

[THOUGHT EXPERIMENT](#)

Michael Dolce College is starting again, and with it the threat of campus sexual assault. A lawyer offers advice.

Know that not just your peers present a risk, and know that the administration is often looking out for their faculty more than for you.



A demonstration supporting rape survivors at Northwestern University in Evanston, Ill., on Feb. 10, 2017.

Chicago Tribune / Tribune News Service via Getty Images file

Sept. 2, 2019, 4:04 AM CDT

By Michael Dolce, lawyer representing victims of sexual abuse, sex trafficking and domestic violence

To those starting college I offer fatherly advice, as I offered my daughter when she prepared to begin school. I showed her the [Clery Act Reports](#), which provides crime statistics for each college, including violent and sex crimes. She was skeptical about the risk of sex crimes when she saw the data for her campus. “Out of 3,800 students, five assaults are not a lot, dad.”

But I’m an attorney who represents survivors of sexual crimes, and I know firsthand that the statistic is misleading. It only counts on-campus assaults and does not account for the under-reporting rate of college sexual violence, which is about 90 percent, according to the [U.S. Department of Justice](#). Thus, I told her, each week at least two of your dormmates will experience sexual violence on campus and even more off campus.

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If you are on your way to college, you must prepare yourself. And the first part is believing that it could happen to you. As [RAINN](#) reports, women in college are three times more likely than other women to suffer sexual violence. An [Association of American Universities](#) survey found that 14 percent suffer rape or attempted rape before graduation. [Most college sexual violence](#) is committed in a private residence by someone the victim knows; there are no dark alleys to avoid.

Though sexual violence is never your fault, the second part is thinking through ahead of time how you can safeguard yourself. For instance, decide on your boundaries before you go on a date, to a party or even a study group. Is it OK for your date to kiss you without asking first? If so, how much more than a kiss do you welcome without being asked? A [2015 Washington Post](#)/Kaiser Family Foundation study found that up to 20 percent of college students believe that if someone they kiss doesn't say "no," he or she is consenting to more sexual activity.

Because [alcohol facilitates the majority](#) of college sexual violence, keep track of how much you're drinking. Remember, rapists will wait for you to become drunk before attacking and often claim you were too drunk to remember consenting.

Know that not just your peers present a risk. In recent years, faculty sexual offenses against students were confirmed at the likes of [Ohio State University](#), [Michigan State](#) and [Dartmouth](#) College. And know that the administration is often looking out for their staff more than for you.

At Ohio State, the tally of abuse victims by athletic team doctor Richard Strauss climbed into the hundreds for almost 18 years, despite the university administration knowing of complaints for 17 of them (he died before anyone took action). It [took Michigan State two decades](#) before complaints about Larry Nassar's sexual abuse of more than 100 child and young adult athletes were finally taken seriously, leading to his imprisonment for life.

[Dartmouth has disputed claims it failed to prevent](#) three professors' [sexual assault and harassment of dozens of students](#) -- they resigned or retired when an investigation was finally brought -- though the [perpetrators allegedly were the subject of student complaints](#) for some 15 years, according to various reports.



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I have advice for college administrators, too, having represented many students who found themselves unsupported by college leadership in the aftermath of rape. These students suffered disruption in their college careers and clinically significant mental health harm because of how the administration treated them.

You must take responsibility for the environment on your campuses. Make the environment unsafe for predators first and foremost by being comfortable talking about the uncomfortable. Discuss the problem of sexual assault and harassment at mandatory-attendance events for students and employees alike.

You know that among those you hire to teach will be some who abuse their power to facilitate sexual assault and harassment, so disempower them. Place restrictions on off-campus socializing with students by faculty who have power over their students' grades, job references and other matters that impact a student's future.

Too often universities are unprepared for sexual violence, both in terms of resources and training. I have had clients whose complaints were not investigated for almost a year due to inadequate staffing. Other complaints were not investigated at all due to poor training and procedures for staff and campus police. Some universities make such training voluntary while simultaneously calling everyone a "mandatory reporter"; it is no good to have an army of mandatory reporters who do not know what to look for.

Worse yet, many colleges fail to train staff to understand victim impact or victim behavior. One of my clients was questioned at length by the university disciplinary panel as to why she agreed to drive her rapist home, even when she explained her fear of being killed if she refused. The administration declared the rapist innocent largely because of that.



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Another survivor was required to attend classes with her rapist, with officials justifying it because she voluntarily spent time with him, a long-time friend, for three weeks after the attack. Her behavior is common among those in clinical denial following an assault as they try to return to “normal” before accepting that it cannot happen.

Another survivor was unable to return to campus because she was suicidal after being gang raped at a party before final exams. The administration converted her “incomplete” grades for not attending exams to “failed” because the school’s policy required the exams be completed within a month.

Despite a university’s best efforts, not all harassment and sexual violence will be prevented. Decide now when you will punish offenders and how. The outcome must ensure that the survivor doesn’t have to leave or transfer colleges. Do not do what I have seen far too many colleges do: forget to ask the survivor what he or she needs before determining what sanction to impose. Only by doing so can you ensure that the perpetrator pays for the harm inflicted and that the survivor can thrive.

Do not unfairly burden the survivor by conditioning, limiting or delaying sanctions on whether or not the survivor has contacted the police, or the police have arrested or charged the perpetrator. These facts should be irrelevant to how you respond to a student’s complaint. There are many legitimate reasons why sex crime survivors choose not to report the crimes to police, or delay reporting, including the mental health impact of sexual assault, privacy and the crushing rigors the criminal justice process may impose on survivors. There are likewise many reasons why law enforcement may not take action or wait to do so, including having too limited resources to respond appropriately.

It is likewise important to understand how to balance the rights of the accused with the rights of the survivor. It is not, legally or otherwise, the duty of the survivor to bring forth evidence to prove what he or she reports to you at the level required for a criminal prosecution. The university has the resources and capacity to determine responsibility or

not for an act of sexual violence during a disciplinary process. The survivor does not have that capacity, including while suffering the impact of trauma.

Ultimately, it is the university’s responsibility to try to meet the burden of proof through a proper investigation. I have seen universities do nothing more than interview the survivor and the accused before conducting a disciplinary hearing, which serves no one well. A thorough investigation and presentation of evidence is the only way to ensure a credible result for everyone, including the accused.

Moreover, the survivor needs protection while the university investigates the case and conducts a disciplinary process and should be insulated from the accused on campus during that time. In the absence of a finding of a false allegation, protection for the survivor can and should be continued regardless of whether the perpetrator is found responsible.

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Most colleges publish a “zero tolerance” policy for sexual violence but fail to define or enforce it, with minimum sanctions for sexual offenses. Those same colleges typically have sanctions guidelines for academic dishonesty. In one of the cases I saw, guidelines called for expulsion for plagiarism, but not even suspension for felony rape.

Without specific, severe sanctions for sexual violence, officials may use their broad discretion to impose only minimal punishment. In two cases I have handled involving rape, officials did not want to impose severe sanctions that would destroy the future of the perpetrator because, in one case, he was a star baseball player and, in the other case, a former Marine.

If universities behave like this, victims will not report crimes, and more will suffer sexual violence. You must expel those who commit sex crimes before they strike again. That’s what this father considers zero tolerance.

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