

## Working With Survivors in Institutional Settings

Advocacy with Survivors on University Campus' and in the Military

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### Why Combined?

- Particularly High Risk populations vulnerable to sexual assault
- Have some common barriers
- Maneuvering multiple jurisdictions and systems, typically closed off to "outside"
- Typically communities outside of the radar of RCC's
- Institution: has it's own culture, values, rules and systems that survivors come into contact with

Campus

## Statistics

College women are at higher risk for sexual assault than their non-college bound peers.

- Financially independent college students -51%
  - Undergraduates with dependents -27%*Source: U.S. Dept. of Education, National Center for Education Statistics, Nontraditional Undergraduates, August 2002*
  - High rate of victimization (35 / 1000 undergraduates **per year**) (**note: incidence rate based on only a 6.9 month study.**)
  - Between 80and 90 percent of cases victim and assailant know each other. The more intimate the relationship, the more likely it is for a rape to be completed rather than attempted. Half of all student victims do not label the incident "rape." This is particularly true when no weapon was used, no sign of physical injury is evident, and alcohol was involved—factors commonly associated with campus acquaintance rape
  - She may not call it "rape." Half of all student victims do not label the incident "rape."
  - This is particularly true when no weapon was used, no sign of physical injury is evident, and alcohol was involved.
  - Fewer than 5% of victims report to authorities or law enforcement.
  - *Source: The Sexual Victimization of College Women, Dept. of Justice, 2000*

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## Regulatory Legislation

- Title IX
  - Clery Act
  - FERPA
  - State Laws and Constitutional Rights
    - Protected Status under California Constitution
    - School Based Protective Orders

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## Title IX

- “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”
  - Best known for its regulation of athletics
  - Much broader protections, especially around institutional response to sexual assault
  - Prohibits sexual harassment and sexual violence and requires an effective response and prevention

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### Title IX (continued)

- Looks at Sexual Violence as an extreme form of hostile environment harassment
- Effective and Appropriate Investigation
- Prompt & Effective Steps To End

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### What does Title IX require?

- Prompt and equitable adjudication
- Take Prompt & Reasonable Corrective Action When They Reasonably Should Know About A “Hostile Environment” Created By Sexual Harassment
- Widely publicized grievance procedures
- Trained people to handle these cases
- Anything given to one side must be given to the other
- Rights of appeal must be equally afforded

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### Responses

- Eliminate the hostile environment
- Prevent student contact
- Change schedules to accommodate the complainant (dorm, dining halls, classes)
- Offer/have available support services
- Academic accommodations to enable student to stay in school and not drop out
- Education For Groups Involved
- Probation
- Suspension
- Expulsion

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## Legal Remedies

- Regulated by Office of Civil Rights (Federal)
- Looked at as Civil Rights Issue vs. Criminal behavior
- “Dear Colleague” Letter
- Private Right of Action (Bringing Private Lawsuit)

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## Campus Adjudications

- Most schools have different processes
- No lawyers allowed
- Non-legal procedure with significant legal implications
- “Accused” and “Accuser” must be afforded the same rights
- If schools response inappropriate survivors have access to OCR complaint process

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## Office of Civil Rights (OCR) Complaint

- Must be filed within 180 days from the date of the assault/last incident of discrimination or 90 days from the conclusion of the process
- Must allege sex discrimination under Title IX
- OCR will investigate; if violation, will work toward voluntarily agreement with the campus
- OCR can refer case for litigation to DOJ
- OCR has power to cut off federal funds
- Interim Measures during Investigation

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### “Dear Colleague” Letter

- Letter to Clarify Title IX directives regarding sexual violence
- Reiterates that Sexual Violence IS Sexual Harassment
- Preponderance of the Evidence vs. Clear and Convincing
- No need for criminal court resolution
- Must take interim steps to protect “accuser”

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### Clergy Act (Jeanne Clery Act)

- Requires the school publicly report:
  - Rape statistics
  - Prevention and Response Policies
- Campus Sexual Assault Victim Bill of Rights
  - 1992 Amendment to Jeanne Clery Act

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### Campus Sexual Assault Victims Bill of Rights

- **Human Dignity Rights - Victims have the right:**
- to be free from any suggestion that they must report the crimes to be assured of any other right guaranteed under the SA policy;
- to have any allegations of sexual assault treated seriously;
- to be treated with dignity;
- to be free from any suggestion that victims are responsible for the crimes against them, including the right to be free from any pressure from anyone to:
  - report crimes if the victim does not wish to do so;
  - report crimes as lesser offenses than the victim perceives the crime to be;
  - refrain from reporting crimes;
  - and refrain from reporting crimes to avoid unwanted personal publicity.

