there will be an increase in the number of arrests (regardless of the gender of the officer). Increased reporting will make Clery reports more accurate while also providing helpful information to police for investigative purposes. This data is likely necessary for agencies to tailor specific local policies and programs for prevention and intervention. Such data will help agencies advocate and gain support for the financial resources they need to put those specific programs and policing into place.

182 Wayne A. Kerstetter, Gateway to Justice: Police and Prosecutorial Response to Sexual Assaults Against Women, 81 J. CRIM. L. & CRIMINOLOGY 267, 298 (1990) (stating that when officers have information about the identity of the perpetrator, “they have greater discretion over whether or when they will apprehend the accused”).


184 See Campbell et al., supra note 103, at 1240; see also supra notes 105–12 and accompanying text.

185 Cf. supra notes 149–53 and accompanying text.

186 See supra notes 79–82 and accompanying text.

A Deficiency In Addressing Campus Sexual Assault

from increased reporting to police of campus sexual assault is an increase in hiring people who provide victim support. For example, universities could justify increasing the number of victim advocates. These are advocates trained to support victims by helping them obtain emergency medical care and report sexual assaults to local law enforcement and providing information on their legal rights, availability of counseling, and other services. Similarly, increased reporting by victims could result in universities spending more resources to purchase and administer bystander training programs for staff and students.

This Article’s proposal comes at a time of apparently heightened receptivity to the greater inclusion of women in law enforcement agencies. Even though it may be difficult for some agencies to attract women recruits, evidence points to a growing recognition of the need for more women officers on campus. Several universities and student groups have recognized the problems of campus rape, the underreporting of the crime, and the need for more women police officers. The University of Rochester issued a statement to the local newspaper when a sexual assault survivor complained that she was never offered the chance to speak with a female officer after she was assaulted at a fraternity party. The university said it was training new female officers “who will be able to investigate and respond to complaints of sexual misconduct.” In 2013, the Student Government Association (“SGA”) of Connecticut College responded when the college’s Campus victims do not even access formal services, like crisis centers. Thus, official statistics underrepresent the extent of the problem on any one campus. Further, campus response, intervention, and prevention efforts will be more successful if they are tailored to the needs of each campus community.”).


189 For background on bystander training programs, see NAT’L SEXUAL VIOLENCE RES. CTR., IT’S TIME . . . TO INCORPORATE THE BYSTANDER APPROACH INTO SEXUAL VIOLENCE PREVENTION 2 (2011) (“[B]ystander education prevention programs provide chances to build skills for helping directly or indirectly without placing bystanders’ safety in jeopardy by focusing on practicing intervention strategies.”).

190 See JEREMY M. WILSON & CLIFFORD A. GRAMMICH, RAND CTR. ON QUALITY POLICING, POLICE RECRUITMENT AND RETENTION IN THE CONTEMPORARY URBAN ENVIRONMENT: A NATIONAL DISCUSSION OF PERSONNEL EXPERIENCES AND PROMISING PRACTICES FROM THE FRONT LINES 7, 12, 15–16 (2009) (discussing the difficulty of recruiting women, as well as how agencies have made efforts to make police careers appeal to women and minority applicants).


192 Id.
Safety Officer Search Committee sought to hire a new police officer.\textsuperscript{193} The SGA put forth a resolution emphasizing the importance that the new officer identify as a woman, since over half of the college’s student body is female.\textsuperscript{194} As of 2014, only 17\% of officers on staff at the University of West Virginia were female, but in a newspaper article, the Police Chief expressed the desire for more female officers.\textsuperscript{195} “In our environment on campus, I think having a large amount of female officers works well,” the Chief said. “People can relate and interact better with some of our female officers because they have different skill sets.”\textsuperscript{196} Just a few months earlier, the student newspaper at Stony Brook University opined that “some solutions” to sexual assaults on campus included hiring more police female officers, re-orienting a portion of the police force to focus on helping victims, increasing self-defense training, and creating bystander awareness workshops.\textsuperscript{197}

