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Transparency and Sensitivity Work Together to Stop Campus Rape

Michele Landis Dauber is a professor of law and Bernard D. Bergreen faculty scholar at Stanford University. As the faculty co-chair of the Board on Judicial Affairs from 2011 to 2013, she helped lead the reform of Stanford's sexual assault disciplinary procedure.

Updated December 12, 2014, 4:45 PM

University disciplinary processes for handling sexual assault are notoriously unwelcoming to victims. They can allow the accused student to question the alleged victim in front of other students, or the use of reputation or hearsay evidence. Pursuing a complaint can be a humiliating and retraumatizing ordeal for victims. That's no surprise: many of these procedures were originally created to address cheating, not assault.

As Stanford students saw that reports of rapes were adjudicated with concern for survivors, reports and adjudications rose.

As a result, campus rape victims often choose not to participate in disciplinary processes. Between 1996 and 2009 Stanford University reported 175 forcible sexual assaults to the federal government, but had only four hearings and two findings of responsibility. These numbers are shocking, not least because the men who allegedly committed those assaults likely remained on campus, where they may have repeated the aggression.

Students accused of sexual assault and other misconduct are entitled to a fair process to determine whether they violated university rules before they are expelled. But it is possible for that process to be friendlier to victims. Prodded by the U.S. Department of Education's Office for Civil Rights, schools are moving in this direction.

When survivors are treated with dignity and feel supported, they are more likely to use campus complaint and discipline processes. In 2009 Stanford adopted a procedure in which investigation results are presented to trained panelists, who then meet with each party separately in a comfortable living room rather than a "courtroom" setting. In the first three years after this change, the number of reported assaults doubled, perhaps because victims saw that the proportion of adjudicated cases increased to 20 percent from 2 percent.

But students can still see that the vast majority of perpetrators of forcible rape are never expelled. Stanford has expelled only one student for rape in its history. In most cases, students who have been found responsible are suspended until the victim is no longer on campus.

This practice, intended to satisfy Title IX, has troubling implications. We would not, I hope, merely suspend a student who violently hazed a fraternity pledge until the pledge graduated. Certainly no one would agree that we should suspend a student who threatened another student with a firearm until the victim graduated. Yet in the case of sexual assault, we continue to act as if the sanction is about her rather than about him and sanctions are often woefully inadequate. As a result, survivors may decide that participating in a disciplinary process isn't worth the major life disruption it causes. Stanford students recently proposed mandatory expulsion for sexual assault, and a task force is considering the issue.

A final lesson: Schools should be required to publicly report adjudication statistics (taking care to abide by laws protecting student privacy) including the number of disciplinary hearings, the number of findings of responsibility and the sanctions imposed, as Stanford has done. Students, parents and activists can use this data to create accountability and pressure for further reforms.

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mike molcher

chicago 5 minutes ago

Schools cannot and will not ever get this right.
Let's try this instead, it's what everyone else but Universities do.
Call the police. That's what they are for and unless I am very much mistaken it is against the law for anyone including schools to conceal knowledge of a felony which is what rape is.

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Tideplay

NF 3 hours ago

Schools must not adjudicate rape! Their interest is to make it go away. Two criminal justice must have a special unit trained fro college rape because of the special dynamics of college rapists falling into several classes differing in their methods and the difficulty of their being investigated. Thirdly expelling rapists is not sufficient. Because a sub section of college rapists are serial rapists their is a high risk of sending rapists onto other schools where they rape again. Fourthly we must change the college culture of male entitlement to womens bodies that exists. Why is it true today that almost all young men in order to bond with other men must prove they can get sex from a girl. Girls are proving grounds not even people

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CNNNNC

CT 3 hours ago

Colleges should be there to support the emotional and psychological needs of their students and, if there is a crime alleged, encourage them to go to the police immediately. Young women arriving on campus should be educated about the real world legal process if a crime occurs and the absolute necessity for evidence.
Beyond that college administrators should have no role in prosecution until the accused has been afforded all guaranteed civil rights and protections-the presumption of innocence and full due process in a court of law.

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Amanda

New York 6 hours ago

If someone really has raped, expulsion is not enough. That simply allows the rapist to move on somewhere else, probably not even a college campus, and rape, or even kill. That's what happened to a young woman from the University of Virginia, Hannah Graham, who was killed by a young man kicked out of another college, after he tried to rape her. (I am not referring to "Jackie" of Rolling Stone fame, who probably made up her story of rape).

On the other hand, there is no crime so terrible that innocence should not be a defense, even if the US Department of Education Office of Civil Rights thinks otherwise. No one should ever face a formal finding of sexual assault without a full chance to cross-examine their accuser, and if that makes filing a complaint more stressful, that is an inevitable part of reporting a serious crime.

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Cleisthenes

Virginia 20 hours ago

What about the truth?

Michele Dauber mentions in passing that the accused are entitled to "process" before their lives are forever changed by expulsion but is dismissive of their rights to question witnesses or present relevant evidence. Yet surely she must know these protections evolved because they are essential for determining what really happened.

Bottom line: Colleges cannot investigate or judge sexual assault claims. We have police and courts for a reason. Use them.

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