

ADJUDICATING CAMPUS SEXUAL ASSAULT:

THE FULL IMPACT OF CROSS-EXAMINATION

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Abstract

The Department of Education is posed to implement regulations requiring universities to use cross-examination in sexual misconduct proceedings, sparking debate over the impact of this adversarial form of questioning. The existing literature is predominately founded in legal theory addressing due process. Psychological research indicates that cross-examination can re-traumatize victims, which opponents to the regulation suggest may lower reporting. The debate is lacking in empirical evidence to determine if cross-examination impacts reporting, a factor policymakers should take into account. Therefore, in this paper I aim to answer the question: Does a university policy allowing accusers to be cross-examined by or in front of the accused during the adjudication of sexual-assault claims make students less likely to report an assault to the university? I collected data through a survey experiment of undergraduates attending Indiana University Bloomington. Participants were presented with scenarios in which they are reporting a sexual assault, half being treated with an adjudication process that includes cross-examination. Considering the psychological impacts of sexual assault, I hypothesized that students treated with the cross-examination policy will be less willing to report than those who are not. The study allowed me to make some connections between these variables, and this research will hopefully contribute to the timely issue of campus sexual assault.

Adjudicating Campus Sexual Assault: The Full Impact of Cross-Examination

Campus sexual assault remains a pervasive issue across the country, impacting 1 in 5 undergraduate women. Universities are tasked with investigating allegations from students and taking the appropriate course of action that realizes the legal rights extended to all parties, particularly under Title IX of the Education Amendments of 1972. Secretary of Education Betsy DeVos announced last month that the Department of Education will move forward with new regulations on Title IX. One of the proposed regulations would require the parties in disciplinary proceedings to use cross-examination. While each school may take a different approach, the most extreme version of this policy would allow a student accused of sexual assault to directly question their accuser. Proponents of the regulation argue that it offers necessary protections to the accused, while opponents argue that it will traumatize victims and discourage them from coming forward. The arguments around cross-examination are generally informed by case law, seeing as there is little research surrounding the impact of cross-examination on reporting rates. The relationship between the two is often referenced, but the literature is noticeably lacking in empirical evidence. It is well-known that sexual assault is a traumatic crime with serious consequences for all involved, but particularly for the wellbeing of the victim. As the Department of Education considers putting forth a policy requiring cross-examination, it appears to me that the best way to see if it really would deter reporting is using empirical data. To address the research gap on this topic, my honors thesis will seek to answer the question: Does a university policy allowing accusers to be cross-examined by or in front of the accused during the adjudication of sexual-assault claims make students less likely to report an assault to the university?

In researching this question, I will be collecting data primarily through a survey experiment of undergraduate students attending Indiana University Bloomington. The participants will be presented with scenarios in which they are reporting a sexual assault, half being treated with knowledge of the cross-examination policy, and asked their willingness to report the assault. This research will hopefully contribute to the complex and timely issue of campus sexual assault, providing insight into the impact of cross-examination on reporting.

Literature Review

My thesis aims to identify whether a university's allowing of cross-examination when adjudicating claims of sexual assault will impact students' willingness to report an assault. My literature review first provides context around the legal basis for university sexual assault proceedings and defines key concepts in my research as it relates to the use of cross-examination. I then look to the literature on the various methods universities use to address sexual assault and how cross-examination functions within them. Finally I address the arguments for and against cross-examination, touching on its relationship to reporting.

Background and Key Concepts

Title IX of the 1972 Education Amendments to the Civil Rights Act prohibits sex-discrimination in education, and has been interpreted to include sexual harassment. Thus, educational institutions that receive federal funding must take steps to address instances of sexual harassment on their campus or risk the withholding of funds. The Department of Education (DOE) defines sexual harassment as:

unwelcome conduct of a sexual nature [including] unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.

Sexual violence is a form of sexual harassment. Sexual violence ... refers to physical

sexual acts perpetrated against a person's will or where a person is incapable of giving consent ... including rape, sexual assault, sexual battery, sexual abuse, and sexual coercion (Office for Civil Rights, 2018).