It is important to bear in mind that the proposal to increase the number of women in campus law enforcement agencies in order to increase reporting of sexual assault is intended as a complement to, not substitute for, the proper training of officers in dealing with sexual violence. Indeed, training is essential for all officers on the various dimensions of sexual assault: communication skills for working with victims,\textsuperscript{198} the legal elements of the crime under state law,\textsuperscript{199} and the low estimate of false rape claims.\textsuperscript{200}

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\textsuperscript{194} Id. (stating that 55\% of the college’s student body is female).
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\textsuperscript{196} Id.
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\textsuperscript{197} Paul Grindle & Alexandra Miller, Sexual Assault Increases on Campus, STATESMAN (Mar. 6, 2014), http://sbstatesman.com/2014/03/06/sexual-assault-increases-on-campus, archived at http://perma.cc/JH8X-YX9A; see also Joshua Lim, OUPD Hired Second Female Officer, Still Desires Diversity, POST (Oct. 6, 2014), http://www.thepostathens.com/news/article_9b4e047e-4cde-11e4-a653-0017a43b2370.html, archived at http://perma.cc/G7VG-V7LD (discussing Ohio universities’ desire for and efforts to recruit more female police officers).
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\textsuperscript{198} Rich & Seffrin, supra note 104, at 266–67.
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\textsuperscript{200} See, e.g., Kimberly Lonsway et al., False Reports: Moving Beyond the Issue to Successfully Investigate and Prosecute Non-Stranger Sexual Assaults, 3 VOICE 1, 2, 5 (2009) (finding that only about 2\% to 8\% of rape allegations are false); Yung, supra note 8, at 6 (“[I]ndividuals working at universities would be expected to have . . . unconscious beliefs that might lead them to undervalue on-campus incidents of sexual violence . . . . [E]xaggerated belief in false reporting are the prime culprits in such pervasive hostility to sexual assault complaints.” (citation omitted)); see also David Farrington ET AL., EVIDENCE-BASED CRIME PREVENTION 109 (2002) (“According to FBI statistics, false accusations of rape are no more common than for other crimes.”).
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victim advocates to combat stereotypes of a what a “real victim”\textsuperscript{201} looks or acts like,\textsuperscript{202} dispelling other myths about sexual violence, and developing a culture of sensitivity toward rape victims is essential for all campus law enforcement—women and men—to appropriately respond to a victim’s report.\textsuperscript{203} Such training is crucial to ensure that when a victim does report to police, she is not re-traumatized by the responding officer.

Likewise, the role of victim advocates\textsuperscript{204} and campus mental health professionals is an essential one, and we support their status as confidential assistants to victims.\textsuperscript{205} It is vital for victims to have a trained advocate who can provide assistance\textsuperscript{206} in a confidential environment,\textsuperscript{207} and victims must retain the ability to decide whether or not to report to campus law enforcement. If victim advocates lost their confidentiality privilege, reporting numbers would sink even lower, making the fight against sexual assault even more difficult.\textsuperscript{208} Our proposal instead is to encourage women to feel comfortable reporting to trained campus police, which in turn will trigger victim assistance services, hold perpetrators accountable, and better enable universities to obtain the resources they need to combat this crime. Thus, reporting rates and assistant services are mutually reinforcing: as reporting rates rise to

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\textsuperscript{201} See Janice Du Mont et al., The Role of “Real Rape” and “Real Victim” Stereotypes in Police Reporting Practices of Sexually Assaulted Women, 9 VIOLENCE AGAINST WOMEN 466, 477 (2003).

\textsuperscript{202} See Jan Jordan, Beyond Belief? Police, Rape and Women’s Credibility, 4 CRIM. JUST. 29, 37 (2004) (describing factors that officers say diminish victims’ credibility, including a victim being drunk/drugged, delaying reporting, having had a previous sexual relationship with the offender, or a previous report of sexual victimization).

