University Interventions in Sexual Misconduct and Intimate Partner Violence

Senior Thesis

Presented to

The Faculty of the School of Arts and Sciences
Brandeis University

Undergraduate Program in Sociology
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In partial fulfillment of the requirements for the degree of Bachelor of Arts

By

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May 2017

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University Interventions in Sexual Misconduct and Intimate Partner Violence

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Chapter I: Introduction

**Theoretical overview**

Flipping through client files in a small basement office in Cambridge, Massachusetts, I felt disbelief. While some narratives are written by clients themselves, others are drawn from police reports. Some files read like a crime show: man kidnaps girlfriend, beats her, police show up because a passerby reported screams. Others are indirect: man breaks house goods and tells wife she broke them. These files are all for heterosexual men at Emerge, a Batterers Intervention Program that offers counseling and education for perpetrators of domestic violence.

I had never read anything so disturbing because for me, at only twenty years old, abuse was only an idea in the abstract. I did not understand why these women would put up with their partners or why they wouldn’t immediately call the police if their perpetrators violated restraining orders. With no known history of abuse in my own family, relationships, or close friends, I learned how lucky I am that everything in those client files sounded fictitious.

Conceptualizing domestic violence is difficult, especially for someone with no history of abuse. To fully understand domestic violence, one needs to recognize the literal context of the behaviors and experiences, but also recognize the many nuances of abuse. The individual biography and social location, including familial influence, social communities, past trauma experiences, attraction and dependency on a relationship, confusion, and naivety, are all instrumental in answering, “why?” survivors remain in abusive relationships. However, studying domestic violence requires defining the terms.

Domestic violence can take many different forms. The Center for Disease Control conducts the National Intimate Partner and Sexual Violence Survey and defines intimate partner violence as sexual violence, physical violence, stalking, psychological aggressions, or any
combination thereof (Breiding et al. 2014). Sexual violence includes, although not exclusively, rape and sexual coercion; physical violence includes hitting, pushing, slapping, and in more severe cases, slamming, beating, strangulation, and the use of weapons; stalking includes monitoring technology, following, and showing up at partner’s workplace; and psychological aggression includes manipulation, humiliation, coercive control, and threatening (Breiding et al. 2014). These examples are not exhaustive of the ways in which physical, sexual, stalking, and psychological abuses are manifested. The physical violence that Breiding et al. enumerates violates the Massachusetts General Laws and can lead to a fine, imprisonment, or enrollment in a Batterer’s Intervention Program. However, there are no laws against coercion and manipulation.

Domestic violence is not solely about a dynamic of violence, but also about a dynamic and repeated pattern of control and manipulation. Generally, when we think about domestic violence, we think about rape and hitting. While these physical attacks are included in abusive acts and are seen in abusive relationships, they are not necessarily what defines an abusive dynamic. David Adams and Susan Cayouette, co-directors of Emerge, define abusive behaviors as physical violence and coercive behaviors, purposeful, and learned (2002). Emerge is one of the oldest batterer intervention programs in the United States and one of the state-licensed programs in Massachusetts. Adams and Cayouette include different methods of manipulation that are meticulously intended to assert power and coercive control over another person. Perpetrators also employ invisible behaviors to manipulate and exert emotional control over their partners, which are equally harmful. If a perpetrator constantly berates his or her partner, a victim can feel worthless. If a perpetrator controls all the finances, a victim can feel or be materially dependent. If a perpetrator socially isolates a victim, she or he may lose supportive figures or communities. If a perpetrator stalks and surveils his or her partner, the victim can feel
like nothing is private or safe. In this way, perpetrators construct an alternate reality for their partners: victims’ feelings and reactions from abuse become their truth. These abuse tactics are part of a pattern and can increase the baseline abuse over time. This is a guarded world, constructed by the perpetrator, in which the victim’s life revolves around the abuser.

The difficulty of understanding the impact of domestic violence is further complicated in a university context. I started this research wanting to look at domestic violence at Brandeis University and eventually found an unmet student need: why can’t Brandeis students go to the campus police for help when they experience domestic violence? Answering that question required understanding the institution’s system for working with domestic violence, the different relationships involved, and who is behind the institutional system for domestic violence. However, before looking at a specific system, it’s important to examine the complexities of domestic violence and what it looks like in an institution of higher education.

Social change and gendered dynamics

A gendered power hierarchy shapes social contexts for men and women and perpetuates abusive behaviors. Adams and Cayouette note the unavoidable influence of sex and gender on domestic violence:

Domestic violence occurs within a social context of male dominance over women in social, familial, institutional and economic spheres. In male-female interpersonal relations, male dominance is shaped by traditional sex roles in which men come to expect subservience and deference from women (2002: 3).

Gendered dynamics, whether interpersonal or within institutions, contribute to the social constructs that allow domestic violence. Adams and Cayouette believe this gendered dichotomy encourages male desire for power and control over women.

Historically, both the public and private spheres followed a patriarchal model of male prestige and dominance over women. Arlie Hochschild investigated this power imbalance in the
home by looking at how families manage the “second shift,” the home and family work that is needed in the mornings before work and in the evening afterward. Hochschild found the most prominent force that worked against a particular heterosexual couple was the assumption that the presence of the mother in the children’s lives was more important than the father’s (1989). The other side of that same dynamic was the assumption that men’s presence in the workforce and wage earning was more important than women’s.

Between 1950 and 2016, there was a major influx of women in the workforce: in 1950, there were 18.4 million women who accounted for 29.6% of the workforce, compared to 74.4 million women who accounted for 46.7% of the workforce in 2016. However, even with this 17.1% increase (Toossi 2002; Woman’s Bureau 2017), most women are still the predominant caretakers in the home. Paula England argues that looking at increased women’s involvement in the workforce does not show any men’s decreased involvement in the workforce or housework: “There was nowhere near one man leaving the labor force to become a full-time homemaker for every woman who entered, nor did men pick up household work to the extent women added hours of employment” (2010: 151). In fact, compared to 74.4 million women in the workforce in 2016, there were 84.7 million men.

Not only are the roles for the family separated by gender, but the male’s role is also socially constructed to have more money and power. In addition to gendered expectations for work in the home, gendered occupational segregation and contradictions exist and contribute to wage disparities. According to the U.S. Department of Labor in 2015, 85.4% of paralegals and legal assistants were women, while only 34.5% of lawyers were women; 72.6% of physician assistants, 37.9% of physicians and surgeons; 96.4% of dental hygienists and only 25.9% of dentists (U.S. Department of Labor 2016). Although these statistics are selective and not wholly
representative of the United States workforce, it cannot be overlooked that there is a major
gender disparity between the more prestigious jobs, such as lawyers and doctors, and the
assistants. Furthermore, the median weekly earnings for women in 2013 was only $706,
compared to $860 for men (U.S. Bureau of Labor Statistics 2014). Occupational segregation
exists and contributes to a wage gap and patriarchal power, a setting in which men’s masculinity
is linked to jobs and earning, and in turn their dominating relationship to women; money is
power and men are socially constructed to have both (Townsend 2002). Despite women’s
increasing involvement in the workforce, the gendered wage gap is ever present and men’s jobs
still seem to take precedence over women’s jobs and the “second shift” in the home.

The social context that shapes a patriarchal setting, such as hierarchical power and
authority, as well as more money and greater respect, implies that manhood is more valuable.
The sociological point of view reveals this patriarchal context as a core problem of domestic
violence because it attributes abusive behaviors to inherent masculinity (Pascoe 2016; Adams
and Cayouette 2002; Próspero 2008). I reject “manhood” as an explanation for abuse because
abuse is learned. Patriarchal social constructs encourage men to be violent, but they are not
inherently so. While a sense of entitlement may give them impunity, most men are not abusive.
This distinction between being a man and being abusive is important because if they are one and
the same, being a man not only serves as an explanation for abuse, but an excuse for abuse.
However, the sociological contexts that exist certainly allow domestic violence.

Data supports Emerge’s assumption that intimate partner violence consists predominately
of female victimization and male perpetration. In 2011, the Center for Disease Control (CDC)
conducted the National Intimate Partner and Sexual Violence Survey that compares women’s
and men’s experiences throughout their lifetimes of sexual violence, stalking, and intimate
partner violence. This study was from more than 14,000 interviews of men and women, both English and Spanish speaking, from across the United States. The CDC found that significant proportions of both women and men have experienced victimization from intimate partner violence in their lifetime. However, their data is still overwhelmingly in favor of women as the predominate survivors. From intimate partner violence, 8.8% of women and 0.5% of men were raped, 15.8% of women and 9.5% of men experienced other sexual violence, 31.5% of women and 27.5% of men experienced physical violence, 22.3% of women and 14% of men experienced severe physical violence, 9.2% of women and 2.5% of men experienced stalking, and 47.1% of women and 46.5% of men experienced psychological aggression (Breiding et al. 2014). In every subcategory of intimate partner violence for the CDC, the percentage of women exceeds the percentage of men.

<table>
<thead>
<tr>
<th>Lifetime Prevalence of Intimate Partner Violence in 2011 (Breiding et al. 2014)</th>
<th>Women</th>
<th>Men</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rape</td>
<td>8.8%</td>
<td>0.5%</td>
</tr>
<tr>
<td>Other sexual violence</td>
<td>15.8%</td>
<td>9.5%</td>
</tr>
<tr>
<td>Physical violence</td>
<td>31.5%</td>
<td>27.5%</td>
</tr>
<tr>
<td>Severe physical violence</td>
<td>22.3%</td>
<td>14%</td>
</tr>
<tr>
<td>Stalking</td>
<td>9.2%</td>
<td>2.5%</td>
</tr>
<tr>
<td>Psychological aggression</td>
<td>47.1%</td>
<td>46.5%</td>
</tr>
</tbody>
</table>

Excluding psychological aggression, we see that although men experience intimate partner violence, more women do. This data supports a feminist interpretation for understanding intimate partner violence through the gendered imbalances and influence of social structures. A gender disparity is present through all subcategories except psychological aggressions. Psychological aggressions are a different type of abuse; they are more nuanced and not physical. These aggressions have a significantly higher rate for both sexes than all other subcategories of
violence and the smallest gap between sexes, at a rate of less than 1% more women. However, the data shows that more women experience intimate partner violence.

The CDC’s results account for the sex of the survivors, not the sex of the perpetrators. This limitation does not show the gender dynamic between both parties in intimate partner violence. In other sections, where the CDC isolates violent acts, such as rape, it identifies the perpetrators: for women who have been raped in their lifetime, 99% report having male perpetrators, whereas for men who have been raped, 79.3% report having male perpetrators (Breiding et al. 2014), or approximately 20.7% of men have female perpetrators. This comparison allows for an examination of who abuses whom by showing the sex of both the survivors and the perpetrators of rape.

The perpetrators of domestic violence are still predominately men. As said before, for rape, 99% of women who have been raped had male perpetrators, whereas 79.3% of men who have been raped also had male perpetrators (Breiding et al. 2014). For stalking, 88.3% of women who have been stalked had male stalkers, whereas 44.6% of men who have been stalked had female stalkers (Breiding et al. 2014). Women are perpetrators of domestic violence, and are so in heterosexual relationships in addition to same-sex relationships. However, the CDC data reports predominantly male perpetrators, even in cases that are not specifically intimate partner violence.

_Catalyzing intimate partner violence structures_

From the perspective of someone not directly involved in the abuse, or maybe someone who has no personal history of abuse, the question seems obvious: Why don’t victims just leave? In violent intimate relationships, the emotional and psychological pushing and pulling creates a bond that complicates a person’s capacity to walk away. This is known as Stockholm Syndrome
and relates to Post Traumatic Stress Disorder, but Lenore Walker puts this reaction specifically into an abusive relationship context: Battered Woman Syndrome (Graham and Rawlings 1991; Walker 2000). According to Walker’s model, victims are in constant turmoil and are consistently pushed from moments of intimacy to moments of abuse, and back again. Lenore Walker suggests a theory for a cycle that occurs in intimate partner violence: “(1) tension building, (2) the acute battering incident, and (3) loving contrition” (Walker 2000: 126).

The first phase consists of hostile interactions, rude comments, name calling, minimal physical abuse, and preludes an outburst of more severe abuse. The perpetrator keeps the victim at wit’s end: the victim reacts sharply or is constantly on the brink of an outburst, awaiting the impending and inevitable explosion. The tension culminates at a breaking point, setting in motion phase two: beating, breaking objects, yelling, and attack. Then, in phase three, the perpetrator apologizes, promises never to hit again, and offers affection (Walker 2000). Loving contrition ties together the confusion and challenges the victim: Maybe he really does care about me? Maybe he only did these awful things because he loves me so much? After a horrible attack or fight, the victim gives the perpetrator another chance and continues the cycle by returning to what she or he perceives as a loving relationship and awaits phase one’s return: tension building.

Loving contrition is the confusing stage that entraps victims in an abusive cycle. After someone is traumatized, she or he may want protection and affection in order to recover; some kind of assurance that they are safe, loved, and won’t be hurt again (Graham and Rawlings
Intertwined between periods of abuse and harassment, perpetrators show kindness like the loving partner that victims crave. These confusing moments surface resonant feelings that perhaps their partners really do care about them, despite the abuse. However, even these loving moments are means for control. What seems a sweet moment, a long walk or a romantic dinner, can actually be read as a debt to be repaid. Perhaps the perpetrator made dinner reservations without asking about his partner’s schedule, or planning the dinner assumed forgiveness, or now the victims owe obedience to their perpetrators: “Sometimes what seemed to be so loving in one context actually seemed a continuation of the controlling and over possessive behavior of the batterer” (Walker 2000: 137). Loving contrition complicates the relationship by not only working as another form of passive and nuanced control, but also by creating a contradictory reality for the victim. Thus, a complicated bond forms, putting the victims in the mindset that if they do what their perpetrators want, then they get what they want out of the relationship: caring and intimacy. This compliance to get the loving partner they want also helps victims feign control and makes them feel like they are the one steering the relationship, when in fact, they’re playing right into the cycle of abuse.