Per the above definition, my research focuses on the behavior described as sexual violence, but consistent with most literature will refer to it in broad terms as sexual assault. Title IX is the legal mechanism through which the DOE regulates how schools address claims of sexual assault. The process by which schools investigate claims and make a decision as to whether the accused student violated university conduct is referred to as adjudication. While Title IX has provided this legal framework for decades, scholars agree sexual assault went largely ignored by universities until a Dear Colleague Letter (DCL) issued by the DOE in 2011. Key components of the DCL included requiring schools to use the lowest standard of proof, "preponderance of the evidence," and discouraging cross-examination in sexual assault hearings. Cross-examination occurs when one party to the dispute questions a witness called by the other party (Epstein, 2009). Adversarial in nature, it is used across criminal and civil law to determine the credibility of a witness's testimony by placing them under pressure in an attempt to highlight inconsistencies. In the context of my research, cross-examination takes place when a student accused of sexual assault directly questions their accuser, or is present while a third-party, such as an attorney or school official, questions the accuser in an adversarial nature.

Methods of Adjudication

The DCL is considered a tipping point in the handling of sexual assault across higher education, leading to more student reports and DOE investigations into over eighty institutions (Venetis, 2018). The DCL offered more clarity than ever before but still only provided schools with broad guidelines as to how they should adjudicate sexual assault. In these proceedings

schools are tasked with investigating the violation while balancing the victim's right to education under Title IX and the accused's right to due process under the 14th Amendment to the Constitution. Sexual assault often happens with no witnesses and little physical evidence (Triplett, 2012). In the case that there is a witness, their testimony is voluntary because universities do not have subpoena power. This largely leaves the accounts of the two parties as the primary evidence on which school officials make their decisions. While there is no uniform structure for how schools adjudicate sexual assault, the DCL prompted research into the most common practices. Smith found that disciplinary hearings, similar to a criminal trial, are the most commonly used adjudication model (2017). In this model, the designated school official(s) first investigate a complaint to determine if it constitutes a potential violation of university conduct. The accused is then given the opportunity to have a disciplinary hearing in front of a conduct board. During the hearing, investigators present their findings and each party presents their case. Schools allow interaction between the parties to varying extents. Lave's study of 36 universities found that 6% allowed the accused to directly question the accuser and 58% allowed limited cross-examination, where the accused submitted questions to be asked by the panel or investigator (2017). The accused is generally entitled to an advisor that can range from a parent, fellow student, faculty member, or attorney depending on school policy. Some schools allow this advisor to conduct cross-examination of the accuser. Additionally, some schools accommodate the sensitive nature of sexual assault testimony by placing a divider, such as a curtain, between the parties. The lesser-used investigative model limits interaction between the parties. Investigators first take complaints and determine if they merit action by the school. If so, they interview both parties separately to gather written statements that are then presented to the

opposing party for comment. This is seen as a less adversarial alternative to cross-examination. The investigators then use their findings to make the final decision on behalf of the university.

The Role of Cross-Examination

The use of cross-examination in university proceedings is widely debated. Proponents of direct cross-examination argue that it is necessary to fulfill the due process rights of the accused. Students have a property right in receiving an education, and can trigger claims of due process when public universities take action that interferes with their ability to do so (*Goss v. Lopez*, 1975). Students are granted procedural due process rights when they are charged with misconduct for which the punishment is expulsion or suspension for more than five days. These rights can include the opportunity to participate in fact-finding and meaningfully confront witnesses (Smith, 2017). Due process violations are judged on a fact-specific basis, looking at the impact of the testimony in question on the outcome of a case. Regularly cited is *Doe v. Baum*, in which the Sixth Circuit ruled that when the outcome of a case comes down to believing one party over the other, cross-examination is “essential to due process” (2018).

Opponents of direct cross-examination argue that it disproportionately favors the rights of the accused and has adverse effects on victims, making them less likely to report. Venitis’ analysis of over 200 relevant cases challenges the belief in students’ due process right to confront witnesses (2018). In *Goss v. Lopez*, the Supreme Court found that students’ due process rights do not include “the opportunity... to confront and cross-examine witnesses” (1975). Numerous rulings in federal district and circuit courts have found the same to be true. By contrast, Title IX requires schools to take action to prevent sexual assault from impacting a victim’s access to education. Since the coining of the term “rape trauma syndrome” by Burgess and Holmstrom in 1974, psychologists have continued to study the impact sexual assault has on

victims' mental health, conclusively finding that most victims experience depression, anxiety, and/or post-traumatic stress disorder for up to years after the assault (Resick, 1984). A study done by Calhoun et al. found that when assessing victims two, four, and eight months after being raped, testifying in court was among their top five most fearful triggers - twelve months after it was the most feared (1982). The presence of the perpetrator and retelling of the assault in detail are intense triggers for a traumatic response, both of which take place when victims are cross-examined by or in front of the perpetrator.