\textsuperscript{203} Jordan, Will Any Woman Do?, supra note 135, at 319 (“[N]ot only is it possible for some male officers to be sensitive victim interviewers, but also that being female does not automatically denote possession of the key attributes required for victim interviewing. Some rape complainants, however, expressed a strong preference for women officers. This places the onus on the police not simply to provide a woman officer—the ‘any woman will do’ scenario—but to ensure the availability of trained and experienced women and men officers.”).

\textsuperscript{204} See What is a Victim Advocate?, supra note 188.

\textsuperscript{205} See CATHERINE E. L HAMON, U.S. DEP’T OF EDUC., QUESTIONS AND ANSWERS ON TITLE IX AND SEXUAL VIOLENCE 22–23 (2014), archived at http://perma.cc/8DCH-6D7K (stating that professionals with licensure that requires confidentiality include “mental-health counselors, pastoral counselors, social workers, psychologists, health center employees” and supporting that schools do not require “all individuals who work or volunteer in on-campus sexual assault centers, victim advocacy offices, women’s centers, or health centers” to report incidents of sexual violence in a way that identifies the victim without her consent).

\textsuperscript{206} See Rebecca Campbell, Rape Survivors’ Experiences with the Legal and Medical Systems: Do Rape Victim Advocates Make a Difference?, 12 VIOLENCE AGAINST WOMEN 30, 30 (2006) (finding that survivors who had the assistance of an advocate were significantly more likely to have police reports taken, less likely to be treated negatively by police officers, less distressed after their contact with the legal system, and received more medical services).

\textsuperscript{207} See LHAMON, supra note 205, at 23 (“These non-professional counselors or advocates are valuable sources of support for students, and OCR strongly encourages schools to designate these individuals as confidential sources.”).

\textsuperscript{208} See Campbell, supra note 206, at 36.
accurately reflect the true incidence of the campus crime, so will the use and availability of services.\textsuperscript{209}

Finally—and of considerable legal significance—universities should recognize that hiring and appropriately training more women police officers can serve their own institutional interest as well as the interests of their students by helping to bring schools into compliance with Title IX. The sheer horror of frequent sexual assault on campus reflects a hostile environment that traumatizes women students every day.\textsuperscript{210} Under certain circumstances, schools have a duty to take prompt and effective action to stop this victimization and prevent its recurrence.\textsuperscript{211} If the school fails to take the necessary steps, it has engaged in discrimination, because its failure to act has allowed a hostile environment that denies or limits the student’s ability to benefit from the school’s program to continue.\textsuperscript{212}

Sexual assault victims have two remedies under Title IX: complainants can file a complaint with the Office of Civil Rights and sue the educational institution in civil court.\textsuperscript{213} Both types of remedies can result in changes to the university’s response to the problem of sexual assault.\textsuperscript{214} Anyone can report a Title IX complaint with the Office of Civil Rights (OCR) at the Department of Education within 180 days of the alleged discrimination.\textsuperscript{215} If the OCR’s investigation finds a violation of Title IX, the usual outcome is a voluntary resolution between the OCR and the school.\textsuperscript{216} This forces changes in the institutions’ response systems.\textsuperscript{217} Several high-profile Title IX complaints to the OCR illustrate this remedy. For example, in 2012, Yale University entered into a settlement agreement without any finding of fault by the

\textsuperscript{209} Cf. Sexual Assault: Victim Right, Reporting and Resources, U.C. IRVINE, http://www.care.uci.edu/general/Sexual-Assault-Victim-Rights—Reporting.aspx, archived at http://perma.cc/X6HD-ZPV7 (“Reporting may also help to ensure that you receive the most immediate and comprehensive professional assistance that is available. The police will assist you in getting specialized medical care . . . and resolving concerns about your personal safety and security.”).

\textsuperscript{210} Cf. REVISED SEXUAL HARASSMENT GUIDANCE, supra note 54, at 7 (“A series of incidents at the school, not involving the same students, could taken together create a hostile environment, even if each by itself would not be sufficient.”).

\textsuperscript{211} Id. at 12 (stating that schools are required to take action when “the harassing conduct is sufficiently serious to deny or limit the student’s ability to participate in or benefit from the program, and if the school knows or reasonably should know about the harassment” (footnote omitted)).