By staying with their perpetrators, victims are further involved in manipulative logics. Psychological bullying and berating makes victims feel worthless; forbidding victims to see friends or family isolates them; telling the victims that they’re lucky their perpetrators are even with them makes them dependent. Eventually, the only person in a victim’s life is the person who makes them a victim, and the thought of losing that person is terrifying (Graham and Rawlings 1991; Walker 2000). Victims live in the carefully constructed and guarded world that their perpetrators create for them, drawing out their characters to fit an image that centers around the perpetrators. They are completely manipulated and controlled to the point where all they
have is their abusive partners and all they see in themselves is the broken, dependent characters that the perpetrators created (Graham and Rawlings 1991). Amidst the harassment, manipulation, and controlling acts, the victims’ identities are reconstructed to reflect only who they are in relation to their abusers. Without their abusers, they fear that they will wither away to insignificance. At this point, victims do not only stay in hopes of a loving relationship, but they are staying for survival. Despite the abuse, victims can find comfort in at least having an understanding of what their roles are, even if those roles are a delusion.

Leaving an abusive partner is emblematic of the perpetrator losing power and control, which is part of why leaving an abusive relationship can actually be the most dangerous time for the victim. One of the greatest fears in leaving abusive partners is post-traumatic stress and constant fear of a surprise retaliation (Graham and Rawlings 1991). If victims stay with their partners, they will at least know what is coming because the abuse is systemic. Victims opt for horrific yet predictable relationships and harbor the occasional sweet moments to cope; they habituate themselves to their abusers and at least know what to expect.

Compliance with a perpetrator can be another survival tool. Rather than resisting, victims may submit to their perpetrators’ impossible demands in attempt to control the anger and predict the next move (Graham and Rawlings 1991). This cooperation allows the victim to feign a sense of control because knowing the signals for severe impending violence allows the victim to somewhat manage and avoid abuse. In this way, although indirectly, their perpetrators are maintaining control over them. Battered Woman Syndrome manifests itself through the different empathies and intimacies that victims feel for abusers. Caught between abuse, retaining a loving relationship, and trying to alleviate the danger, victims don’t always see abuse as reason to leave
their partners or understand their own needs for protection, both physically and mentally. Or perhaps, they don’t see abuse as reason enough to leave.

I started focusing on intimate partner violence, but throughout my research I found that intimate partner violence and sexual assault are somewhat inseparable when treated in institutions. It was important to detangle sexual and relationship violence because focusing my research on intimate partner violence reveals the complicated layers in abusive patterns. It also pushes us to understand specific precautions to take through policy implementation. However, I found that within the university context, sexual and relationship violence are treated similarly. In designing this project, I remained mindful of the specific complexities, but chose to broaden the scope of my research to intimate partner violence and sexual assault, grouped together under “domestic violence,” to reflect what institutions actually do.

*In a university context*

Within an institution, domestic violence policy is difficult to address because it’s challenging to regulate how people interact during their personal time. Intervention in intimate partner violence is intersectional because the institution needs to approach student safety and wellbeing from many different sides. Simultaneously, universities need to address their own legal responsibility as institutions that protect its participants, as well as the legal rights of the perpetrators. Intimate partner violence is even more difficult to maneuver because of the nuanced forms of abuse, emotional pulls between parties, and the need to avoid further upsetting parties. With a tactic like social isolation, a victim may see less and less of friends and family. However, friends and family don’t always recognize the social withdrawal as a pattern of isolation managed by an abusive partner. Rather, they mistake what they see as romantic absorption and assume that the victim doesn’t want to spend time with them. When it’s difficult
to recognize intimate partner violence in interpersonal spheres, it’s even more difficult to develop and implement interventional policies for intimate partner violence from an institutional standpoint.

Furthermore, within a small insular “bubble” community, such as a small institution of higher education, intimate partner violence policy implementation is further complicated by the close proximity of people involved and the intertwining community. Brandeis is a small university, and like many schools, has a campus smaller than a square mile that is home to thousands of students. Within this space, students sleep, eat, go to classes, have jobs, go to club meetings, play sports, and have social lives. Helping a student feel safe in an institution of higher education is not solely about ensuring safety in class, but ensuring a safe environment in all realms. Components that make bubble communities special are also what make it difficult to develop effective policies and implementation systems.

Brandeis’ greatest policy dilemma is that no students know what the policy and system are. Brandeis’ system is complicated, has many bureaucratic obstacles, and is both time and emotionally consuming. Furthermore, student impressions, either from experience or word-of-mouth, leads to mistrust in the administration and reluctance to begin seeking information about Brandeis’ system. Students may believe myths about what will happen when they initially report, what an anonymous report can accomplish, or what kind of intent the staff will have when they enter each case. However, without even knowing what students’ rights are or what resources they have access to, even the sounder parts of Brandeis’ system, such as the emotional support systems or getting academic accommodations, are underutilized.

Brandeis’ Title IX system, which addresses all sex-based discrimination, is complicated and has many contradictions. Ironically, different precautions to avoid re-traumatization can
make the process worse. For example, students are supposed to have total agency and complete voluntary participation, but sometimes the institution sees a major liability, such as a pattern of abuse, and follows its own directive. Furthermore, students respond to a combination of real structural reasons and sometimes myths about the process that dissuade them from reporting. Students may have expectations of reporting or sanctions that the university doesn’t always meet. Students at Brandeis may believe that the Title IX investigation process gives students no agency, is invasive at every step, and has uncaring staff conducting this work.

An important aspect about Brandeis’ Title IX system is that it consists of caring staff who come from related backgrounds and have made significant changes at Brandeis in recent years. Before working with Brandeis’ Title IX, staff members worked with sexual assault survivors through investigations and the District Attorney’s office, had personal incentives to work with domestic violence, and had caring connections to Brandeis as an institution. These staff members work to create a system that is fair, impartial, legally compliant, and helpful to students. However, students may overlook these staff members because they don’t distinguish between the administration, the complicated Title IX system, and the staff who work in the system. Instead, all three pieces are grouped together under “the administration,” for which there is mistrust and bad impressions.

Data disparities in Brandeis’ policies and published statements illustrate student mistrusts in the administration’s ability to protect them. In 2014, only four cases of dating violence, domestic violence, or stalking were reported to the Brandeis police (Brandeis Department of Public Safety 2016). According to the Campus Climate Survey, an anonymous survey sent out to Brandeis students in Spring 2015, with a 34% response rate, 73 undergraduate women and 22 undergraduate men reported having been in an abusive or controlling relationship while at
Brandeis (“First Results: Brandeis University Campus Climate Survey on Sexual Misconduct (Spring 2015)”): 2015). This drastic disparity of incidents of dating violence prompts questions about why so many students do not report sexual misconduct or intimate partner violence. I am looking at university policy, interventions, and institutional structures related to intimate partner violence and sexual misconduct to understand that question, as well as what changes would help students feel safer coming forward.

Brandeis is not unique—many college campuses struggle with low reporting rates. In assessing campus sexual assault, the two major components of intimate partner violence and sexual misconduct are prevalence on college campuses and low reporting rates. These two components surface important contradictions about how prevalence and reporting rates co-exist and how they could better align to be useful for a larger society. The American Association of University Women compiled data from 2014 Clery Act reports and found that 91% of colleges said there were no reported incidents of rape in 2014 (2015). However, 91% is not an accurate representation because many studies reported that rather than low prevalence on college campuses, there is actually high prevalence and simply low reporting rates. For college students, the American Association of University Professors reported that fewer than 5% of sexual assaults actually reported to administration or the police (2013; James and Lee 2015).

91% of colleges reporting zero rapes does not effectively represent the actual prevalence of rape on college campuses. Looking at the larger society, the American Association of University Professors reported that college aged women, not necessarily just college students, age 18-21, are four times more likely to be sexually assaulted than any other age group (2013). Focusing on college students, the U.S. Department of Justice conducted surveys with more than five thousand undergraduate women in 2005 and found that around 20% of women are raped in
college, approximately 1 in 5. The Department of Justice’s study also found that 29% of women
during their four years of college experienced some kind of sexual violence from romantic
partners, such as coercion, rape, attempted rape, or sexual contact (Krebs et al. 2007). With such
high rates of sexual assault and intimate partner violence against college women on a national
scale, we can assume that 91% of colleges that had no rapes reported does not represent rape
prevalence, but low reporting.

Bearing in mind that 1 in 5 women are raped in college, it becomes clear that most
women do not report. Issues with low reporting exist in universities, in cities, and nationally.
Wolitzky-Taylor et al. interviewed over 3,000 women throughout the United States in 2006,
from ages 18 to 76, and found that fewer than 1 in 6 women who were raped reported the
incident to the police (Wolitzky-Taylor et al. 2011). Waltham, Massachusetts, the city where
Brandeis is located, has more than 63,000 residents, and yet in 2015, there were only eight
reports of rape to the Waltham Police (Waltham Police Department 2016; United States Census
Bureau 2015).

University of California, Berkeley had a similar discrepancy between its own campus
climate survey and annual security report. The voluntary survey, with a 24% response rate,
reported that between 2009 and 2014, 507 students experienced unwanted sexual contact
(Rankin & Associates, Consulting 2014: 112). If all Berkeley students took the survey, about
30,000, we might expect 2,000 incidents to be reported, based on the statistics discussed above.
Yet, between 2013 and 2015, only 126 incidents of forcible sex offences, rape, fondling, incest,
and statutory rape were reported to the university (University of California, Berkeley 2016).

Stanford University also sent out a voluntary survey to their student body, which had a
59% response rate. Students who experienced sexual assault during their time at Stanford
comprised 1.9% and an additional 14.2% of the respondents experienced sexual misconduct. Of the students who experienced any kind of nonconsensual sexual act, only 2.7% formally reported the incident to the university (Office of the Provost 2016). Similarly, Bentley University, a close neighbor to Brandeis and comparable in size, found that 9% of its student body experienced unwanted sexual contact, of which only 4% actually filed a formal report with the campus police or Title IX staff (Bentley University 2016). Both the high rates of sexual assault and unwanted sexual contact and the discrepancy between the frequency of incidents and reporting appears to be fairly universal across U.S. college campuses.

Brigham Young University in Utah was criticized for not offering amnesty to its students for drinking or illegal drug use when they reported sexual assault. Survivors claimed that in filing under Title IX, other activity, such as alcohol consumption or illegal drugs, re-victimized students during a Title IX investigation and triggered a conduct investigation against themselves: “Survivors say the [conduct investigation] creates a chilling effect on reporting at [Brigham Young University]” (Walch 2016). In contrast, Theresa Rosen clarified that any other conduct violation at Brandeis, such as excessive alcohol consumption, is treated separately from Title IX. Establishing a protocol for addressing other student conduct violations is important because if any drugs or alcohol were present during an incident, students are less likely to report to the university (Fisher et al. 2003).

With the limited number of reports, both on a national scale, a more localized scale, and within specific institutions of higher education, we can see that Brandeis’ struggles are not unusual. Alarmingly low reporting rates are an issue across U.S. college campuses and in society as a whole. Many rape survivors, whether or not they chose to report, cited concerns such as family or friends finding out or that they would be blamed. From Wolitzky-Taylor’s
study, 68.1% of women who chose not to report said their greatest concern was fear of an attack or retaliation from their perpetrator. This shows a deep distrust of the legal system and its ability to protect survivors after a case (Wolitzky-Taylor et al. 2011).

Reporting incidents is important for universities and students. For students, while reporting can lead to helpful changes, it’s important that students feel comfortable reaching out to the institution and asking for help. If a student wants, third party intervention should be an option. For the institution, receiving reports influences how it responds. Institutions can take administrative action to protect students, the community at larger, and adjust structures to prevent future incidents. Policy intervention should reduce the number of incidents of sexual misconduct and intimate partner violence over time. However, if the university doesn’t know about the prevalence, there is little it can do.

In this thesis research, I am looking at the development and implementation of Brandeis’ policies on intervention in sexual misconduct and intimate partner violence. Survivors should have the option to report their cases and receive institutional protection. Institutions of higher education should be able to protect its students, but many cases go unreported. This project focuses on Brandeis University and examines the policies that exist, their implementation, and the structures that dissuade students from reporting in order to understand why students might not report.

**Methods**

*IRB influence and shaping the scope*

Before I had a clear idea of how this research would come together, I wanted to look at my question from two different angles: the university staff and the students. I wanted to speak
with university staff to investigate the university’s system for addressing domestic violence, the sexual misconduct policies, and the implementation of those policies. I entered this project with student and survivor bias, skepticism of the administration’s integrity. I started with questions, such as: Does the system have shortcomings? Where is it failing? Where is it succeeding? What policy recommendations would help? I also wanted to speak with students who had experienced sexual assault or intimate partner violence to learn why they did or did not report to the university and what happened. Since two sides would make a dissertation, not a thesis, I sought out Brandeis’ Institution Review Board (IRB) for advice. I presented the different research methods, clarifying that asking students about their experience with sexual assault or intimate partner violence was not my intention, rather I wanted to ask about their administration experiences and impressions. While the IRB said this route was possible, they discouraged it and warned that the protocol would need to thoroughly safeguard and protect students.