Controlled research on the impact of criminal proceedings on victims of sexual assault is limited, and non-existent in the case of campus adjudication. However, it is inferred that since over 90% of campus sexual assaults go unreported and confrontation with the perpetrator further traumatizes victims, undergoing cross-examination by or in front of the accused will make victims less likely to report (Cantalupo, 2012). Victims are less likely to report an assault when the perpetrator is someone they know, which is the case in 96% of sexual assaults (Simms, 2018). Direct confrontation between the parties in disciplinary hearings does not allow accusers to remain anonymous, leading to concerns of retribution from the accused. This informs the argument that cross-examination may make victims less likely to report. Additionally, roughly half of campus sexual assaults involve the use of alcohol by at least one of the parties (Simms, 2018). The adversarial nature of direct cross-examination may deter victims who are concerned with getting in trouble for underage drinking or facing blame. The nature of the relationship between cross-examination and reporting but could be better understood with empirical data that specifically addresses the two variables.

Impact

A 2015 study found that 1 in 5 women will be sexually assaulted in college, and 1 in 4 will experience unwanted sexual incidents (DiJulio et al.). Universities are obligated to adjudicate claims of sexual assault in a manner that balances the rights of the both parties under Title IX and the Due Process Clause. The right to confront and cross-examine the complainant is at the center of discussions seeking to find policies that are fair to all parties. As the DOE prepares to institute new regulations requiring cross-examination, the evidence on how such a policy impacts both parties is incomplete. The arguments both for and against cross-examination rely largely on analyses of case law and legal principles. Each side can cite a number of cases that both support and discredit the use of cross-examination. The benefits to the accused can be articulated this way, but this method is not as effective at demonstrating the impact of cross-examination on accusers. My survey experiment aims to capture the impact of this policy on undergraduate women, a population that is at a higher risk of experiencing sexual assault than the general public. There are many factors that play into whether or not a victim reports and there is simply not existing data that would allow me to isolate a relationship between reporting and cross-examination. This research will hopefully establish a quantifiable impact of cross-examination policies on reporting, allowing policymakers and school administrators to have a more complete analysis when considering cross-examination policies going forward. Realistically, I hope that it will be a stepping stone for more extensive research on this topic that can be done on the larger scope necessary.

Variables

The independent variable in my study is the presence of cross-examination by or in front of the perpetrator during adjudication proceedings. Half of participants were randomly assigned to the treatment group and received a survey in which cross-examination is present. The other

half, the control group, received a survey that outlined a disciplinary process without cross-examination or any interaction between the parties. The dependent variable in the survey is participants' willingness to report their sexual assault to Indiana University. Willingness to report is measured through the survey when participants were presented with a description of the adjudication process, then asked to rank on a Likert scale of 1 to 5. The measurement is quantitative, ranging from the selection of 1 representing that they are "extremely unwilling to report" to the selection of 5 representing that they are "extremely willing to report." I will then be able to compile the responses and measure any change in the overall willingness to respond when participants were aware of the cross-examination policy compared to when they were not.

The relationship between these two variables is informed by the hypothesis that when victims are aware that they will be cross-examined by or in front of their perpetrator in university disciplinary proceedings, they will be less likely to report the assault. As noted in the literature review, victims of sexual assault are already unlikely to report due to a number of factors including fear of not being believed, re-traumatization, disciplinary action for the use of alcohol or drugs, and their families finding out. Victims are also less likely to report when they know the perpetrator, as is the case in most instances of campus sexual assault, out of embarrassment, fear of retribution, or a desire to prevent them from facing consequences. Additionally, research shows that giving specific testimony of the events and facing the perpetrator can trigger traumatic reactions in victims. Taking all of these factors into account, I hypothesize that the presence of a cross-examination policy will lower students' willingness to report. University proceedings are largely confidential, so it is fair to assume that some students may think of the process as an informal or anonymous alternative to reporting to the police and will not know about having to face the accused, let alone be directly questioned by them.