\textsuperscript{212} Id. at 3, 5.


\textsuperscript{214} See infra notes 216, 223 and accompanying text.


\textsuperscript{216} Lauren P. Schroeder, Cracks in the Ivory Tower: How the Campus Sexual Violence Elimination Act Can Protect Students from Sexual Assault, 45 LOY. U. CHI. L.J. 1195, 1207 (2014).

\textsuperscript{217} Id.
OCR\textsuperscript{218} after sixteen students accused it of creating a sexually hostile environment—by allowing such activities as fraternities holding up a sign saying “We love Yale sluts” and chanting “no means yes” on campus—and by failing to adequately respond to complaints of rape and stalking.\textsuperscript{219} Notably, complainants described the school environment as devaluing to women and perpetuating an atmosphere in which sexual harassment is acceptable.\textsuperscript{220} As part of its OCR resolution agreement, the school agreed to publish a twice-yearly report documenting all complaints of sexual misconduct on campus.\textsuperscript{221} Still, the university was subsequently criticized for allowing alleged perpetrators of sexual assault to remain on campus.\textsuperscript{222} After an OCR complaint, Tufts University hired a Title IX coordinator, developed informational materials for students on sexual misconduct, and provided training for students.\textsuperscript{223}

The relief from Title IX lawsuits, on the other hand, is typically monetary compensation to victims who prevail, but may also include payments of attorney’s fees and injunctive relief.\textsuperscript{224} For example, the University of Colorado agreed to pay a student $2.5 million and hire a Title IX advisor who would “make recommendations concerning the final disposition of any University investigation or disciplinary proceeding arising from the sexual abuse of a student.”\textsuperscript{225} The university agreed to provide a “written explanation in any instance where the University does not adopt the Title IX advisor’s recommendation.”\textsuperscript{226} Similarly, when five students sued the University of Connecticut for its handling of their sexual assault allegations, a monetary settlement of nearly $1.3 million for those students resulted.\textsuperscript{227} While the university admitted no wrongdoing, it issued a statement acknowledging the role of the five students in “inspiring important public discussion.”\textsuperscript{228} After the settlement, the university put new measures in place to prevent and respond to sexual assault, including establishing an assistant dean of students position for victim support services, adding staff investigator positions, and

\textsuperscript{218} Id. at 1206.


\textsuperscript{220} Schroeder, supra note 216, at 1206.

\textsuperscript{221} Id.

\textsuperscript{222} See Letter from Thomas J. Hibino, U.S. Dep’t of Educ., to Anthony P. Monaco, Tufts Univ. President 14–16 (Apr. 28, 2014), archived at https://perma.cc/2DSQ-T86T.

\textsuperscript{223} Schroeder, supra note 216, at 1210.

\textsuperscript{224} Grayson Sang Walker, The Evolution and Limits of Title IX Doctrine on Peer Sexual Assault, 45 HARV. C.R.-C.L. L. REV. 95, 124 (2010) (citation omitted).

\textsuperscript{225} Id.

creating a Special Victims Unit in the university police department. In a lawsuit involving Arizona State University (“ASU”), the student survivor agreed to “release and forever relinquish any and all claims she possesses against [ASU]” in exchange for $850,000 and ASU’s promise to conduct “a review of [its] policies on sexual harassment and implement changes as needed.” In addition, a newly hired Student Safety Coordinator for the three public universities in Arizona was ordered to publish an annual report describing actions taken by those universities for each of the next five years. The complainant reportedly agreed to settle the case because she believed “the non-monetary terms of the settlement [would] make a significant contribution to making Arizona’s campuses safer and reducing the risk of sexual harassment and assault for all students.”