With either route, the IRB set limitations beyond what I thought necessary, but also encouraged me to refocus my research. To interview students, IRB said I would have to craft an interview guide that would not re-traumatize or harm students. To speak with university staff, I had to mask identifying information in case staff members spoke critically of the institution. I opted to use university staff as my interview subjects and avoid additional obstacles, keeping my focus on the system and not the students.

If I were a student who experienced sexual misconduct and chose to report, speaking about the incident could be re-traumatizing or anxiety inducing. There is a chance that I could stay level headed and speak to both the good and the bad of the system, but that balance is difficult to manage with an emotionally involved subject. If the outcome of the case was favorable, I could quietly move past it and focus on my own recovery. However, if the
investigation did not help me how I wanted it to, perhaps I would only recall my bad experiences, impressions, and actively search for shortcomings and failures.

I am not studying abused people, nor am I studying rape culture or prevention. Interviewing university staff refocused my research on the social implications of an existing system, how it works, what its consequences are, and what changes could improve the system. After ten weeks of back and forth correspondence, I got IRB approval under the conditions that not only would I use pseudonyms of subjects, a common practice in human subject review, but that I would not use official job titles to ensure confidentiality in a small university.

The limitation on the use of job titles did not affect the substance of my research, but it did initially reinforce my skepticism, doubts, and mistrust in the administration. This prohibition created a dichotomy between myself as a researcher and Brandeis as an institution. Perhaps, the IRB recognized a conflict of interest between my critical investigation and their role as a department that regulates ethical research for the institution at large. I initially crafted my interview guide to try to document and understand an existing system, full of clarifying questions about interviewees’ jobs and how the system functions. I also included hypothetical scenarios and asked staff what would happen if x, y, z occurred (Appendix D). Everything I wanted to ask was information that students needed to know easily and handily. I was examining an entire system and using interviews and public documents to piece together the elements in order to understand if and how the system helps students. My reaction was that if the university was reluctant to fully support my investigation, they must have something to hide.

The IRB is meant to protect and provide confidentiality for human research subjects, which I respect. It created obstacles and frustrated me because it prolonged my approval process and I thought it hindered my research focus, but I value its goal of protecting confidentiality and
privacy. The IRB limitation changed my research, but in hindsight, speaking with university staff made sense for the scope of my research. Speaking with students could have enhanced my investigation, but I wouldn’t have understood how the system works. While I originally wanted to speak with students to learn about their experiences with Brandeis’ system, I first needed to learn how the system worked.

After assessing the system to be fair, impartial, and legally compliant, the next step would be to assess the perception of the system by the students who use it. Did they choose to report? Were the staff helpful? Did any part of the system frustrate you? What outcomes did you want? What outcomes did you get? I did not speak to students, but doing so would be the next step moving forward to understand what about Brandeis’ structures dissuades students from reporting. In order to understand the relationship between an institution’s system and the members, we have to examine both.

I interviewed the Title IX staff, whose office and system is separate from the overarching Brandeis administration. I selected respondents based on their direct roles in Title IX investigations, their supervising roles, and referrals from other interviewees. Five out of the nine university staff who I interviewed declined to let me record, which was their right as protected subjects. This fed into my skepticism that there was something to hide.

Throughout the interviews, I learned that the division between me and the administration, was distinctly different from the relationship between myself and my interviewees. While I share the general student body’s mistrust of the administration, the Title IX staff convinced me that they were trustworthy and genuinely interested in helping students. Beyond declining to be recorded and cautious language, I did not experience pushback from interviewees. The staff
wanted me to investigate and understand Brandeis’ system. We had a similar mission of sharing
the same information with students.

If a Title IX staff member told me that they always follow a students’ directive, and a
student experienced otherwise, I don’t have access to the student’s narrative, and can’t fully
explore that contradiction. However, interviews provided two pools of information: the
substance and how staff members communicated with me. They spoke about the intricacies of
Brandeis’ Title IX system, but they also spoke about how they want to support survivors. While
the system itself may contain contradictions that are troublesome for students, the staff behind
the system convinced me that they have caring intentions and want to keep survivors’ wishes at
the center of an investigation.

Piecing together the theoretical and the specific: documents and interviews

I needed preliminary information to understand basic dynamics and processes before
conducting interviews. I needed to understand the dynamics of sexual assault and intimate
partner violence, their relationships to institutions and how they function in universities, and the
policy and system at Brandeis. This step was crucial because it laid out a landscape of the
system: what is currently in place, how it was developed, how different factors complicate the
system, and what gaps still exist. I conducted a sociological literature review to look at the
complications of sexual assault and intimate partner violence to help understand the
contradictions in abusive relationships and the impacts on survivors. This understanding helped
reveal why these issues are particularly significant in university settings.

I also looked at policy developments to see specific changes over time. Understanding
the policies and processes at Brandeis transitioned my research from the theoretical to the
concrete. After ruminating on how abusive dynamics play out in university settings, I turned to
Brandeis’ resources to learn about the administrative structures. The policy overview required a comprehensive understanding of the university policy and the response processes for misconduct violations. I searched through Brandeis’ site, “Sexual Misconduct and Title IX,” read the current Rights and Responsibilities (the student code of conduct), gathered public relation statements, policy statements, and student resource informational pamphlets. Policy development not only involved looking at Brandeis’ system, but included looking at similar policies in a larger context. Massachusetts’ anti-abuse and anti-harassment laws helped contextualize Brandeis policies and allowed me to assess how state laws shape campus policies. However, federal legislation was the most influential and formative of the standards on campus policies.

I wanted to learn how federal Title IX policy changes, such as the Davis v. Monroe ruling and the Dear Colleague Letter, affected the standards for institutional intervention. Changes in Title IX policy over time make it consistent with a feminist perspective because it transitioned the focus from institutional liability to how sexual violence impacts students, so I visited the Brandeis archives to see how Brandeis’ policies corresponded. Comparing the two policy change frameworks showed that Brandeis’ policies were revised to reflect national standards. I chronicled past issues of Rights and Responsibilities, starting in 1990, when Title IX started to be used nationally to recognize sexual assault and harassment as a violation of its code. Within that timeframe, I saw how the university standards changed, solidified, became more transparent, and were influenced by changing policies in the federal landscape.

When I chronicled information about Brandeis’ sexual misconduct process, it became apparent that there were significant discrepancies. How long does an investigation take? Will Brandeis force students to do anything? Are abusers arrested? Brandeis’ sexual misconduct policy is meant to protect students, but it can only do so if students report incidents.
The policy overview was originally meant to be preliminary research for my interviews; however, it actually became an example of the discrepancies between students and the administration. If students don’t reach out to the university, Brandeis can’t respond. Therefore, publicly accessible information should provide students with everything they need to make an informed decision about whether they want to report. Even with my grounding on the topic, I found Brandeis’s system to be complicated and confusing. If I had trouble accessing this information, wouldn’t another student who actually needs university interventions have trouble, too?

Brandeis documents surfaced the biggest question, which became the focus throughout my research: why don’t students report incidents of intimate partner violence or sexual misconduct? There is a large disparity between sexual assault crime prevalence on campus and actual crime reports on campus. Although there is certainly a significant presence of intimate partner violence and sexual misconduct at Brandeis, students do not seek intervention from the university and do not report incidents.

My interview approach shifted throughout the process. My initial intent was to learn how Brandeis Title IX staff came to do this kind of work, clarify what they do for Title IX and students, and what they want to change moving forward. My first interview was with Theresa, who conducts Title IX investigations at Brandeis; she is at the forefront of Brandeis’ processes and helped me understand how it all works. After the first couple of interviews, I didn’t feel the need to focus on the process complexities anymore because I had a solid understanding. Instead, I focused on how staff members feel about Brandeis and the Title IX system. I found myself

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1 All human research subjects are pseudonyms. See Appendix C for pseudonyms and job descriptions.
straying from my interview guide to concentrate on what staff members thought students think or what contradictions they saw in the system. These interviews helped piece together why students don’t report from an administrative perspective.

I conducted interviews with nine staff members at Brandeis who are directly involved with sexual misconduct at Brandeis and had two follow-up interviews. These included university staff who work with Title IX compliance, investigations, and implementation; those who work to support survivors of sexual misconduct and intimate partner violence, regardless of whether or not there is an administrative investigation. I selected the official Title IX staff, Theresa, Sylvia, Susan, and Sharon, and added staff to my list based on suggestions, such as Genevieve, who handles student no-contact orders. I also selected support staff, Margaret and Rebecca, to learn about university support without an official investigation.

To keep in mind

I’ve thought about language use since the beginning of my research process: should I describe abused people as “victims” or “survivors”? This question was more important in the interim, as I learned each label carries both political and personal meanings. “Survivor” can be used as a political choice to emphasize the abused person’s empowerment and agency, whereas “victim” can reinforce a disempowered state and in turn reinforce a perpetrator’s power and control over them. I prefer “survivor” from a sociological and feminist stance. However, I cannot overlook the interpersonal experience of abused people, even if it means they feel like a broken victim in that moment.

Throughout my thesis, I will interchangeably use “victim” and “survivor,” depending on the presence of the perpetrator. A year into this research, students are not the focus of my thesis, but the university staff and the system. However, language use is still important because it also
contributes to how a system shapes students. As a social science researcher, my ethical obligation to human subjects is to analyze them from what I learn about them, not from what I assume about them. I need to draw a line between what a person might feel about their own experience and how I feel that person feels. I don’t wish to make sweeping generalizations, but I am comfortable choosing labels for observed states: while a person is currently in an abusive relationship, she or he is a victim. If the abused person is presently without a perpetrator, she or he is a survivor.
Chapter II: Policy overview of existing structures

Understanding the laws: federal, state, and their evolution

Title IX

Title IX regulations for universities address complicated dynamics between legal regulations and the different kinds of insular communities that are created within institutions. Title IX is part of the Education Amendments of 1972 that prohibits discrimination based on sex within federally funded institutions. Brandeis University, a private university that receives federal funding and grants, is thus required to comply with the federal standards that are outlined in Title IX. This anti-discrimination policy refers to exclusion from participation, denying benefits, or discriminating in a program or activity that receives federal funding. Discriminating in programs or activities includes general participation in the institution, institutionally funded activities, as well as access to facilities. Under Title IX, students should be able to participate in classes, use libraries, live in residence halls, and join student clubs and organizations without any fear of sexual harassment or sexual assault. Historically, this anti-discrimination policy was interpreted to mean equal access, such as female athletes’ access to sports facilities and athletic scholarships. The interpretation of Title IX did not include sexual misconduct between students as institutional discrimination until the Davis v. Monroe decision in 1999 (Appeals 1999). The educational institutions mandated to comply with Title IX include all public and private preschools, elementary schools, middle schools, high schools, and all institutions of higher education, such as universities or vocational training schools (United States Department of Justice 1972). Title IX created a standard for any institution receiving federal assistance that required equal access for all participants.
The *Davis v. Monroe* was a ruling in an appeals court that brought sexual misconduct to educational institutions’ attention (Appeals 1999). The petitioner filed the case against the Monroe Country Board of Education and school officials in her daughter’s defense. The petitioner’s daughter, LaShonda Davis was in fifth grade and was sexually harassed by another student. The petitioner argued that her daughter was unable to participate equally in the school environment because she was sexually harassed. She argued that if the school officials had intervened in her daughter’s case, she would have been able to continue with her education. The Supreme Court ruled that the unequal access within the educational institution violated the original sanction of Title IX of the Education Amendments of 1972 (Appeals 1999).

*Davis vs. Monroe* set a new standard for Title IX that included sexual misconduct as a type of discrimination:

Here, petitioner attempts to hold the Board liable for its own decision to remain idle in the face of known student-on-student harassment in its schools […] The common law has also put schools on notice that they may be held responsible under state law for failing to protect students from third parties’ tortious acts (Appeals 1999: 629).

Even in a case where the institution itself did not directly discriminate against its students, the court ruling resolved that institutions are legally obligated to intervene in student-on-student discriminations. The student-on-student discrimination described in *Davis v. Monroe* inhibited a student’s access to a safe educational environment. The school officials in Monroe County had a passive presence and did not intervene in LaShonda’s case, which left her unable to wholly participate and have the same access to education as her perpetrator. *Davis v. Monroe* was a turning point for Title IX because it validated that sexual misconduct offenses by students are discriminative violations of federal regulations for institutions.

This new standard instigated by *Davis v. Monroe* classified the lack of institutional intervention in student-on-student offences as discriminatory and set guidelines for complying
with Title IX as educational institutions develop their own policies. The anti-discrimination standard in Title IX is primarily focused on how the institutions conduct themselves and develop their own institutional policies. Relationships that can experience discrimination in institutions, as defined by Title IX, include employer and employee, faculty and faculty, professor and student, and now included student and student relationships. Violations of Title IX are also recognized in same-sex relationships and in incidents that take place away from the institution’s geographic premise (U.S. Department of Justice Civil Rights Division 2001).

Title IX is primarily focused on the development of complying policies, and offers fewer regulations for remedi- ing sexual misconduct cases that violate these anti-discrimination policies. In the early 2000s, Title IX required institutions to address violations, but did not specify how to determine responsibility or state regulations for remedi- ing measures. However, the statute did mention the need for institutions to address survivors and perpetrators of sexual harassment:

If an educational provider determines that sexual harassment has occurred, it should take reasonable, timely, appropriate corrective action, including steps tailored to the specific situation. […] For example, the provider may need to counsel, warn, or take more serious disciplinary action against the harasser, based on the severity of the harassment or any record of prior incidents (U.S. Department of Justice Civil Rights Division 2001: 104).