Methods

In researching the relationship between a cross-examination policy and sexual assault victims' willingness to report to their universities, I collected data primarily through a survey experiment. In this experiment I distributed two versions of the same survey, one to a control group and the other to a treatment group. The control group was presented with a vignette where they experienced a sexual assault consistent with the Indiana University definition. It then described the investigation or adjudication process without cross-examination, using the less-common investigative method described previously. The treatment group received the same hypothetical except their description of the adjudication process included indirect cross-examination in front of the accused. After the description of events, the survey asked participants about their overall willingness to report the assault to the university. All participants were then asked the extent to which thirteen additional circumstances would impact their willingness to report. The circumstances included their relationship to the perpetrator, the type of sexual assault that occurred, and the consumption of alcohol prior to the assault. Participants were again presented with a 5-point Likert scale ranging from "Much less likely to report" to "Much more likely to report." The survey also asked for demographic information such as their race, gender identity, sexual orientation, housing status, involvement in Greek life, and grade level. I suspected that this information could be useful because there are known racial disparities in the reporting of assault and I thought there could be a slight variation in students willingness to report depending on their year in school. A senior, for example, may be less likely to go through the reporting process when they are graduating soon, or more likely because they feel more experienced or equipped to handle the process. Ideally, I would be able to collect data from students in different parts of the country at different types of schools, but with the limited

resources and time available to me it was only feasible to contact students here at IU. However, Indiana University could at least be representative of state schools in the Midwest or Big 10 universities, which together make up a substantial number of residential undergraduate students.

Seeing as 91% of sexual assault victims are women, and I again am working with limited time and resources, I am conducting my primary analysis using the data collected from female students (Venetis, 2018). I did get responses from some male students and still found it noteworthy to compare the two. I also only used undergraduate students in order to simplify my data analysis. Including graduate students would have required me to consider additional factors specific to their population that could impact willingness to report an assault. Using a 95% confidence level with a population of around 16,500 female undergraduates, my ideal sample size would be around 375 students. I will note here that due to the coronavirus pandemic moving classes online for the remainder of the Spring 2020 semester, I had to adjust and scale down my survey approach. I planned to gather my sample by contacting professors who teach large, general education classes that many students have to take. Accounting for the fact that many students take general education classes earlier in their undergraduate careers, I identified a few larger 300 level courses across the university to hopefully bring upperclassmen into my sample population. Under my original plan, the professor would post an announcement to the course page with a link to the survey. I would also have gone to each class and make a brief statement about the survey along with distributing QR codes. Administering it through these classes would have allowed me to collect a sample that is representative of the population by year in school and race. I also wanted to be cognizant of the classes I am targeted so that the sample included students with different majors. Seeing as it is a convenience sample and I am not offering anything in exchange for the survey, it may be challenging to get the full sample size. On the

survey I will ask students to identify their gender, including non-binary selections, and as previously mentioned may only use the responses of females. I recognize that this research would then leave out male and gender non-conforming students, but I simply may not have the time or resources to account for different variables that influence reporting based on gender. Hopefully future studies will be able to complete this research in a more inclusive manner at schools across the country.

Considering that sexual assault is a sensitive topic and can trigger an emotional response, I planned to make my pitch to students at the end of class. This is also why I used an online method that can be accessed on the students' own time. Respondents were notified of the nature of the survey topic prior to reading any questions, and were allowed to stop the survey at any time. I figured that assuring them the survey is fairly quick, the research is important, and they will not be identified would increase participation. The survey also included information at the end about resources for victims of sexual assault, both through IU and other organizations. This is an important aspect of conducting the research ethically given the nature of the topic.

To a lesser extent I also used interviews with Emily Springston, the Title IX Coordinator at Indiana University, and Sally Thomas, a Confidential Victims Advocate at Indiana University, to gain insight into the adjudication process here. These interviews were really more of a supporting method for my survey. Seeing as my survey presented participants with a hypothetical experience relating to Indiana University's adjudication process, it was useful to have an existing understanding of what it currently looks like from start to finish. The interview was also useful since it has been challenging to find specific information on Indiana University's website about what happens after a student reports an assault. Thomas, in particular, was able to use her experience working with students who decide not to report to give me an idea as to which

factors influence that decision. Victims' advocates could be interviewed in a future study to get more accurate data around trends they see in why students do or do not report. I also identified a policy from CalState that does require cross-examination to inform my description in the treatment survey so I could accurately describe the investigate method of adjudication.