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## Campus Sexual Assault Victims Bill of Rights

- **Campus Judicial Rights - Victims have the right:**
- to be afforded the same access to legal assistance as the alleged perpetrator;
- to be afforded the same opportunity to have others present during a campus disciplinary proceeding that is allowed the alleged perpetrator;
- to be notified of the outcome of the sexual assault disciplinary proceeding against the alleged perpetrator.

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## Campus Sexual Assault Victims Bill of Rights

- **Rights to Resources On and Off Campus - Victims have the right:**
- to be notified of existing campus and community-based medical, counseling, mental health and student services for victims of sexual assault whether or not the crime is formally reported to campus or civil authorities;
- to have access to campus counseling under the same terms and conditions as apply to other students in their institution seeking such counseling;
- to be informed of and assisted in exercising:
  - any rights to confidential or anonymous testing for sexually transmitted infections, human immunodeficiency virus, and/or pregnancy;
  - any rights that may be provided by law to compel and disclose the results of testing of alleged perpetrators for communicable diseases.

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## Campus Sexual Assault Victims Bill of Rights

- **Legal Rights - Victims have the right:**
- to have any allegation of sexual assault investigated and adjudicated by the appropriate criminal and civil authorities of the jurisdiction in which the sexual assault is reported;
- to receive full and prompt cooperation and assistance from campus personnel in notifying the proper authorities;
- to receive full, prompt, and victim-sensitive cooperation from campus personnel with regard to obtaining, securing, and maintaining evidence, including a medical examination when it is necessary to preserve evidence of the assault.

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## Campus Sexual Assault Victims Bill of Rights

- **Campus Intervention Rights - Victims have the right:**
  - to require campus personnel to take reasonable and necessary actions to prevent further unwanted contact of victims by their alleged perpetrators;
  - to be notified of the options for and provided assistance in changing academic and living situations if such changes are reasonably available.

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## Other Protections

- FERPA
  - Requires that survivors “educational records” be kept private and can’t be disclosed without consent
- State Constitutional Protections
  - Mimics Title IX protections and requires access to “safe schools”
- State Protective Orders
  - Educational Institutions can apply for protective orders to protect students

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## Questions?

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### Apply It!

- A survivor walks into your center and says that she was sexually assaulted by a man in her classes who she invited to her dorm. It turns out that he lives in the dorm next to hers. He keeps following her and threatening her, that if she tells he will come after her again. She has talked to RA's and they just tell her to ignore it. She talked to her English teacher who gave her a referral to the counseling office. She comes to you, because she is ready to drop out of school.
- What are her remedies?
- Does the school have any responsibility? If so, what?

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### What Advocates Can Do...

- Help student identify priorities and understand options
- Help student communicate her desired accommodations to the judicial board
- Help student be safe:
  - Conduct safety planning
  - Foster connections to community services
- Assist in preparation for disciplinary proceeding
- Most schools do not allow attorneys to be present at hearing, but allow advocate
- Ensure school adheres to its written policies and state, tribal and/or federal law if applicable
- Serve as liaison between victim and institution

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### What can Advocates do?

- Class and Schedule Changes
- Exam/Project Extensions
- Incompletes
- Withdrawals
- Keeping financial aid/scholarships
- Tuition reimbursement
- Employment accommodations (school-based work, work-study)
- Housing Accommodations
  - Transfers

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BREAK!!!!

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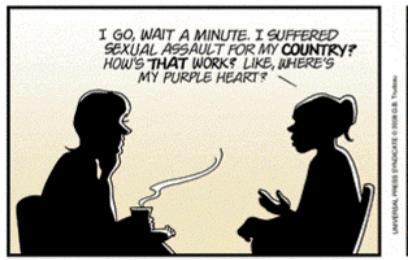
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### Sexual Assault in the Military



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### Culture of the Military

- Exclusively and Intentionally Hierarchical
- Hyper Masculine
- Collective vs. Individual
- Don't Ask, Don't Tell
- Sexual Violence vs. War

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## Statistics

- In a study done by the Department of Defense in 2004, the military received 94 reports of sexual assault from soldiers in the region that includes Iraq, Kuwait, and Afghanistan in 2003.
- It received 24 reports in that region in 2002.
- In almost all of these cases male U.S. Troops were reported assaulting female soldiers.
- The Air Force review of internal statistics found that victims and offenders were familiar with each other in 85 percent of all sexual assault cases reviewed.
- An investigation done on the Air Force Academy found that 142 cadets, between the years of 1993 and 2002, alleged they were sexually assaulted while at the Academy

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## Statistics

- Military surveys that allow soldiers to anonymously report being assaulted show that in the mid-90s, between 6 and 7 percent of women answering the survey reported they had been assaulted in the last year
- In 2002, military authorities investigated 901 alleged cases of sexual assault
- In 2003, they investigated 1012 cases
- More than three quarters of the alleged assailants were members of the Armed Forces.
- Almost all the assailants were men; 91 percent of the victims were women.