The response measures suggested in Title IX, such as counseling, warning, or more serious actions, do not reflect the urgency required in certain cases of intimate violence. They also rely on non-definite language, such as an education provider should take corrective action and the provider may need to counsel the harasser (U.S. Department of Justice Civil Rights Division 2001). This language reflects the gaps in the enactment process written into the policy, while also taking into account that although Title IX is a federal regulation, violations are dealt with administratively; Title IX violations are not criminal. In 2001, when the Department of Education published the Sexual Harassment Guidance, there was no strict measure that was
legally regulated by Title IX to determine proceedings for survivors and perpetrators. Thus, there was no legal requirement that addressed the institution’s responsibility specifically to protect students from other students. Discretion therefore lay with the institution.

The implementation of remedying measures, which is required by Title IX, is at the discretion of the institution itself. In order to receive federal funding, educational institutions must first submit an assurance, which is a formal document that states that the institution will develop all of its policies to comply with and reflect Title IX sanctions. The assurance also guarantees that the institution will take remedial steps to address any current policies or regulations that reflect sex-based discrimination. The next step is for the institution to perform a self-evaluation of its current policies:

An educational institution must evaluate its current policies and procedures as they affect the admission of students, treatment of students, and employment of both academic and non-academic personnel working in connection with the provider’s education program or activity (U.S. Department of Justice Civil Rights Division 2001: 109).

If, through this self-evaluation, the institution finds that it is not in total compliance, they must then modify their policies and remedy any possible previous violations of Title IX (U.S. Department of Justice Civil Rights Division 2001). In this self-evaluation process, Title IX once again provides clear guidelines for institutions’ policy development, but does not specify the nature of subsequent actions.

The Dear Colleague Letter changed Title IX regulations for investigations in 2011. Title IX is a federal mandate that provides guidance for institutions. The federal mandate originally required institutions to investigate sexual misconduct cases and have policies that comply, but it did not specify how to investigate. Determining how to investigate and what sanctions or remedying measures to impose was at the discretion of the university. Whereas Davis v. Monroe
changed the standard for university intervention for student-on-student offenses, the Dear Colleague Letter in 2011 changed the standard for university intervention. This document refocused the discussion beyond the liability of the institution, by acknowledging sexual assault as horrible and arguing that institutions need to protect and help their participants because of the nature of the crime of sexual violence, rather than their liability as institutions.

While different universities ultimately generate their own specific Title IX processes, the Dear Colleague Letter gave very specific examples of what the Office of Civil Rights expects. The Dear Colleague Letter gave clear steps for institutions to respond to student-on-student sexual violence. Instead of focusing on institutional liability for equal access and sex-based discrimination, the Dear Colleague Letter shifted the focus to student safety; it served as a statement of recognition from the federal government that sexual violence is prevalent, wrong, and seriously impacts people. This letter set a standard for schools to be responsible for protecting students in all realms, such as housing, classes, extracurricular activities, and athletics. Other new requirements included immediate response to known sexual harassment and sexual violence incidents, training for all staff members involved, keeping all parties involved informed, and giving all parties due process. The letter recommended investigations to stay within a 60-day timeframe and to make sure the burden of interim measures does not fall on the complainant. For example, if the complainant and respondent live in the same building, the respondent should be the one to move. The letter provided specific remedy examples, such as providing support services, hospital escorts, and ensuring that the complainant will move safely between classes (Office of Civil Rights 2011).

The same reason that university communities are difficult to navigate is why it is advantageous for universities to have discretion about Title IX violations: the dynamics of
bubble communities call for particular understandings of how each community functions. Most universities in the U.S. exist as “bubble” communities, where they create their own insular society. Students often live, go to classes, join clubs, play sports, and even have jobs on the same campus. They go to class with their neighbors, play soccer with their lab partners, have dinners with the dance team, and see any number of people while walking back to their dorms at the end of the day. If there is a student-on-student offense, it’s likely that they have mutual friends, have a class together, or even live in the same building.

There are many contradictions to institutions self-governing for Title IX investigations, but this is also a means for institutions’ ability to respond uniquely to its participants. When the university has discretion, they may be able to maintain the community. The university can determine interventions that reflect the intersectionality of student life, such as developing no-contact orders through housing location, classes, and enlisting campus employees to help students feel safe. At an institution like Brandeis, a typical student could have two majors, be involved with three clubs, have an on-campus job, and an off-campus internship. Many Brandeis students are also involved with social movements, whether that means participation in demonstrations off or on campus or advocating to the administration for policy change. When the university has discretion, the investigators already have a better understanding of the general students’ dispositions and what specific needs students may have. University-associated investigators can be more sensitive and understanding of students’ specific needs, as well as sensitive to potential social-environmental factors. A problem with institutional discretion is that there can be bias towards the institution, such as a school not wanting a public image that it has a lot of sexual violence on campus. Perhaps a school would want to cover up those incidents, or the administration could have a particular bias towards one student because of their active
involvement in the community, such as being on a sports team or a class president. There needs to be a balance between institutional sensitivity and external incentive for a fair and equitable process.

*Massachusetts laws*

Title IX has an interesting intersection with the local laws. Through the submission of an official assurance, institutions that are required by law to comply with Title IX also have the discretion to create their own implementation and regulation plan, yet they are still subject to state laws (U.S. Department of Justice Civil Rights Division 2001). In this way, institutions are responsible for their own investigations. Title IX is focused on how the institutions interact with their community members, while the local laws may focus more on specific violations of the law, without a preexisting relationship with an institution.

Chapter 209a of the Massachusetts General Laws is focused on abuse prevention and is frequently referred to for restraining orders in abusive relationships. However, the abuse referred to in 209a is only physical:

(a) attempting to cause or causing physical harm;

(b) placing another in fear of imminent serious physical harm;

(c) causing another to engage involuntarily in sexual relations by force, threat or duress (M.G.L. ch.209a §1). Massachusetts General Law 209a does not provide for the other forms of abuse common in domestic violence.

The Massachusetts Police role is primarily focused on physical and immediate dangers, deescalating, addressing immediate needs of an abused person, and providing information for moving forward. Police are responsible for assessing the situation and remaining on the scene while they believe there is still immediate physical danger. They are also responsible for
addressing an abused person’s physical safety, which may include escorting them to a hospital, emergency room, or safe space. Finally, they inform the abused person of their immediate rights to file an order against their perpetrator, which can be followed up with a restraining order.

Abused people are offered five different immediate orders:

(a) an order restraining your attacker from abusing you; (b) an order directing your attacker to leave your household, building or workplace; (c) an order awarding you custody of a minor child; (d) an order directing your attacker to pay support for you or any minor child in your custody, if the attacker has a legal obligation of support; and (e) an order directing your attacker to pay you for losses suffered as a result of abuse, including medical and moving expenses, loss of earnings or support, costs for restoring utilities and replacing locks, reasonable attorney's fees and other out-of-pocket losses for injuries and property damage sustained (M.G.L. ch.209a §6).

A person who files a complaint about a violation of Chapter 209a is eligible to file for a restraining order. The nature of the restraining order can take several different forms, including but not limited to: (1) a no-abuse order, (2) a no-contact order, (3) or an order to vacate and stay away from the household or workplace. If any of these orders are filed against a perpetrator of abuse, the next violation would be legally actionable, such as being fined up to $5,000, imprisonment for up to two and a half years, or mandatory enrollment in a certified Batterer’s Intervention Program (M.G.L. ch.209a).

While Chapter 209a is only for physical violations, Chapter 258e of the Massachusetts General Laws is for physical and nonphysical abuse. This chapter describes harassment prevention laws to include physical abuse, forms of intimidation, threats, causing fear, and any other acts that could be considered malicious (M.G.L. ch.258e). Forms of harassment deemed appropriate by the court are eligible for similar restraining orders that abused persons can file for under 209a, which include but are not limited to: (1) a no abuse order, (2) a no contact order, (3) or an order to vacate and stay away from the household or workplace. Violations of these orders
can also result in fines up to $5,000 or imprisonment for up to two and a half years, but there is no mandatory enrollment in a Batterer’s Intervention Program (M.G.L. ch.258e).

Both types of violations can result in regulated sanctions implemented by the court. Without a localized, self-assured community, such as educational institutions in compliance with Title IX, the implementation of sexual misconduct and intimate partner violence policy is managed by the court. For example, drugging a person to overpower and sexually assault them is stated in the Massachusetts General Laws as punishable by imprisonment for up to a lifetime sentence and no less than ten years (M.G.L. ch.272). The law itself contains specific punishments, including a range to reflect the severity of the case, which in this scenario is a range from ten years to a lifetime sentence.

Courts of law may not attune to the same sensitivities to the specifics of the relationship, community, or social context as university staff would, but attorneys and judges can potentially be less biased. Attorneys and judges usually do not have a personal relationship with the complainant, the respondent, and the institution. After police interventions, a court of law responds to these violations, whether of the anti-abuse laws or of pre-existing restraining orders. Enforcing courts include the superior court, the local district court, and the Boston municipal court departments (M.G.L. ch.209a). Since the state is not a localized, private institution, there is not the same conflict of interest that educational institutions face in adjudicating between victims and perpetrators. The courts of law are not necessarily challenged by the conflict between upholding the integrity of their jobs and avoiding institutional defamation. Survivors’ attorneys are not imbedded in a bubble community the way that Title IX investigators are.
Brandeis University policy: development and implementation

Campus policy development

Brandeis University is an institution of higher education that is federally funded and thus legally obligated to comply with Title IX, which denotes regulations that must be incorporated in the university’s policy. However, these policies do not include how to proceed with investigations, determinations, and sanctions. Brandeis University’s policy on sexual misconduct is primarily guided by Title IX and Rights and Responsibilities, which is the Brandeis student code of conduct. The internal Brandeis policy also states that the university will comply with other policies, such as federal and local statutes.

Brandeis’ policy eventually developed into something more compassionate and considerate for victims and survivors. In the 1990-1991 Rights and Responsibilities, sexual misconduct and harassment are only referred to as physical violations; there was no mention of dating violence, intimidation, or stalking. However, even before the court rulings of Davis vs. Monroe County Board of Education, Brandeis recognized student-on-student offenses as violations of the student code of conduct and was a crucial part of the university standards for its students. The sexual misconduct policy also includes ways that sexual misconduct is discriminatory within the educational institution:

(1) submission to such conduct is made either explicitly or implicitly a term or condition of the individual’s employment or a student’s status in a course, program, or activity.

(2) submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting that individual; or

(3) such conduct has the purpose or effect of interfering unreasonably with an individual’s work or academic performance or creating an intimidating or hostile educational, living, or working environment (“Rights and Responsibilities” 1990: 9)
The policy, as it stood in 1990, included a brief statement on intolerance for sexual misconduct, at the time referred to as sexual harassment, and was elaborated on with examples of how situations could affect a member of the university community’s participation in the institution. Up to this point, sexual misconduct was considered something that had potential to interfere with participation status, rejection of participation, or interfering with ability to participate. Presently, the policy has more emphases on the importance of sexual misconduct intolerance and clarity on the university’s obligation to its community members.

An appendix was added to provide resources for victims and survivors of sexual misconduct in 1993. The Appendix, Services Available to Victims of Rape, Acquaintance Rape, and Other Sexual Offences, encouraged students to report any sexual misconduct incident to the Department of Public Safety, which is the campus police. The appendix also informed students of their different reporting, disciplinary proceeding options, a brief description of the nature of investigations, faculty and staff who are available for students, as well as contact information for different offices and departments on campus that could offer support and guidance in the aftermath of sexual misconduct (“Rights and Responsibilities” 1993). Although this appendix did not change the university’s sexual misconduct policy, it clarified the standards that it held for its members and further solidified Brandeis’s stance on protecting its members from sexual violence.

The University Policy section of the Rights and Responsibilities was reorganized in 1995. What had previously been Item 16, Policies on Equal Opportunity and Affirmative Action (including sexual and racial harassment), was moved closer the the beginning of University Policy, Item 6 (“Rights and Responsibilities” 1995). This reorganization emphasized the university standards for its members, the university’s recognition of the importance of addressing
sexual misconduct, and perhaps a stronger culture of talking about sexual misconduct in social spheres.

The Rights and Responsibilities of 2001 was the first issue to offer more information on sexual harassment by directing readers to the Brandeis University Policy Statement on Non-Discrimination and Harassment, although the provided webpage expired. This issue of Rights and Responsibilities implied that the provided webpage had more detailed examples of sexual harassment, elaboration on university policy, and more comprehensive descriptions of the policy implementation at the time (“Rights and Responsibilities” 2001).

The university policy, in this iteration, recognized that sexual misconduct can prevent equal access to the institution, but still did not elaborate on the social implications of student-on-student offenses. This 2001 issue of Rights and Responsibilities was the first change to the sexual misconduct policy after the *Davis v. Monroe* decision in 1999. However, this change served more to provide further information about examples and resources than to clarify university policy and the university stance on sexual misconduct intolerance. The focus was on how sexual misconduct affects a student’s relationship with the institution, but it did not reach beyond to address social implications. The standard instigated by the *Davis v. Monroe* decision obliged institutions to protect their community members, even if the misconduct was not directly related to the institution. Protecting students for the sake of their social wellbeing was not yet part of the university policy.