University policies and Title IX regulations gave me the necessary information to present survey participants with an accurate representation of variations in the sexual assault adjudication process. As mentioned, these data collection methods were minimal in comparison to the survey experiment and aimed to provide supporting information.

The Survey

I used Qualtrics to create and distribute the survey electronically through an anonymous link. Seeing as the transition to online courses interfered with my planned method of distribution, I opted to simply send the survey to as many students possible within my immediate network. I first gathered the demographic information on participants' year in school, gender and/or sex, primary residence (before moving to online classes), Greek life affiliation, sexual orientation, and race. Then all respondents were given this information:

The following questions will ask you about what you would do in the event of a sexual assault. This is a sensitive topic that may be distressing for some individuals. I would like to thank you for your contribution to this important research. You may pause or stop the survey at any time. Resources for support can be found at the end of this survey. **For the purposes of this survey, sexual assault is defined as engaging in any sexual activity without first obtaining affirmative consent to the specific activity.** Consent is agreement or permission expressed through affirmative, voluntary words or actions that are mutually understandable to all parties involved. Sexual activity includes but is not limited to kissing, touching intimate body parts, fondling, intercourse, penetration of any body part, and oral sex. Sexual assault is prohibited under IU policy and can be reported to the Office of Student Conduct. While this **won't** initiate criminal action, if the accused is a student, it will open the door to charges filed through the campus student conduct system. This is an administrative process that can result in academic action, up to and including expulsion from IU Bloomington.

Using the A/B testing method in Qualtrics, respondents were then randomly presented with one of the following descriptions of the adjudication process:

Figure 1: Adjudication Description for Treatment Group

1. You have been sexually assaulted by another student and a friend encourages you to report the assault to the university.
2. You contact the Office of Student Conduct and file a report.
3. A university official notifies the other party and begins an investigation.
4. You and the accused student are interviewed separately and provide statements detailing the incident. Using your statements, any witness accounts, evidence gathered, and other relevant information, the investigator reports their findings to a conduct board, suggesting that they hear the case.
5. The hearing takes place in a closed setting on campus. Those present include yourself, the accused student, any called witnesses, and a three-person panel drawn from a pool of faculty, staff, and graduate students.
6. You and the accused student may also choose to be accompanied by an advisor at your expense. The advisor may be any person - parent, friend, mental health professional, certified victim's advocate, attorney - or an individual provided by the university. They may not speak during the hearing, but can offer guidance privately.
7. At the hearing you and the accused student may make statements to the panel and conduct indirect cross-examination. During cross-examination, a school official will ask you questions on behalf of the accused student.
8. After the hearing, the conduct board will decide if and how to discipline the accused student.

Figure 2: Adjudication Description for Control Group

Please read the following scenario carefully before answering the remaining questions:

1. You have been sexually assaulted by another student and a friend encourages you to report the assault to the university.
2. You contact the Office of Student Conduct and file a report.
3. A university official notifies the other party and begins an investigation.
4. During the investigation, you and the accused student are interviewed separately. You each provide statements detailing your accounts of the incident.
5. The investigator meets with both of you again to present you with the other party's statement. You can comment on their statement and pose any questions you would like them to be asked, which the investigator may do at their discretion.
6. Using your statements, comments, any witness accounts, evidence gathered, and other relevant information, the investigator provides the conduct panel with a report of their findings.
7. The conduct panel uses the report to make their decision and notify each party of the outcome.

Both groups were then asked:

Based on the process described above, how willing are you to report a sexual assault to the university?

How much, if at all, do the following circumstances impact your willingness to report sexual misconduct to the university?