As described above, the remedies for Title IX violations can go beyond the recommendations of the “Dear Colleague” letter from the Office of Civil Rights. Though remedies include a variety of measures with the potential to change university culture, a necessary first step in combatting the crime is to encourage students to come forward so that schools must address campus sexual assault. Our proposal provides universities with an additional way to demonstrate that the university values the role of women, thereby directly contributing to an environment that does not tolerate sexual discrimination, harassment, and assault. It is also an opportunity for the university to demonstrate that the university is not trying to shield itself from knowledge of problems on campus and is not deliberately indifferent to them. Conversely, the lack of female police officers on a university campus can be used as one element in a legal claim that the university is deliberately indifferent to the issue of sexual assault. Although this legal argument has not been tested, we believe that the lack of female officers contributes to an overall campus atmosphere in which sexual harassment is more likely to thrive.

Under this view of Title IX, then, a plaintiff’s evidence of a university law enforcement agency’s lack of consistent, ongoing, and genuine effort to hire sworn female officers contributes to the plaintiff’s allegation of a hostile educational environment. Such lack of effort can help demonstrate that the school has not taken the type of appropriate steps it needs to increase resources for women on campus. By the same token, a university’s demonstra-

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229 Id.
230 Walker, supra note 225, at 126 (alternations in original) (citations omitted).
231 Id.
232 Id. (alternations in original) (citations omitted).
233 Schroeder, supra note 216, at 1205–06 (“If it is determined that sexual assault has occurred, a school must take immediate action to eliminate the hostile environment, prevent its recurrence, and address its effects.” (citation omitted) (internal quotation marks omitted)).
234 See, e.g., Davis ex rel. LaShonda D. v. Monroe Cnty. Bd. of Educ., 526 U.S. 629, 631 (1999) (holding that Title IX violations only exist where schools are “deliberately indifferent” to acts of sexual harassment).
bly consistent, ongoing, and genuine effort to hire and retain female officers should be used to establish that a university has sought to address the effects of campus assault and prevent its recurrence under Title IX. According to the OCR, schools must take prompt action once they have notice of a hostile environment to avoid violating Title IX.\(^{235}\) Given the disparate impact of sexual assault on women students, the large percentage of women students at most co-educational colleges, and research indicating that increases in the number of women officers results in increased reporting of sexual assault and crimes against women, universities can demonstrate that they have worked to remedy or prevent a hostile environment by hiring, training, and retaining women officers. Failure to do so represents a missed opportunity that may well come back to harm a university and the students whom it is charged to protect. Reports indicate that colleges that have been investigated for Title IX violations have subsequently acted to make changes on campus to cure the alleged hostile environment.\(^{236}\) Some universities have followed OCR guidelines and VAWA requirements and hired Title IX coordinators; written and widely disseminated university policies and resources; trained students and staff; strengthened primary prevention efforts; and worked to increase bystander intervention.\(^{237}\) Without question, these are all important components of a safe campus community. A true culture shift, however, requires going beyond mere compliance with federal mandates to change campus culture and foster a climate that truly encourages reporting.\(^{238}\)

\(^{235}\) **DEAR COLLEAGUE LETTER,** supra note 27, at 15; see also **REVISED SEXUAL HARASSMENT GUIDANCE,** supra note 54, at 12 (“As long as the school, upon notice of the harassment, responds by taking prompt and effective action to end the harassment and prevent its recurrence, the school has carried out its responsibility under the Title IX regulations.”).  


\(^{238}\) **GINA MAISTO SMITH & LESLIE MARIE GOMEZ, EFFECTIVE IMPLEMENTATION OF THE INSTITUTIONAL RESPONSE TO SEXUAL MISCONDUCT UNDER TITLE IX AND RELATED GUIDANCE 27** (2013), available at http://www.higheredcompliance.org/resources/resources/05D_13-06-38.pdf (“Through commitment, coordination, and competence, colleges and universities can . . . provide . . . [a] response to sexual misconduct that is rooted in a culture of prevention and intervention and a climate that encourages reporting . . . ”).
Universities have publicly declared that they understand that fixing the problem of sexual assault on campus is vital. For example, Amherst College announced that, with respect to Title IX, “We are deeply committed to meeting all the requirements of federal law and, more than that, holding ourselves to the highest possible standards in meeting the needs of our students.” Princeton University President Christopher L. Eisgruber issued a statement about the university’s “determination to ensure a campus climate that places high priority on prevention and support and on ensuring safety.” As universities take a hard look at their campus policies and procedures, they must look to changing their culture as well. When a university under investigation has been encouraged to “enhance its outreach to . . . students,” for example, such “outreach” should include hiring more female campus officers to demonstrate that the administration understands the critical role that campus police agencies play in setting the tone for the campus culture.