Of the different Rights and Responsibilities archived with the university, the issue published in 2006 had the most notable change, pointing to a shift in the role of institutions in the management of intimate relationships. Item 3 in this issue was Sexual Contact – responsibility to seek and communicate consent (“Rights and Responsibilities” 2006). Including consent in the
university policy addressed for the first time the social aspects and implications of sexual misconduct. This change refocused the community standard on community members and their social wellbeing. This was an important shift beyond solely the implications of sexual misconduct on individuals’ relationships with the institution. Including consent in the policy also gave a clearer definition of sexual assault. Furthermore, Services Available to Victims of Sexual Assault and Other Sex Offences, which up to this point had been included as an appendix, was moved to directly after Sexual Contact (“Rights and Responsibilities” 2006). Moving the resources for victims and survivors of sexual misconduct closer to the beginning of Rights and Responsibilities created a more accessible format of resources and emphasized the importance that the university attributed to sexual misconduct.

Including the Special Examiner’s Process for the first time in Rights and Responsibilities 2012 showed that the university was taking steps to restructure itself to comply with the Dear Colleague Letter. The Special Examiner’s Process is the formal Title IX investigation process for any violation of the university sexual misconduct, harassment, or discrimination policy (“Rights and Responsibilities” 2012). A clear investigation process in the written policy was likely a direct response to the Dear Colleague Letter. A similar process may have already existed, but allowing the community at large public access to this information signaled a new effort for student outreach.

Rights and Responsibilities 2014 offered a more elaborate sexual misconduct policy that clarified university intervention in sexual misconduct because the institution was concerned with the harm done to and the wellbeing of students. This issue was also the most similar to the current policy and definitions in place. The policy required consent from all parties involved in sexual intercourse and described the nature of acceptable consent in detail: silence as not an
acceptable form, explaining that consent can change over time, and that a person under any influence of alcohol or drugs is not capable of giving consent. The section of sexual misconduct also included definitions and prohibitions of other forms of violence, such as stalking, threatening, intimidation, or any unwanted harm. Including these forms of harassment in the university’s sexual misconduct policy alluded to a recognition of the severity of dating violence and the interconnectedness of non-sexual violence and sexual violence in relationships (“Rights and Responsibilities” 2014). An emphasis on healthy, consensual relationships, whether they are long term or for one night, reflected the university’s efforts to educate and protect the community members’ social wellbeing. This policy standard implied that the university obligation reaches beyond the need to intervene in student-on-student offences for institutional liability reasons and including consent accurately reflected the feminist framework instilled by the Dear Colleague Letter. Not only does Brandeis intervene in student-on-student offenses because inaction would leave them liable, but because sexual violence is wrong, harms students, harms the community, and the institution has to care about the wellbeing of its students.

Current implementation procedure

As regulated by Title IX, implementation and nature of remedying measures are determined by the institutions themselves. At Brandeis, “Sexual Misconduct, Harassment and Discrimination Policy for Student on Student Conduct” in 2016 is the latest iteration of the earlier policies defined in previous versions of Rights and Responsibilities. This university policy depicts an example of an institution of higher education whose policy complies with Title IX and also determines what policy implementation will look like. This policy refers to Title IX and Rights and Responsibilities, which is the student code of conduct, and states the university’s
intolerance for harassment and sexual misconduct, and assurance that the institution will always respond to reported cases.

The university will always respond to complaints, reports, allegations and information about sexual misconduct. At Brandeis, we believe that victims/survivors have the ability to decide whether or not they wish to be involved in any of the university’s processes to address sexual misconduct. We will uphold the privacy and confidentiality of all parties to the extent practicable. Some individuals filing complaints or involved in an investigation may want their identity to remain confidential. In some instances, the respondent can be spoken to without the complainant being identified. In other cases, requests for confidentiality must be balanced against the university’s need to investigate and take appropriate action. While discretion remains important, parties are not restricted from discussing and sharing information relating to their complaints with others who may support them or assist them in presenting their case (“Sexual Misconduct, Harassment and Discrimination Policy for Student on Student Conduct” 2016: 1).

This policy incorporates Title IX’s development requirements, such as anti-discrimination, equal access for all students, and mandate for remedying measures. However, the focus shifts to address the subjects of an investigation, recognizing not only the institution’s legal obligation, but the moral responsibility to the students and to uphold standards for sexual misconduct intolerance.

The university policy tries to balance explaining what students’ involvement in an investigation would look like with the different institutional obligations that could affect students’ involvement. These contradictions in the policy are confusing and important information that could determine whether or not students report. Faculty and staff are mandated reporters for any kind of sexual misconduct or harassment involving students, and in turn, both the university and the Title IX Coordinator are required to “respond promptly and appropriately to any allegations” (“Sexual Misconduct, Harassment and Discrimination Policy for Student on Student Conduct” 2016: 3). The policy underlines survivors’ choices to be involved or uninvolved with proceedings, while recognizing that the institution’s legal obligation may require further institutional, administrative, and legal action, regardless, if the university
determines that the student’s safety is at risk or that the perpetrator is a liability for the
institution. Thus, the responsibility to the students implies that the institution may not
necessarily follow students’ wishes for the nature of investigations, involvement, uninvolve
ment, and confidentiality. This institutional obligation is important to distinguish because it underlines
an institution’s primary concerns, which is upholding their integrity as an institution while
avoiding defaming liabilities. If the university decides it is in the best interest of the student or
the community at large, they may overrule a student’s wishes and proceed how they see best fit.
Disregarding serious risks can violate legal responsibility for the safety of students and infringe
on the university’s integrity, as regulated by Title IX. It is in the best interest of the institution to
avoid liabilities, such as multiple reports against one student, or other known risks to faculty,
staff, or students involved with the university.

*Defining roles*

The investigation process for sexual misconduct cases involve multiple parties and
appointed faculty members to create a panel of investigators and judges. The following glossary
is a reference for understanding different roles within investigations, as labeled by Rights and
Responsibilities.

**Complainant:** The student who files the original Community Standards Report (CSR),
reporting an incident that made them feel unsafe, hurt, discriminated against, or violated. The
complainant can state whether or not they would like to proceed with an investigation. If they do
wish to proceed, they have the option between a Special Examiner’s Process or an informal Title
IX investigation.

**Respondent:** The student who the CSR is filed against, and in turn is obligated to
respond by either accepting or denying accountability. The respondent’s acceptance or denial of
responsibility determines subsequent steps in the university investigation processes, varying for either a Special Examiner’s Process or an informal Title IX investigation.

**Point of Contact (POC):** The administrator who receives the initial Community Standard Report and informs students of their rights, such as protective measures that can be immediately applied, and reporting options, such as a Special Examiner’s Process or an informal Title IX investigation.

**Chief Student Affairs Officer (CSAO):** The administrator who appoints faculty and staff members to roles in different investigations. Roles that the CSAO appoints include the case manager, the outcomes administrator, the appeals administrator, and sanctions panel, and the appeals panel.

**Case Manager:** Helps both the complainant and respondent throughout the investigation and serves as an intermediary between the students and the administration. The case manager meets with the students to review the case and as an informational resource to students throughout the investigation.

**Co-Examiner:** Serves as the investigator for the fact-finding phase. They are the sole investigator during an informal investigation and work closely with the Special Examiner for a Special Examiner’s Process. The Co-Examiner will collect evidence and draft a report on the facts of a case, observations about participant credibility, and opinions about whether or not there is enough evidence to support responsibility.

**Special Examiner:** An attorney hired by the university on a case-by-case basis to serve as an investigator for a Special Examiner’s Processes. The Special Examiner will collect evidence and draft a separate report on the facts of a case, observations about participant credibility, and opinions about whether or not there is enough evidence to support responsibility.
Outcomes Administrator: Oversees the entire investigation and makes a final decision about accountability and sanctions. The Outcomes Administrator makes the final decision based on discussion and investigation findings, as well as the recommendations from the sanctions panel.

Sanctions Panel: If a respondent is found guilty by the Outcomes Administrator, three faculty or staff members are assembled to review the case and make sanction recommendations.

University Appeals Board (UAB): The UAB is comprised of faculty and student representatives. If either complainant or respondent asks for an appeal, based on procedural error or new evidence, the AUB convenes to review investigation findings, and recommend to either reverse, amend, or uphold the outcome administrator’s original decision. The ultimate appeals decision is made by the Appeals Administrator.

Appeals Administrator: Oversees the entire appeals process. If either the complainant or respondent ask for an appeal, the Appeals Administrator reviews the case and complaint, either for procedural error or new evidence that could change the outcome of the determination, and subsequently decides whether or not there are grounds for an appeal. After the UAB convenes to review the new information and makes a recommendation, the Appeals Administrator makes the final decision to either reverse, amend, or uphold the Outcome Administrator’s original decision (“Rights and Responsibilities” 2016).

The investigation processes

Brandeis University, as a localized and enclosed educational institution that receives federal assistance, is regulated by Title IX, but is left to determine for itself how to proceed with investigations of Title IX violations. Brandeis’s policy explains different forms of harassment and sexual misconduct that are recognized as violations of the institution’s policy, and therefore
actionable. Sexual assault, sexual exploitation, sexual harassment, sex and/or gender discrimination, stalking, and relationship violence are all forms of recognized sexual misconduct under Brandeis policy (“Sexual Misconduct, Harassment and Discrimination Policy for Student on Student Conduct” 2016: 2). Brandeis provides students with three options for Title IX proceedings:

The option to file a criminal complaint with the Brandeis Department of Public Safety and/or Waltham Police Department and/or the option to file a Community Standards Report (CSR) with the Department of Student Rights and Community Standards

The option to have the Title IX Investigator investigate a complaint without filing a criminal complaint or a Community Standards Report

The option not to pursue further action (“Sexual Misconduct, Harassment and Discrimination Policy for Student on Student Conduct” 2016: 3).

Title IX investigations are elicited from Community Standard Reports (CSR), which are electronically submitted by students. A CSR for sexual misconduct, which is more specific than a standard CSR, requires: the date and location of the incident, the nature of the incident, the complainant and respondent’s relation to Brandeis, respectively, the complainant and respondent’s relationship to each other, specification of any substances used during the incident, and a narrative of the incident, as detailed as possible. The student reporting then must select any resources they would like to be connected to, including no-contact order, housing relocation, Brandeis Counseling Center, Rape Crisis Center/Prevention Services, or none (“Sexual Misconduct Reporting Form” 2016).

If the institution knows about a violation of the sexual misconduct policy or of Title IX regulations, the university may determine that in order to protect the students and community, they will need to follow through with an investigation. Once a CSR has been submitted, the university proceeds with either a formal investigation, known as the Special Examiner’s Process
(SEP) or an informal Title IX Investigation. However, it’s important to recognize that a student’s right to either file a CSR, a report with the Brandeis Police, a report with the police department of the local jurisdiction, or the right to not file any report, does not necessarily dictate a path for a university investigation:

If victims/survivors of interpersonal violence make a report but elect not to initiate a formal adjudication process, university administrators may nonetheless need to investigate and take measures (a Title IX Investigation) to ensure the safety of victims/survivors and the community. If victims/survivors request that their name not be disclosed to the alleged perpetrator or that the university not investigate or seek action against the alleged perpetrator, the university will determine whether it can honor such a request while still providing a safe and nondiscriminatory environment for all students, including victims/survivors. The Title IX coordinator will evaluate these requests and inform victims/survivors of the decision prior to taking any action (“A Resource Guide for Sexual Assault Survivors” 2015).

This institutional intervention reflects the standards in Title IX instigated by Davis v. Monroe County Board of Education, which determined that educational institutions have an obligation to intervene in student-on-student offences. Therefore, although victims and survivors’ have wishes for certain types of investigations, as well as wishes for their own involvement with an investigation, the ultimate decision is not wholly theirs to make.

There are two types of Title IX investigations; the Special Examiner’s Process (SEP) and an informal investigation. The main difference is in what type of sanctions for perpetrators are available through each process. In an SEP, there is a possibility for formal charges and sanctions against the respondent, in addition to protective measures, such as campus residence relocation. In an informal investigation, there are no formal charges or sanctions, but protective measures can still be applied (“Rights and Responsibilities” 2016).

*Special Examiner’s Process (SEP)*

The formal Title IX investigation, known as the Special Examiner’s Process (SEP), has seven main components: submission of a CSR, assessment, fact-finding, discussion, sanctions,
appeals, and outcomes.

**Assessment:** After a complainant submits a CSR, they have an initial meeting with the Point of Contact (POC) to discuss the student’s rights and reporting options, as well as immediate measures to take concerning their safety and wellbeing. The complainant then decides if they want to continue with a formal investigation, an informal investigation, or no investigation at all. The Case Manager and the complainant meet to review the initial CSR, assess the incident, determine which provisions of the Rights and Responsibilities have been violated, and then inform the respondent of the active SEP and provide them with a copy of the completed CSR.

If the respondent accepts the responsibility that they are accused of in the CSR, the Outcomes Administrator determines any formal charges or sanctions, and the investigation ends. If the respondent denies responsibility, then the investigation moves forward to fact-finding interviews.

**Fact-Finding:** This phase in an SEP is a time for investigators to collect and examine evidence, conduct interviews, and issue a formal report of facts and conclusions based on evidence. This report is brought the the Outcomes Administrator, who ultimately determines responsibility.

**Discussion:** The Outcomes Administrator meets individually with both the complainant and respondent for final interviews, where complainants and respondents are allowed to submit last information, witnesses, or any other information that was overlooked in the fact-finding stage. This phase gives both the complainant and respondent due process. The Outcomes Administrator subsequently makes a final decision about the responsibility of the case.

**Sanctions:** If the Outcomes Administrator determines that there is not responsibility in
the case, both the complainant and respondent can file for an appeal on the bases of either procedural error or new evidence. If neither file for an appeal, the investigation ends.

If the Outcomes Administrator determines that there is responsibility in the case, a Sanctions Panel convenes to review the case and make sanction recommendations to the Outcomes Administrator. Again, if responsibility is found and sanctions are issued, both the complainant and the respondent still have the right for file for an appeal if they believe there was procedural error or if they have new evidence. If neither student files for an appeal, the sanctions are issued and the investigation ends.