The other student had sex with you when you were too drunk or high to consent to sex (to properly “say yes”)

The other student made you have penile-vaginal or penile-anal intercourse by using force or threatening to harm you or someone close to you

The other student made you have oral sex (mouth on genitals) by using force or threatening to harm you or someone close to you

The other student attempted, but did not succeed, in making you have vaginal sex, anal sex, oral sex, or vaginal or anal penetration without your permission

You are currently in a relationship with the other student

You were previously in a relationship with the other student

The other student lives in your dorm

You have class with the other student

You did not previously know the other student

You and the other student have mutual friends

You were drinking alcohol before the assault and are 21 or older

You were drinking alcohol before the assault and are under 21

The other student has hired an attorney to assist them with the disciplinary proceedings

Finally, participants were asked to describe any additional factors that would impact their willingness to report an assault to the university. The message below was used to debrief participants and provide them with any resources they may need in relation to the man difficulties associated with sexual assault.

Figure 3: Survey Debrief

You are finished.

Thank you so much for taking the time to complete this survey. Please click the arrow below to submit your responses.

Sexual assault and rape happen to far too many individuals each year. If you experience sexual misconduct, you are not to blame. It doesn't matter when it happened, where it happened, or what the circumstances surrounding the incident were. It's not your fault.

The National Sexual Assault Hotline can be contacted at 1.800.656.HOPE for help or support. Students can call the Sexual Assault Crisis Service Line at 812.855.899 for support, information, and resources, including medical care if needed. Campus resources can be found at [StopSexualViolence.IU.edu](https://stopsexualviolence.iu.edu).

Making the decision to report an incident
You don't need to decide whether or not to report right away, but you are encouraged to take care of yourself. This may mean seeking medical attention if you or someone you know has experienced any type of sexual or relationship violence.

There are several options if you do decide to report the incident. You can do it through campus police or local law enforcement, the [IU student conduct system](#), or your [campus Deputy Title IX Coordinator](#).

If you need help sorting through your options or would like help getting the process started, you can contact a Confidential Victim Advocate in the Office for [Sexual Violence Prevention and Victim Advocacy](#), at cva@indiana.edu or 812-856-2469.

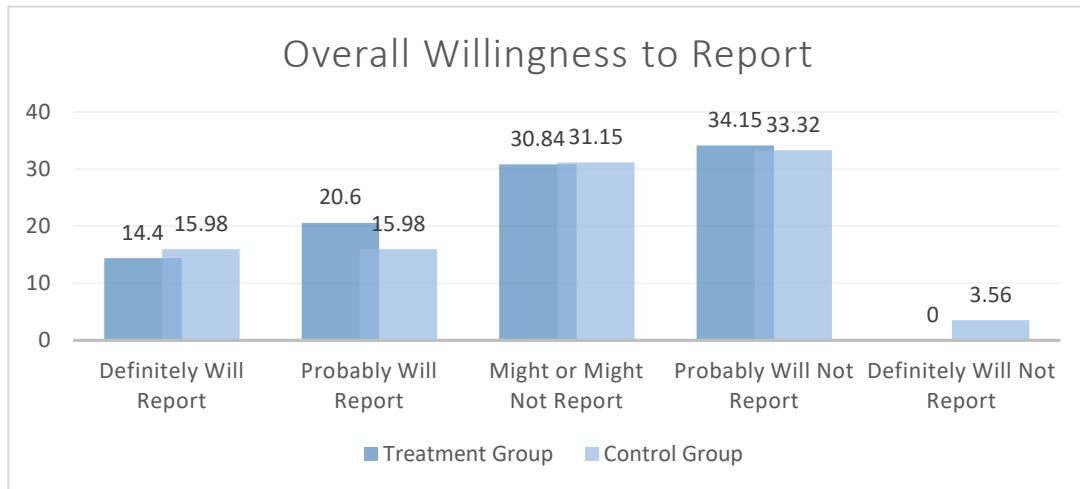
Thank you for participating in this research. As a reminder, this survey is anonymous and no identifying information will be linked to your response.

My study had 56 respondents which while less than needed for statistically significant results, still allowed me to look at frequency distributions and gain further insight that could be useful for future research. Overall, 83% of the respondents identified as women and 38% reported involvement in Greek life. The sample was also predominantly white and heterosexual. In the Fall of 2019, IU Bloomington reported an undergraduate population that was 68.7% white and 49.6% women, with 42.65% of undergraduate students involved in Greek life (Indiana University Institutional Research and Reporting, 2020). This demographic makeup was to be

expected considering that the survey was distributed to primarily white women. Again, in an ideal setting it would have been distributed through university courses to better represent the undergraduate population as a whole. As for grade level, 23.21% of respondents were freshmen, 16.07% were sophomores, 39.29% were juniors, and 21.43% were seniors. Without considering their placement in study, freshman appeared to be slightly more willing to report an assault based on the general question while a higher proportion of sophomores and seniors answered that they probably or definitely would not report. With cross-examination, no males would definitely report and 40% probably would, while without cross-examination 20% definitely would and 40% probably would report.