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## Military

- Department of Defense (Active Duty & Deployment)
- Veteran's Affairs (Anyone who has served any length of time, without dishonorable discharge)

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### Department of Defense (DOD)

- DOD regulates
  - US Army
  - US Navy
  - US Marines
  - US Air Force
  - US Coast Guard
  - All National Guard and Reserve

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### Jurisdiction and Regulations

- According to the Uniform Code of Military Justice, two elements must be present for rape to exist in the military.
- It must be by **force**
- and **without consent**
- In addition, Article 120 of the UCMJ says that it must be an act of **sexual intercourse with a female** – thus male victims are excluded under the definition.
- Sexual Assault **must** involve physical contact according to the UCMJ.

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### DOD's revised response to SA

- Report done in 2006 at the direction of Rumsfeld
- Restricted Reporting vs. Non-Restricted Reporting
- Sexual Assault Prevention Programs
- SAPRO (Sexual Assault Prevention and Response Office)

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### Restricted Reporting (new option)

- “Confidentially” disclose
- Receive medical treatment and counseling
- Does not trigger an investigation
- Forensic Exam at survivor discretion
- Must only report to:
  - SARC (Sexual Assault Response Coordinator)
  - VA (Victim Advocate-Military)
  - Health Care Provider
  - Chaplain

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### Restricted Reporting

- Cannot get a Military Protective Order
- No punishment for offender
- Cannot discuss with anyone (outside of the previously listed) without impose a duty to inform command
- Cannot invoke collateral misconduct provision

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### Collateral Misconduct

Collateral Misconduct is when military personnel are sanctioned for their own behaviors committed at or around the time of an assault. (ie. a sexual assault victim was drinking and the victim is underage. The drinking is a violation of the rules and the victim may be held accountable).

**Unrestricted Reporting allows survivor to invoke the Collateral Misconduct provision in the DOD's Sexual Assault Policy**

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## Unrestricted Reporting

- Will trigger an investigation
- Will provide access to advocacy, counseling and healthcare
- Will have access to Military Protective Order
- Can invoke Collateral Misconduct
- Report to:
  - Command
  - Military Law Enforcement
  - SARC
  - Health Care Provider

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## Reporting

- ANYWHERE IN THE STATE OF CALIFORNIA, ACTIVE DUTY MILITARY SHOULD SPEAK TO A UNIFORMED VICTIM ADVOCATE (OR NON MILITARY VICTIM ADVOCATE) FOR A RESTRICTED REPORT BEFORE CONTACTING MEDICAL OR LAW ENFORCEMENT. CALIFORNIA IS A MANDATED REPORTING STATE OF SEXUAL ASSAULT FOR LAW ENFORCEMENT AND HEALTH CARE PRACTITIONERS TO INCLUDE MILITARY TREATMENT FACILITIES.

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## Prevention

- New Department of Defense Policy requires that all military branches develop a “sexual assault prevention” program. Many focus on the behavior of potential victims, instead of on the behavior of perpetrators.
- However, many community based organizations have gotten involved in developing prevention programs that can be used to address potential perpetrator behavior
- Keep in mind, that the structure of the military prevents it from being conducive to sexual assault response and prevention program. How can we talk about non-violent behavior when it is taught and required as part of the job?

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### Unique Issues for Survivors in the Military

- Their job and military career may be impacted
- Social support and positive co-worker relations suffer
- They “live” with their rapist
- Command priorities and protocols may effect reporting
- Issues come up when soldiers are assaulted “in theater”
- Compounded Trauma of war and assault
- Collateral Misconduct

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### Unique Issues for Survivors “In Theater”

- A reduction in available resources for victims
- Victim privacy may be difficult to maintain in both Restricted and Unrestricted cases.
- Separating the victim from the offender may be more difficult for the Command “in theater”.
- Victims may be more likely to express concerns about their safety following an assault, as safe locations may be limited “in theater”.
- Victims’ emotional reactions to the assault may be exacerbated by combat stress.

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### Where Housed?

- Army-SHARP (Sexual Harassment and Response Program)
- Navy-Navy Fleet and Family Support Center
- Marine-SAPR Office (Sexual Assault Prevention and Response Office)
- Air Force-SAPR Office (Sexual Assault Prevention and Response Office)

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## Important Terms

- SARC-Sexual Assault Response Coordinator, coordinates local implementation of program and ensures that response follows protocol. Assigns survivor to VA (Victim Advocate)
- IVA-Installation Victim Advocate, work with SARC, survivors and other VA to coordinate specific victim care (not available during deployment)
- UVA-Unit Victim Advocate, soldiers trained to provide victim advocacy as a “collateral duty”.
  - UVA vs. VA (VA is civilian VA working Family Services, etc.)
- Military Criminal Investigative Organizations (MCIOs). The United States Army Criminal Investigation Command, Naval Criminal Investigative Service, and Air Force Office of Special Investigations.