**Appeals:** If after the Outcomes Administrator determines either the complainant or the respondent as responsible or not responsible, both parties have the option to file an appeal on the basis of procedural error or new evidence. The Appeals Administrator reviews the request for an appeal and determines whether or not a case is worth revisiting.

If an Appeals Administrator determines that a case merits revisiting, then the University Appeals Board (UAB) convenes to review new documents, interview investigators, and determine if the outcome will be amended, upheld, or reversed.

**Outcomes:** The Appeals Administrator reviews the UAB’s report on the appeal and then makes the final decision on the responsibility. This final decision is the end of the formal investigation (“Special Examiner’s Process (SEP): Formal Title IX administrative investigation into allegations that a student violated Brandeis University sexual misconduct and interpersonal violence policy,” 2016).

*Informal Title IX Investigation*

The primary difference between an SEP and an informal Title IX investigation are the results: an SEP can result in finding a party responsible, and thus subject to a Sanctions Panel.
The complainant and respondent also have the right to file an appeal in an SEP.

In an informal Title IX investigation, there are similar first steps as the SEP: submission of a CSR, assessment, and fact-finding. However, there is no Sanctions Panel and there are no appeals.

**Assessment:** After a complainant submits a CSR, they have an initial meeting with the Point of Contact (POC) to discuss the student’s rights and reporting options, as well as immediate measures to take concerning their safety and wellbeing. The complainant then decides if they want to continue with a formal investigation, an informal investigation, or no investigation at all. The Case Manager and the complainant meet to review the initial CSR, assess the incident, determine which provisions of the Rights and Responsibilities have been violated, and then informs the respondent of the allegations and informal investigation.

If the respondent accepts the responsibility that they are accused of in the CSR, the Outcomes Administrator determines any protective measures and the investigation ends. If the respondent denies responsibility, then the investigation moves forward to fact-finding interviews.

**Fact-Finding:** This phase in an informal investigation is a time for investigators to examine evidence. At this time, both parties have the opportunity to submit statements, present evidence, or suggest witnesses. The final report, which includes facts and conclusions based on evidence, and recommendations, is brought to the Outcomes Administrator, who ultimately determines responsibility.

**Outcomes:** This final phase of the informal investigation is what primarily differentiates it from an SEP. Rather than proceeding with discussion and recommendations from different panels, the Outcomes Administrator makes the final decision about responsibility after fact-finding. Protective measures can be applied after an informal investigation, such as no contact
orders or residence hall relocations (“Informal Title IX Administrative Investigation: Investigation into allegations that a student violated Brandeis University sexual misconduct and interpersonal violence policy” 2016; “Rights and Responsibilities” 2016).

**Sanctions**

Sanctions present an interesting dynamic because they are internal and follow administrative directive, but they also have to be consistent with state and federal regulations. An SEP can result in formal charges and sanctions, in addition to protective measures, whereas an informal investigation can only result in protective measures. Protective measures are meant to ensure students’ safety, as well as avoid any institutional liabilities. However, there are greater social implications from sanctions because they encourage perpetrators to take accountability for their actions.

Students who are found responsible for sexual misconduct by the SEP or in accordance with section 21.3. will likely be subject to sanctions and/or protective measures. Sanctions include educational requirements, counseling, and status changes ranging from a Disciplinary Warning to Dismissal (see section 20.). Protective measures may include course schedule adjustments; No Contact Orders; restrictions from specific geographic areas, buildings, or facilities; or other remedies as deemed appropriate. Because the range of behaviors described in section 3 is so widely variable in terms of their nature and severity, the range of sanctions and protective measures must proportionately reflect that range. Three categories of sexual misconduct are matched to proportional ranges of sanctions: (1) Sexual Harassment and Sexual Exploitation, (2) Non-Consensual Physical Contact, and (3) Non-Consensual Intercourse (“Rights and Responsibilities” 2016: 15).

The student code of conduct states that students’ responsibility is determined by the university investigation, but is also expected to be consistent with federal, state, and local laws and ordinances (“Rights and Responsibilities” 2016). If violations of the standards laid out in “Rights and Responsibilities” can lead to sanctions and/or protective measures, they should translate outside of the university and into the local jurisdictions. However, Brandeis presents its own range of sanctions to reflect varying severity of violations:
Sanctions for Sexual Harassment and Sexual Exploitation may include:

University Restrictions, Disciplinary Probation, Suspension or Dismissal. See section 20 for definitions of specific sanctions.

Sanctions for Non-Consensual Physical Contact may include: University Restrictions, Disciplinary Probation, Suspension or Dismissal. See section 20 for definitions of specific sanctions.

Sanctions for Non-Consensual Intercourse That Does Not Include the Use of Force will usually be Suspension or Dismissal. See section 20 for definitions of specific sanctions.

Sanctions for Non-Consensual Intercourse That Involves the Use of Physical Force, Threat of Force, or Purposeful Incapacitation will result in Dismissal from Brandeis University (“Rights and Responsibilities” 2016: 61).

An administrative determination for responsibility stays within the realms of the institution. In the most extreme scenario, forcible rape, the corresponding sanction is dismissal. However, this sanction does not specify the juncture between university regulations and state or federal regulations. Title IX investigations are administrative, and so there is no point of contact between a Title IX investigation and a criminal investigation. If a perpetrator is found guilty, they are not registered as a sex offender or prosecuted in a state court, unless there is a parallel criminal investigation. This dynamic is difficult to maneuver in a severe scenario because without a criminal process, the guilty finding and sanctions do not necessarily move forward with a respondent after leaving the institution.

Restorative Justice

A new practice, inspired by a system developed at Skidmore College, Restorative Justice is meant to be an informal approach to Title IX issues. For incidents without penetration or touching, Restorative Justice is an option to help students heal and address how incidents impact them:

A philosophical approach that embraces the reparation of harm, healing of trauma, reconciliation of interpersonal conflict, reduction of social inequality, and reintegration of
people who have been marginalized and outcast (“Rights and Responsibilities” 2016).

In order to do a Restorative Justice circle, the complainant, respondent, and all other participants have to be willing. The goal is to acknowledge and understand responsibility, and collectively do what they can to repair the harm done.

After Restorative Justice is determined a suitable option and students decide to move forward, co-facilitators determine who should be involved. Besides the complainant and respondent, they will also include friends, roommates, partners, and any other people who are impacted by the harm, directly or indirectly. The co-facilitators then meet with each person individually to hear their narrative, their concerns, and discuss potential benefits of Restorative Justice. The Restorative Justice takes place in a conference setting, where all participants are in the same room to discuss. The group identifies harms done and then proceeds to the Agreement Process, which can include enumerating the harms done, brainstorming how to make things right, agreeing to proceed, and finding a collective agreement on how to repair the harms. If the entire group comes to an agreement, then it is a successful Restorative Justice circle, and the co-facilitators notify the Outcomes Administrator of the group determinations. If the group does not come to an agreement, an informal investigation will commence (“Rights and Responsibilities” 2016).

*The Department of Public Safety*

The intersection between campus police and the university’s protocol for compliance with Title IX is unclear through document analysis. When a student reports an incident of intimate partner violence or sexual misconduct to the campus police, their responsibility is primarily focused on the immediate needs of the student and they do not have the same institutional obligation as the university:
When you report a rape or sexual assault to the police, you are assured of immediate physical protection and transportation to a medical facility. You are not making a commitment to file charges or to testify in court. The police investigation and legal proceedings may be discontinued at any point (Department of Public Safety 2016: 1).

It is clear that there is a relationship between campus police and Title IX, but the university policy does not clearly state in writing what that relationship is. Campus police are responsible for immediate assistance to victims and survivors, evidence collection, and informing them of their rights, legal options, and campus resources (Department of Public Safety 2016). Campus police then refer all complainants to the Title IX office to learn about different investigation options. The data published in the Annual Security Report includes intimate partner violence and sexual misconduct reports from both the campus police and through Community Standard Reports. There is no clarification about what Title IX tells and campus police and vice versa, nor is there an explanation about the campus police’s role in an ongoing investigation. If there is very little information about the relationship between Title IX and the campus police in the university policy writing, how else can students confidentially access this information?

*Crime Awareness and Campus Climate Survey*

Disparities in university publications point to a discrepancy between sexual misconduct prevalence and sexual misconduct reporting. The Crime Awareness and Campus Security Report and Fire Safety Report, also known as the Annual Security Report (ASR), is the publication of crime prevalence at Brandeis documented by the Department of Public Safety. The university is mandated to publish this information annually by the Clery Act, which called for transparency between campus police and students. The Campus Climate Survey, which was an anonymous survey sent out to Brandeis students in Spring 2015, allowed students to disclose
their experiences with sexual misconduct and intimate partner violence while at Brandeis. It surveyed undergraduates about their experience while at Brandeis: if a senior took the survey, they reflected on the four years, whereas a freshman would have only reflected on one year.

The different methods of data collection show an enormous disparity between what is reported to the institution and what students actually experience. In 2014, only four cases of dating violence, domestic violence, or stalking were officially reported to the Brandeis police, either from a mandated reporter, a CSR, or an emergency call directly to the police. In 2015, only two incidents were reported (Brandeis Department of Public Safety 2016). Conversely, according to the Campus Climate Survey, 73 undergraduate women and 22 undergraduate men have been in an abusive or controlling relationship while at Brandeis, and these numbers reflect the 34.3% of the total undergraduate and graduate students who completed the survey (“First Results: Brandeis University Campus Climate Survey on Sexual Misconduct (Spring 2015)” 2016). These drastically different numbers of incidents of dating violence surface questions about why so many students do not report sexual misconduct or intimate partner violence.

Between 2013 and 2015, there were no specific cases of stalking reported to the university, and yet the Campus Climate Survey reports that 114 undergraduate women and 25 undergraduate men have experienced stalking while at Brandeis (Brandeis Department of Public Safety 2016; “First Results: Brandeis University Campus Climate Survey on Sexual Misconduct (Spring 2015)” 2016). After the Campus Climate Survey and increased student activism, numbers of intimate partner violence and sexual misconduct crimes reported to campus police have increased, and yet the numbers are still miniscule. In 2014, there were nine sex offences reported, including rape, fondling, incest, and statutory rape. Of these same categories, there were 19 reported cases in 2015. However, this increase in reports is still a fraction of the number
of incidents shared anonymously in the Campus Climate Survey. According to the Campus Climate Survey, 186 undergraduate women and 21 undergraduate men have been sexually assaulted, and 49 undergraduate women and 6 undergraduate men have been raped while at Brandeis (“First Results: Brandeis University Campus Climate Survey on Sexual Misconduct (Spring 2015)” 2016).

<table>
<thead>
<tr>
<th>Annual Security Report (Brandeis Department of Public Safety 2016)</th>
<th>2014</th>
<th>2015</th>
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<tbody>
<tr>
<td>Type of Abuse</td>
<td></td>
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<tr>
<td>Dating violence, domestic violence, or stalking</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Stalking</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Rape, fondling, incest, or statutory rape</td>
<td>9</td>
<td>19</td>
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| Campus Climate Survey: Undergraduates Throughout Time at Brandeis Surveyed in 2015 (“First Results: Brandeis University Campus Climate Survey on Sexual Misconduct (Spring 2015)” 2016) |
|---------------------------------------------------------------|------|------|
| Types of Abuse | Women | Men |
| Abusive or controlling relationship                          | 72   | 22  |
| Stalking                                                  | 114  | 25  |
| Sexually assaulted                                         | 186  | 21  |
| Raped                                                      | 49   | 6   |

These huge disparities between campus police reports and students’ anonymous survey prompt questions about what dissuades students from reporting and what can be done from an administrative perspective to bridge that gap. There are any number of reasons why students may not report. They may be ill informed about the campus policies and investigation processes or be wary of a long, tumultuous commitment. Students may not want to commit time to an investigation, or have to deal with the additional emotional tolls. Students may fear further involvement in an investigation, such as repeating their narratives, meeting with their perpetrators, and investigative interviews. There may also be structural reasons that dissuade students from reporting, including the time required, due process, and the role of anonymity.
Discrepancies between the institution and the students

Reporting incidents is important from an institutional standpoint, but the process can also benefit the students and the community at large. For Brandeis’ system, even if there is no responsibility found in an investigation, the university can still provide interim or protective measures, such as changing housing location. If the university knows about incidents amongst the Brandeis community, the administration can look for ways to respond or for ways to adjust their system to better meet students’ needs. If there are no reports, the institution may certainly be aware that there is a prevalence of sexual violence, but is limited in how it can respond.

If the university policy is clear in stating its intolerance for sexual misconduct, why, then, are so many cases still left unreported? My research investigates why students don’t report and what can be done to encourage more reporting. In regards to university processes on sexual misconduct and intimate partner violence, reporting an incident should either result in sanctions or protective measures, which are beneficial for survivors, or no change.

It is possible that the major disparity in data is not necessarily a reflection of the policy, but a reflection of the public knowledge and the assumptions that students think they know about the reporting process. Simply stating university intolerance for sexual violence may not be enough for students to feel safe coming forward. Students may not have a wholly comprehensive understanding of what the policy implementation actually entails, they may have fears of unfavorable outcomes or indeterminate sanctions, or they may have fears and worries about the depth of their own involvement in reporting.