Figure 5 below compares the overall willingness to report of the entire sample. The most frequently selected response across both groups was “probably will not report”, with a larger proportion of those treated with cross-examination selecting that response. Looking broadly at the responses to the first question, a larger proportion of those treated with cross-examination said they definitely or probably would report while a larger proportion of those in the control group said that they probably or definitely would not report. Overall the margins are close, but this does contradict my hypothesis that students in the treatment group would be less likely to report.

Figure 5: Initial Willingness to Report Across All Participants



Essentially, responses to the first question of whether or not participants would report did not vary significantly between the two groups. However, this shifted in the next section where they were presented with more specific circumstances such as the involvement of alcohol and their relationship to the accused. This makes sense, seeing as the first question was getting at general willingness to report an undescribed, hypothetical assault but the follow-up questions brought in some of the factors that might make the scenario seem more real.

Table 1: Breakdown of Each Group's Responses (Treatment Group Shaded)

	CE		CE		CE		CE		CE	
	Much Less Likely to Report		Somewhat Less Likely to Report		No Change		Somewhat More Likely to Report		Much More Likely to Report	
The other student had sex with you when you were too drunk or high to consent	21.43%	6.45%	42.86%	38.71%	21.43%	19.35%	10.71%	19.35%	3.57%	16.13%
The other student made you have penile-vaginal or penile-anal intercourse by using force or threatening to harm you or someone close to you	7.41%	6.45%	11.11%	12.90%	7.41%	3.23%	25.93%	19.35%	48.15%	58.06%
The other student attempted, but did not succeed, in making you have vaginal sex, anal sex, oral sex, or vaginal or anal penetration without your permission	11.11%	6.45%	14.81%	19.35%	11.11%	6.45%	33.33%	22.58%	29.63%	45.16%
The other student attempted, but did not succeed, in making you have vaginal sex, anal sex, oral sex, or vaginal or anal penetration without your permission	18.52%	22.58%	22.22%	19.35%	29.63%	22.58%	14.81%	9.68%	14.81%	25.81%
You are currently in a relationship with the other student	59.26%	45.16%	25.93%	35.48%	0.00%	12.90%	14.81%	6.45%	0.00%	0.00%
You were previously in a relationship with the other student	14.81%	16.13%	29.63%	25.81%	29.63%	38.71%	18.52%	16.13%	7.41%	3.23%
The other student lives in your dorm	8.33%	3.57%	37.50%	28.57%	25.00%	39.29%	16.67%	14.29%	12.50%	14.29%
You have class with the other student	11.11%	16.13%	40.74%	29.03%	22.22%	35.48%	18.52%	9.68%	7.41%	9.68%
You did not previously know the other student	0.00%	0.00%	7.41%	3.23%	11.11%	19.35%	55.56%	38.71%	25.93%	38.71%
You and the other student have mutual friends	7.41%	25.81%	62.96%	32.26%	18.52%	32.26%	7.41%	0.00%	3.70%	9.68%
You were drinking alcohol before the assault and are 21 or older	13.04%	3.70%	30.43%	22.22%	34.78%	48.15%	17.39%	18.52%	4.35%	7.41%
You were drinking alcohol before the assault and are under 21	33.33%	31.03%	45.83%	31.03%	16.67%	31.03%	4.17%	3.45%	0.00%	3.45%
The other student has hired an attorney to assist them with the disciplinary proceedings	22.22%	22.58%	40.74%	35.48%	22.22%	29.03%	3.70%	6.45%	11.11%	6.45%