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## Examples of Survivor's Experiences

- “Once it got out what happened to me, people wouldn't talk with me –cause they liked the guy who assaulted me and felt as if I was betraying the unit.”
- “They would pretend to be coughing and instead cough out the word „whore“ when I was walking by.”
- “I was suddenly alone, and lots of people who I thought were my friends turned out not to be...”
- “My roommate stopped talking to me and started telling stories about me that weren't true... about all the men I'd been sleeping with.”
- “I don't know what is worse –being raped or the harassment that I had to deal with afterwards... I think the harassment was worse

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## Apply It!

- You work at a Rape Crisis Center near a military base. A young woman comes in and discloses that she has been sexually assaulted by one of her peers while deployed in Afghanistan. She is still living on base with him and is worried about reporting it because he keeps telling her that he will tell command that she was drinking before the rape. She was 20 when the assault occurred.
- What are her options?

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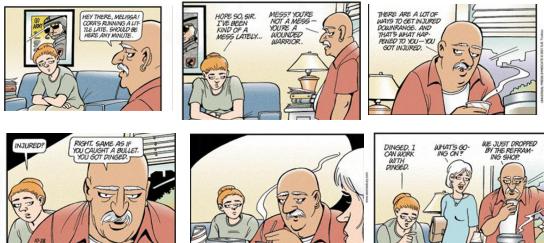


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### Doonesbury by Garry Trudeau



### Veteran's Administration

- Veteran's Health Care Benefits
- Re-Entry Programs
- Disability Insurance and Benefits
- Other

### Benefits

- Almost anyone other than dishonorably discharged
- Granted benefits for "service connected" disability based on the degree of disability, number of dependants and whether or not spouse is disabled.
- Women more often provided benefits for mental health care, but men more often for PTSD.
- PTSD=monetary benefits
- MST=counseling and healthcare

## Military Sexual Trauma

- Overarching term the VA uses to refer to experiences of sexual assault or repeated, threatening acts of sexual harassment.
- The definition used by the VA is given by U.S. Code (1720D of Title 38) and is “psychological trauma, which in the judgment of a VA mental health professional, resulted from a physical assault of a sexual nature, battery of a sexual nature, or sexual harassment which occurred while the Veteran was serving on active duty or active duty for training.”
- Sexual harassment is further defined as "repeated, unsolicited verbal or physical contact of a sexual nature which is threatening in character."

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## Examples:

- Implied faster promotions or better treatment in exchange for being sexually cooperative
- Implied negative consequences for refusing to be sexually cooperative
- Unwanted sexual attention, such as cornering, touching, or verbal remarks
- Someone is coerced into participation (e.g., with threats)
- Someone is not capable of consenting to participation (e.g., when intoxicated)
- Can involve unwanted touching, grabbing, oral sex, anal sex, sexual penetration with an object and/or sexual intercourse. Physical force may or may not be used.

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## VA vs. DOD Definitions

- Under the VA, MST is more broadly defined than Rape in the UCMJ
- Women and men can seek benefits under MST provisions
- Can seek out MST assistance even if not “service-connected” (unless they want disability benefits)
- Do not need to have reported the incident in order to receive treatment for MST

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### Why is sexual trauma higher in the Military? (Katz, 2009)

- Military training in aggression
- High concentration of males and females ages 18-40
- High use of alcohol
- Victims and perpetrators may have pre-military abuse or dysfunctional families
- Victims are a “captive audience”
- Military culture of camaraderie
- Victims continue to live among the perpetrator within a unit or battalion or duty station
- Fear of Reporting

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### What can advocates do?

- Understand the “structure” and “jurisdiction” of the military
- Often seek outside services, to reduce the likelihood of disclosure
- Connect with Sexual Response Coordinator or Family Services programs
- Understand available assistance for MST
- Get involved in prevention efforts

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### Apply It!

- You are seeing a male survivor who has been having flashbacks and is currently suffering from sleeplessness, body soreness and feels like he can't get up and go to work everyday. While working with him you discover that he was constantly sexually harassed while he was deployed to Iraq, which culminated in him being forced into the oral copulation of his commanding officer.
- Does he have options for seeking out medical and psychological assistance? What about his need to take some time off of work?

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Questions?

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Where are the Similarities between these two groups?

- “Living” with perpetrator
- Significant peer pressure not to report
- Multiple jurisdictions(Criminal vs. Civil Rts. Vs. UCMJ)
- Varying judicial processes
- Daily interaction with abuser required
- Outside advocacy programs may give them protections and options not available within their systems.

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