However, reporting incidents of sexual misconduct and intimate partner violence is a national problem. According to the U.S. Department of Justice, 20% of women are raped in
college, approximately 1 in 5. The Department of Justice’s study also found that 29% of women during their four years of college experienced some kind of sexual violence from romantic partners, such as coercion, rape, attempted rape, or sexual contact (Krebs et al. 2007). In contrast with these numbers, the American Association of University Professors reports that less than 5% of sexual assaults against college students are actually reported to the administration or the police (2013). While Brandeis’ thorough policy and implementation procedures may be exceptional or sound, it is one institution within the landscape of comparable universities that struggle with low reporting rates.

The question as to why a survivor wouldn’t want to report a violation lies in the institutional structures: what about this process has a higher cost to survivors than the hope of getting sanctions and protective measures from their perpetrator? Survivors may have any slew of questions based on experiences, concerns, and fears that prevent them from seeking any third party intervention. What is the emotional toll on survivors who choose to report and follow through with an investigation? How many times will they have to retell their story? What if no one believes them and there are consequences of reporting? Perhaps there is a fear of a long investigation process with little promise of actually sanctioning a perpetrator. What if they go through the entire investigation process, and the perpetrator is not proven guilty? What if there are no severe sanctions? Perhaps there is a fear of reactions from the community: What if the community thinks the survivor is lying? What if their friends find out? What if they destroy friend groups? What if they are socially ostracized? What if, somehow, their perpetrator uses this reporting against them? Cultural influences, such as thinking they are less likely to be believed if their perpetrator is a friend, or fears and shame that family and friends will find out, could dissuade survivors from reporting. There are many sociological, institutional, and
structural reasons that surface a plethora of questions about what could happen, so opting out of reporting may seem like the most attractive option to many survivors (DuMont et al. 2003; Felson and Paré 2005; Fisher et al. 2003; Lonsway, Archambault, and Lisak 2009; Wolitzky-Taylor et al. 2011).

In addition, a shortcoming in Brandeis’s formal and informal Title IX investigations is that the same person who supervises the entire investigation, the Outcomes Administrator, also determines responsibility and final protective measures or sanctions. They may include impressions from the investigation in their responsibility determination because they supervise throughout the process. For example, if one student is reluctant to comply with interim measures or share pertinent information, the Outcomes Administrator may develop a bias towards that party. Furthermore, while there are many people involved with Title IX processes, including a Special Examiner who has no previous ties to the university, a conflict of interest may appear between the Outcomes Administrator’s role in the university and role in the investigation. They work within the university and therefore may prioritize the wellbeing of the institution over the integrity of Title IX. This conflict of interest between the university’s actual self-regulation and the maintained appearance of being conflict-free may also be a reflection of my role as a student researcher. My skepticism of Title IX workers’ incentives demonstrates general student concerns in the administration’s priorities.

Sanctions and Appeals Panel members may find it difficult balancing their understanding of abusive dynamics with regulating decisions for the institution. Within university-led Title IX investigations, all roles are appointed on a case-by-case basis. Therefore, the written policy does not guarantee that Sanction Panel members or Appeals Panel members have the qualifications and training to best understand and address each case. Roles are appointed to faculty and staff
members, whether professors or administrators, in addition to their fulltime jobs. While these faculty and staff members may have a good understanding of student needs and be attuned to potential social-environmental factors, they may lack a complete understanding of the complexities of domestic violence. For example, panel members might conclude that there is no responsibility if both parties were under the influence of alcohol or another substance. If the complainant and respondent were in an abusive relationship, panel members could blame the complainant for returning to a known abuser, or try to issue a no-contact order while the two are still in a relationship. Herein lies the tension between the institutional constraints in its ability to investigate and make decisions, and the students’ concerns and mistrust in the system to protect them.
Chapter III: Why I trust Brandeis’ administrative investigations

I started as a skeptic.

Many students rely on rumors that they’ve heard across campus and there is a climate of mistrust toward the administration at Brandeis. I was no exception to this community of students who consider ourselves feminists and always support survivors, labeling anyone who does not support them completely as an enemy. Amid rumors that sanctions aren’t severe enough or that the administration doesn’t always determine the accused as “guilty,” it’s easy to see how our demeanors and uncritical support of survivors could lead us to a mistrust of the administration.

After interviewing nine staff members at Brandeis, one of the key points I heard over and over again throughout this research is that responding to any kind of sexual misconduct or intimate partner violence is a complicated process. I started my own research by looking at as many documents published by Brandies that I could find, but what I learned from conducting interviews gave a very different impression than I had before.

After document analysis, my skepticism of the integrity of the staff members who work with Title IX remained. How do we know they prioritize the ethical integrity of their jobs above their desire to uphold the name of the institution where they work? However, even in my own reflections of high profile cases that became public, such as cases at Stanford University and Columbia University, I realized the inconsistency in my hypothesis and skepticism.

*People v. Turner* was a high profile case in California that unveiled the tensions between legal proceedings and university administrative proceedings. In 2015 Brock Turner, who at the time was a student at Stanford University, raped an unnamed woman who was found unconscious behind a dumpster. The woman was not a student at Stanford and was assaulted after attending a fraternity party. Turner was sentenced to only six months in jail and three years
of probation for “20 minutes of action” because the judge believed that “prison sentence would have a severe impact on him” (Anderson and Svrluga 201; Stack 2016). Because the assailant, Brock Turner, was a student and the incident took place on campus, Stanford University responded. A public statement issued by the university ensured that the school took the case very seriously, reacted in a timely manner, and held its student accountable:

Once Stanford learned the identity of the young woman involved, the university reached out confidentially to offer her support and to tell her the steps we were taking. In less than two weeks after the incident, Stanford had conducted an investigation and banned Turner from setting foot on campus – as a student or otherwise. This is the harshest sanction that a university can impose on a student (Stanford University 2016: 1).

First, there was an administrative investigation, which implemented the harshest sanctions against Brock Turner. Second, there was a civil case that only sentenced him to six-months imprisonment. This minimal sentence implied that the criminal justice system demonstrated a bias toward males or students at an elite university. The public outcry was not necessarily in disgust in Stanford’s approach to rape, but Santa Clara County Superior Court prioritization of a white, privileged male with an impressive academic and swimming record over the protection of women, specifically on college campuses. Michelle Dauber, a professor at Stanford University, told the New York Times, “If you’re going to declare that a high-achieving perpetrator is an unusual case, then you’re saying to women on college campuses that they don’t deserve the full protection of the law in the state of California” (Stack 2016: 1). This case was a portrait of an unjust system and obstruction for the survivor. However, the university’s internal process, which included responding in a timely manner, choosing to implement severe sanctions, offering what protections they could to the survivor, and releasing a statement about its role around the same time as the judicial sentence and the survivor’s statement was published, early June 2016, helped relieve institutional animosity. Shortly afterward, Stanford also revised its
alcohol policy, which has been interpreted that the university considered alcohol a factor in Turner’s crime, but perhaps neglecting to look at chauvinist behaviors and patriarchal structures (Stanford University 2016; Revesz 2016).

Another high profile case at Columbia University highlighted a university system that left students distraught and did not effectively help students feel safe. Emma Sulkowicz, a student at Columbia University, was raped by Paul Nungesser, another student and friend at the time. She called for her perpetrator to be dismissed from Columbia; instead, the university investigated and determined that Paul Nungesser was not responsible for raping Emma Sulkowicz. She chose not to pursue a criminal investigation, but she did file a complaint about gender discrimination against Columbia University with the Education Department (Kaminer 2014). Her experience with her perpetrator and Columbia’s investigation also triggered her well-known performance art piece, entitled Mattress Performance (Carry That Weight), in which she carried a 50lbs mattress around the campus until she either graduated or her perpetrator was expelled—she carried the mattress until graduation (Smitch 2014; Bazelon 2015). Both students were left feeling betrayed by the university—Sulkowicz because the school did not believe her and Nungesser because he felt the school did not protect him from the harassment he received after Mattress Performance (Carry That Weight). A major change Columbia made to its investigation process since Sulkowicz and Nungesser’s case in 2014 is that all students may have a lawyer present (Kaminer 2014; Kaminer 2014).

Both of these cases drew national attention and damaged both universities’ reputations. The universities were publicly perceived as not doing enough to protect survivors, hold students accountable, and implement severe punishments. These case examples show opposite possible outcomes for university Title IX interventions: Stanford implemented the most severe sanction
that they could, especially since there were witnesses of the actual rape, while Columbia found no responsibility with the perpetrator. Stanford was still criticized in the aftermath, as students called for more support for the survivor, a public apology, and a protest against the university policy change that implied alcohol was the problem, not the person (Herrera 2016; Revesz 2016; Stanford University 2016). However, banning Turner from the campus takes a stand to punish perpetrators. Columbia was criticized for not doing enough to protect its students. The school did not protect the survivor during the case by finding responsibility, nor did it validate that something happened to her that she did not want. On the other side of the investigation, the perpetrator claimed that school did not protect him from harassment after the case was closed.

While these universities were criticized for not doing enough, other universities, nationwide, could have been watching to see the repercussions of not upholding their ethical integrity and obligation to the students. In both scenarios, a thorough investigation, university action, and institutional transparency benefitted the universities’ images. If the schools had done even less to protect students, the outrage and scrutiny would have surpassed that which already occurred. I urged myself to understand that although Brandeis Title IX staff are internal figures, with the exception of the Special Examiner, their goal is not to minimize and conceal a case of sexual misconduct or intimate partner violence. Furthermore, since these high profile cases occurred at prestigious universities, they attracted attention from multiple audiences: the students involved, the student community at the schools, and the public. Even if there were not enough evidence to determine responsibility, universities needed a way to validate that something happened to students against their will. This validation helps public perception of the universities’ reliability and helps rebuild trust between institutions and students. It is actually in Brandeis’ best interest to maintain its legal and feminist framework to approach Title IX.
After speaking with Brandeis’ Title IX staff, I felt the need to distinguish between the different pieces that are generally grouped together under the umbrella phrase “administration.” There is the actual administrative staff who construct Brandeis’ public image, there is the Title IX process, and there is the Title IX staff. If the Title IX process is not sound, the Title IX staff can still be caring. If the administration is untrustworthy, the Title IX process may still be reliable. While the three pieces are interconnected, they are not synonymous. My understanding of the investigation process after conducting interviews is very different from my understanding after document analysis. As an initial skeptic, I was surprised to find that after speaking with most of the university staff who work with Title IX cases, that I trusted Brandeis’ Title IX investigations.

**The investigation process at Brandeis**

**Student agency**

Part of the process that helps survivors feel safe again is to help them regain control over their lives. The framework for the cycle of abuse is based on perpetrators’ manipulation and abuse to have power and complete control over their partners (Walker 2000). Perpetrators attempt to dictate their partners’ every move, to isolate them and render them fully dependent on the perpetrator. This power and control is prevalent in intimate partner violence and emotional abuse, but survivors of one-time sexual assault also experience an extreme loss of control over their own bodies. Sexual assault has a similar, but not identical dynamic to intimate partner violence; both are ultimately about power and control. If the abuse means a loss of power and control, then healing means regaining autonomy and agency.
Throughout my interviews Brandeis’ Title IX staff, I found constant recognition of the importance of student agency. There are certainly elements of the Title IX investigations at Brandeis that students cannot control, such as the length of the investigation, the final outcomes and decisions, and specific sanctions. However, the Title IX staff are conscious about the importance of survivors’ choices.

The first phase of an investigation is assessment. If the school receives a report, whether through an electronic CSR, from a student phone call, or even a student disclosing information to a responsible employee, either Sylvia or Sharon will send an initial email to the student of concern; they are the initial points of contacts for students. Sylvia is usually more involved with the process because she manages the investigation, coordinates meetings, and aims to guide students throughout the process. Sylvia and Sharon are both responsible employees, meaning they are mandated to report any concerning information that they receive about students to the institution, and they both have external roles in Title IX investigations. They can serve as point-people to answer questions about the investigation, but are not involved with actually conducting the investigation.

Within the initial point of contact email, Sylvia takes special precautions to structure empowering language:

Dear ________,

My name is Sylvia and I [manage Title IX cases] here at Brandeis. I am reaching out to schedule an appointment for us to meet to discuss a report of misconduct you recently disclosed.

Responding to this email and meeting with me are both purely voluntary, and entirely up to you. The goal of our meeting would be to discuss appropriate resources and to explain your rights under Title IX. If you wish to meet, please feel free to share your availability for the remainder of this week and the beginning of next. Many thanks in advance.
She specifies that she can meet with students if they wish, and that meeting with her is completely voluntary. She also clarifies what she wants to discuss with the student, describing their rights and what resources are available to them, rather than discussing what steps automatically come next. This language is meant to reflect that any student involvement in an investigation is completely voluntary and that the student will not be automatically connected to a bureaucratic system where she or he has no control over what comes next.

Sylvia’s language in her email is carefully worded to give agency to students and help rebuild a sense of control, which is a specific goal throughout the Title IX investigation. The initial email from either Sylvia or Sharon offers students options without telling them what they have to do next; students can even choose not reply to those emails at all. Students also have agency over whether they want an investigation and what kind of investigation. The university’s emphasis on student agency was constantly reiterated by almost every person I interviewed. They emphasized that the complainant, the student reporting, chooses. They used language such as, “If they choose to follow through with an investigation…” or “If they want…” This careful language used amongst the Title IX staff is very different from that used by the campus police. If the Brandeis police receives a call at dispatch, they will respond and expect the original complainant to be responsive. Erica, a campus police officer, confirmed that complainants can stop a police investigation at any time. However, she also implied that the campus police actions are less student driven. If a student agrees to go through the campus police process, the student is expected to comply with what the police wants.