In all but one of the 13 additional questions, a higher proportion of respondents treated with cross-examination said that they were much less or somewhat less likely to report. The two largest gaps occurred in circumstances where the victims would have been consuming alcohol prior to the assault. In the case that the participant was over 21, 17.76% more participants in the treatment group were much less or somewhat less likely to report. When the students were under 21, 18.05% more participants in the treatment group were somewhat less likely to report. The survey design allowed respondents to choose “N/A” for the question that did not apply to their

age group and then did not include those answers in the data analysis. Additional circumstances where over 15% more of those treated with cross-examination were much less or somewhat less likely to report included someone having sex with them when they were too drunk or high to consent and when the perpetrator lived in their dorm. I also looked at changes in responses from the first question about reporting to the set of more specific questions. In doing this I found that 80% of those treated with cross-examination who first said they would definitely report, said they were much or less likely to report in an assault where they were too drunk or high to consent to sex, while 53% of those in the control group said they were somewhat less likely. As I touched on earlier, this was fairly consistent across the data and suggests that students may be more willing to report a sexual assault when thinking of the term broadly than they are when presented with a specific scenario that would apply to them.

These specific questions also confirmed a lot of the connections that researchers have been able to make in relation to reporting. Across the board, with or without cross-examination, participants were significantly less likely to report an assault if they were currently or had previously been in a relationship with the other student. In fact 86.29% of those in the treatment group and 80.64% of those in the control group said being in a relationship with the perpetrator would make them much less or somewhat less likely to report the assault. Similarly, over 60% of participants in both groups said they were much less or somewhat less likely to report an assault in the event that they had been drinking alcohol before it happened and they were not 21. As mentioned earlier, 96% of sexual assaults are committed by an individual known to the victim and around half involve the use of alcohol (Simms, 2018). Finally, as it relates more specifically to the impact of cross-examination, 67.46% of participants in the treatment group and 58.06% of participants in the control group answered that they would be much less or somewhat less willing

to report an assault if the perpetrator were hiring an attorney to represent them in the disciplinary process. When I interviewed Sally Thomas, a Confidential Victims Advocate at IU, she said that the “vast majority” of accused students retain an attorney to serve as their advisor in the proceedings.

An unexpected outcome of my survey was that it did not only research the relationship between cross-examination and reporting. While I originally planned to give participants the exact same description of the process, just removing any mention of cross-examination for the control group, I ended up giving the control group a description of the investigative model. In doing this, I was also able to see how a model in which the students never cross paths can impact reporting. As I mentioned earlier, generally a larger proportion of those treated with cross-examination said that under the given circumstance they were much less or somewhat less likely to report the assault. On the other end of this, a larger proportion of the participants the investigative model were somewhat more or much more likely to report the assault under the same circumstances. For example, in the event that the other student had sex with them when they were too drunk or high to consent, 34.38% of the control group were somewhat more or much more likely to report compared to 12.08% of the treatment group. In the circumstances involving forced intercourse and oral sex, over 14% more of the control group were somewhat more or much more likely to report. This can also be looked at further using Table 1, but is fairly consistent across the varying scenarios. While it was not the original goal of my study to look at university procedures that could make students more willing to report, very few things went as originally planned and it is another indicator of the need for further research.

Conclusion

In a university-wide survey, over 25% of undergraduate women at IU reported experiencing sexual harassment since coming to campus. In that same survey, over 86% of respondents who said they had experienced some form of nonconsensual sexual contact also said they did not report it to the university, on par with national data on reporting rates. (Dean of Students Office & The Kinsey Institute, 2015). As universities across the country navigate new Title IX regulations from the DOE, the reasons for and impacts of these regulations should not be ignored. Due to the small scope, lack of resources, and COVID-19 pandemic, this study was not able to find a statistically significant relationship between a university's use of cross-examination and students willingness to report a sexual assault. It did however, support other findings that students are already not very willing to report, particularly when they know the perpetrator or when alcohol was involved. It indicated that while students may think they are willing to report an assault in a broad sense, when presented with specific scenarios they would be less likely to report. It also showed that overall, a larger portion of the students treated with cross-examination were much or somewhat less likely to report an assault than those in the control group. As long as sexual assault continues to impact the majority of undergraduate women, further research on how to effectively adjudicate claims and uphold the legal rights of victims is needed. Going forward, this research needs to include students from different regions, types of schools, races, genders, ages, etc. so that any findings are truly representative. That being said, I hope that this survey study can in any way serve as a basic example for how to ask these questions in an effort to understand the impact of these policies.

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