Hiring trained women officers throughout the campus sends a strong message to every member of the campus community that women’s authority, independence, and autonomy are a core part of the university’s institutional values. Thus, not only does the presence of female officers reflect the university’s commitment to preventing sexual assault, it also communicates an institutional tone of valuing women’s lives. Rape is about the devaluing of these lives, the objectification of women’s bodies, and uncontrolled, entitled perpetrators who believe that they can commit these crimes unfettered in a campus culture. Women on campus are not the property of men on campus. As the National Association of College and University Attorneys


241 Letter from Thomas J. Hibino, supra note 223, at 24.

242 SMITH & GOMEZ, supra note 238, at 28 (discussing advocacy by National Association of College and University Attorneys to foster change in college climates through a variety of actions, including setting the “tone at the top” and allocating sufficient resources to the mission).

243 See, e.g., Kristina Malinauskaite, Perpetuation of Sexual Objectification & Silencing of Women 3 (unpublished manuscript), available at http://www.academia.edu/6302524/Perpetuation_of_Sexual_Objectification_and_Silencing_of_Women (stating that the unfortunate consequence of the sexual objectification of women is that many offenders feel that they have a right to a woman’s body, that somehow it is theirs for the taking).

244 Patricia McGuire, College Presidents Must Lead on Sexual Assault, HUFFINGTON POST (Nov. 1, 2014), http://www.huffingtonpost.com/patricia-mcguire/college-presidents-must-lead-on-sexual-assault_b_5744646.html, archived at http://perma.cc/6VAL-CURG.

245 In an attempt to increase women’s safety, some sororities have considered hosting house parties where alcohol is served. Alan Schwarz, Sorority Anti-Rape Idea: Drinking
points out, the fact that universities are responsible for the prevention, investigation, evaluation, and adjudication of sexual assault allegations is a paradigm shift from what might be considered traditional roles of college campuses. In this new role, the culture, climate, and values of an institution are just as important as the procedures and policies it follows. They are all part of a coordinated and integrated institutional response to the reality of campus rape.

CONCLUSION

The scourge of sexual assault continues to afflict university campuses across the nation. Though the vast majority of victims are female, women are generally woefully underrepresented in campus law enforcement agencies. We do not argue, however, that the ranks of women in these agencies should be increased simply for the sake of attaining a more demographically reflective police force as an end in itself. Rather, a demonstrable connection exists between the disproportionately low number of women among campus police and the troublingly low reporting rates for sexual assault, and these chronically low rates in turn severely impair universities’ ability to grapple with this crime. Conversely, research shows that a higher proportion of female officers tends to increase women’s reporting rates. On college campuses, this effect would improve efforts to curb and punish sexual violence.

We also believe that a university’s failure to take reasonable measures to address sexual assault can contribute to a hostile environment for women as that term is defined by Title IX of the Education Amendments of 1972. Accordingly, we would propose that the Department of Education Office of Civil Rights take immediate steps to recommend that publicly funded colleges and universities demonstrate consistent and ongoing efforts to hire and

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246 Smith & Gomez, supra note 238, at 1–2 (stating the importance of schools’ combining distinct concepts of legal mandates, dynamics of sexual assault, and campus culture, resources, and values to develop a coordinated campus response to sexual assault).

247 See supra Part II.

248 See supra notes 149–53 and accompanying text.
retain sworn women law enforcement officers. Such efforts would serve as a vital tool in the effort to ensure that women students increase reporting of sexual violence on the nation’s campuses. This increase would help to produce justice in individual cases, serve as a deterrent to potential perpetrators, and thus ultimately help secure for women students that equality on campus which is their legal and moral right.