Once a student decides to take administrative action, the structures moving forward are still built on student agency. When Sylvia meets with a student, she never wants to lead her or him to pursue an investigation. Instead, she asks what the student wants to happen. A student
could reply that she or he wants an apology or that the respondent be removed from campus. Sylvia then replies with appropriate options. If the student wants an apology, perhaps a Restorative Justice circle would be a viable option. If the student wants minimal measures in place to help her or him feel safe on campus, perhaps an informal investigation would attain appropriate no-contact orders and academic accommodations. If the student wants the respondent removed from campus, that can only occur through sanctions, so Sylvia could provide information about the Special Examiner’s Process. Sometimes, all students want is a no-contact order, so the university works to let the student dictate how to move forward.

Theresa, who is the investigator for all Title IX cases at Brandeis, said that investigations are student driven. She works with students after they decide to pursue an investigation, whether it’s formal or informal, and recognizes that investigations are invasive and traumatic. Brandeis Title IX doesn’t force students to participate in an internal university investigation or go through an external criminal process with the Brandeis or Waltham Police. Sharon reiterates that students are “not mandated to do anything,” and offered that if a student says, “Now that you’ve told me all of my options, I don’t want to do anything,” the staff would honor those wishes.

The staff and the process reflect the importance of giving students agency. The university will never force a Special Examiner’s Process, which is typically the longest administrative investigation, upon an unwilling complainant. Even in a university initiated investigation, in which the university decides it has to take action for safety concerns, complainants still have the choice of whether they will be involved. Theresa confirmed that students come in by choice: “The goal is to empower survivors” by encouraging them to make their own decisions and regain some agency. Theresa demonstrates this by using the word, “empower,” an understanding of the disempowerment that survivors experience and the loss of
power and control in an abusive dynamic. Her understanding is crucial to her approach to giving students agency and influencing how the administration interacts with students.

While the university takes extra cautions to give complainants agency, the model works both ways. In the same manner that complainants have total agency over participation in an investigation, respondents can also refuse to participate. They are required to meet with the investigators, but if they choose not to come in, the university does not force them. This voluntary participation is a complete contrast with the Brandeis police, where they can force students to come in even if it means they have to go and find the student to bring them in. In a Title IX administrative investigation, the university can and will investigate without the respondent’s feedback. Through this model, the respondents “compromises their ability to defend” themselves or benefit from due process.

The student agency and voluntary participation in an investigation also has structural biases to help protect complainants. Complainant can choose whether to participate in the investigation, which can be an instrumental choice in helping to remedy the harm and loss of control they experienced. On the opposite side, respondents have the same agency, but it is in their best interest to participate and cooperate with the university. Brandeis’ Title IX staff works to make complainant agency and choice a priority. Susan, who typically serves as the Outcomes Administrator and supervises the entire investigation, summarizes the overall administrative goal: “We very much keep the complainant at the center and respect their wishes.”

*University initiated investigations*

There are scenarios in which the university has to take administrative action despite students’ wishes. Title IX is primarily constructed to ensure institutional compliance. Although Brandeis’ specific system is built to include components of student support, Title IX itself is not
necessarily built to support students and honor their wish under all circumstances. If the university is concerned that allegations have potential for ongoing harm, it can do a university initiated investigation. For example, if a student says that she or he has been sexually assaulted, and the university has multiple reports against the same respondent, the Office of Civil Rights dictates that the university must investigate the situation (Office of Civil Rights 2011). A pattern of assault could indicate to the university that the respondent is likely to re-offend. The complainant still has the choice of whether she or he would like to be involved and the university will still respect whichever choice made; however, an informal investigation would still continue by gathering evidence from other sources and interviewing witnesses.

Theresa reflected on a university initiated informal investigation that went against a student’s wishes: the survivor did not report the incident, but the institution received a police report. If the incident is initially reported by the Waltham police, they notify the Brandeis police and the Brandeis police notifies the Title IX office. In this particular case, Title IX received the report from the police (for confidentiality reasons she did not specify if it was the campus or Waltham police), and then found records that there had been an incident between the same two people six months’ prior that was not investigated. Since the incident appeared to be part of a pattern, she decided that there was a concern for the student’s physical safety. Sylvia reached out to the student through email, and the student clearly stated that they did not want an investigation. However, because there was a pattern and a serious concern for safety, the university proceeded with an investigation, anyway. Theresa recalls, “I met first with the survivor, who reluctantly understood, and shared what they were willing to share.” She then met with the respondent, and conducted a normal investigation from that point. While the complainant was reluctant, they still had the choice of whether or not to participate.
Repeat offenders are likely to continue in the future and the university could be considered liable if it did not investigate. In this situation, the university intervened against student wishes to prevent future incidents of abuse. Although the university’s intention is to protect the students in the long run with these types of investigations, university initiated investigations can also be re-traumatizing by once again taking control from students.

*Separating the students and avoiding re-traumatization*

Another precaution that the university takes is that the complainant and respondent are never in the same room during an investigation. Theresa recalled one time when the complainant and respondent bumped into each other between meetings and the staff was very apologetic. If the complainant and respondent are being interviewed on the same day, the Title IX office will schedule the meetings at least an hour apart and make sure that one leaves the building before the other arrives, to prevent contact between them.

Many of these precautionary steps to minimize the complainant's role can also cause re-traumatization and significantly lengthen the process. All meetings between students and Title IX staff are conducted individually. Any clarifying questions that investigators may have may require an additional interview. In-person interviews can be difficult to schedule and conversations through email have slower response rates. Due process, which is a chance for the complainant and respondent to review the investigation report before it is sent to the Outcomes Administrator, also significantly prolongs the process. Sylvia noted that it is unfortunate that investigations tend to be long, but she thinks it is much better than an alternate hearing model, in which all parties are in the room at the same time: the complainant, the respondent, any number of witnesses, the investigators, and additional advisors or attorneys. While having everyone in the same room can be a much quicker process, it can also be over-stimulating, re-victimizing,
and re-traumatizing, especially for the complainant. The investigation process that Brandeis employs, which is not standard for all universities, takes much longer but is also significantly less traumatizing.

There are also components to Brandeis’ system that are specifically for student support and have no direct relationship to the actual investigation. Margaret works in the Office of Prevention Services and Rebecca works in the Rape Crisis Center, both serving in support roles for students. Their offices work to keep the survivor and perpetrator separate when seeking support. Margaret reflected on how they navigate supporting students while still taking a stance as survivor advocates:

It's difficult to serve both parties. So we really try to refer students who have done the harm to the Counseling Center for their confidential resource and support. Because if someone is coming here and needing help and the person who's harmed them is coming to Rebecca's office, there's just a lot of unfortunate possibilities there for running into each other. It just keeps more clear.

The university will work with students to create no-contact orders, which is an internal university order that aims to keep complainants and respondents apart on campus during their personal time. This order can be an interim measure, meaning that students do not have to wait for an investigation to finish in order to implement a no-contact order if it will make them feel safer.

**Separated players: investigation vs. support**

Clear definition of roles may help to avoid bias. Theresa, who conducts the actual investigations, still recognizes the duality of addressing sexual misconduct and intimate partner violence. She spoke of different protective or interim measures for students as “needs,” recognizing that her work is not only about ensuring that the institution complies with Title IX
law and internal policies and procedures, but that student complainants, respondents, and witnesses understand their rights and resources. The duality of these cases is seen in the institutional obligations for administrative response and supporting students. She recognizes that students may need further protection outside of the investigation to feel safe. This duality speaks to the procedural compliance, which is the ultimate goal of Title IX, but also to the emotional needs of students. However, while Theresa may be trauma-informed and mindful of student needs, her job is strictly limited to the investigation and its compliance with regulation. Creating a clear divide between the different university staff members is conducive to the model of who does what and how to avoid implicit bias. Distinguishing different roles may complicate the system because it calls for more people to be involved, but it is also part of a structure that protects students.

On the Title IX side of the system, there are different pieces that strive to remove bias and still offer some type of advocacy to students. Theresa’s role is strictly to conduct the investigation while Sylvia plays a hand-holding role, which creates a separation of the procedural work and the emotional care work. Sylvia is constantly in contact with students, updating them, making sure they meet with the right people, and generally acting as a point-person for students throughout the investigation process. Within the Title IX process itself, Susan is typically the Outcomes Administrator. In this role, she makes final determinations about responsibility and sanctions; she has no role in the actual investigation, such as collecting evidence, interviews, or analysis, and thus does not make a decision based on her own investigative work. However, Susan also blurs the lines of separation between players because she also monitors the investigation throughout the process.
The clearest separation in this type of university intervention is between those involved with the Title IX investigations and those who support students. Margaret and Rebecca work in the Office of Prevention Services and the Rape Crisis Center. Instead of an official role in investigations, they offer confidential support to students and help connect them to additional resources:

Usually, I work with students who are survivors, who have come forward. […] Because of issues of conflict of interest, I cannot participate as an advisor or advocate in the Special Examiner's Process […], but I certainly can support students who are going through that process.

Instead of focusing on the procedures of an investigation and Title IX compliance, both Margaret and Rebecca’s roles are to hear and meet survivors’ needs. Meetings may include validating students’ feelings, asking students about their concerns or struggles and talking through options to address them, and informing students of the university resources that may help a student feel safer. They also ask students if they want to take administrative action, what kind of outcome they want, and then can offer information about the different investigation processes that could reach those outcomes. These meetings do not have a strict format because they recognize that every student has a different experience and may have different needs.

More so than in interviews with Title IX staff, Margaret and Rebecca emphasized honoring survivors’ wishes; Rebecca referenced “honor,” such as honoring students’ wishes or honoring and being sensitive to students’ emotional states, 23 times throughout two hour-long interviews. Although student participation in Title IX investigations is completely voluntary, the staff in the Office of Prevention Services and the Rape Crisis Center left a strong impression that their primary goal is to meet the needs of survivors and support them, more than administrative compliance. Rebecca emphasized little ways that she can support students and her own gratification from helping them:
I recognize following incidents of sexual misconduct, in terms of partner violence, whatever it may be, that there is a lot of loss of power and control in the situation. I love the fact that I can just sit with survivors and provide options and increase that sense of self-efficacy; where they feel that they have power and control and that they get to make choices that fit best for them.

In addition to general support and providing information, Rebecca also helps students make emotional safety plans and plans out self-care: “We might literally write on the board: Friday, Saturday, Sunday,” and they will plan out different things that the student can do to take care of her or himself, such as watching a movie with a friend or going to yoga.

Sometimes, [writing it out] helps people commit and follow through with that self-care. Again, it's meeting the survivor where they're at, what they're interested in doing, and how time allows. It's all very individualized based on where they're at in that moment.

The distinction between Title IX and support staff allows students to be emotional separately from the Title IX investigation. Margaret and Rebecca’s roles are as confidential resources. Although they are mandated to submit information about incidents under the Clery Act to the Department of Public Safety, they can do so without including any identifying information about a student. Margaret emphasized that students are “never required to report, so I just go with them, presenting all the options, and always following what their wishes are, in terms of what they feel like is going to meet their needs best.” Margaret and Rebecca are able to support students emotionally and allow students to compartmentalize, keeping their emotional needs and the Title IX investigations separate. This separation between the confidential staff and the Title IX staff also allows students to be emotional, without being vulnerable in the investigation, and also have guidance through campus resources without any Title IX intimidation.
It’s the same, but…

The Title IX staff demonstrated administrative attention to the varying needs of students and awareness of the sociological and emotional complexities that require sensitivity. Brandeis policy is generally the same in reference to sexual misconduct and intimate partner violence, but are addressed differently in practice. Most staff members I interviewed followed a similar template: they explained a process for addressing sexual misconduct, stated that it was the same process for intimate partner violence, but then they proceeded in further detail about extra cautions that the university would take.

Theresa explained how the differences between sexual misconduct and intimate partner violence dynamics influence students’ point of entry into an investigation. If someone reported that they were groped at a party, that report would trigger an initial email from Sylvia offering to meet, in hopes of obtaining enough information to classify the matter under Title IX and have the option of moving forward with an investigation. Theresa said it is generally the same practice if someone reports that they are in an abusive relationship. However, she believes that there is more hesitation among survivors of intimate partner violence to even meet with an administrator, especially if they are still in a relationship. She thinks there is a fear of getting someone in trouble, retaliation, or continued harm from the respondent.

Due to the particular fragility of intimate partner violence, Theresa thinks there may be more hand-holding and administrative patience in order to empower the student to think about what they want to do and how to do it. Stranger rapes, such as someone jumping out from the bushes, are more likely to be reported than non-stranger rapes, such as by an intimate partner. Furthermore, of rape survivors who chose not to report, 68.1% cited a fear of reprisal (Wolitzky-Taylor et al. 2011). Theresa’s predictions are consistent with Wolitzky-Taylor’s findings.
Theresa sees the key difference between sexual misconduct and intimate partner violence is a different kind of fear: “I've found with intimate partner violence cases that complainants tend to be hidden behind fear.” People experiencing intimate partner violence are afraid of both action and inaction: they may be too scared to know what they want or too scared to say what they want. In intimate partner violence, a person may feel limited to speak freely about what changes they want because they are afraid of their partner or don’t want to leave their romantic partner, whereas a sexual assault survivor may just want a no-contact order and never see their perpetrator. Or, a student could react contrarily and have a long list of what they want the institution to do in order for them to feel safe: academic accommodations, a police escort, housing changes, a no-contact order, etc. Regardless of how students react, Theresa thinks that the way students dictate intimate partner violence investigations are very fear-driven. She thinks that a survivor of sexual assault does not necessarily have ongoing fear; they don’t have the same fear that the same thing is going to happen, or that they’ll be attacked on their way to the car.

Susan, similarly to Theresa, said that she addresses both sexual misconduct and intimate partner violence procedurally the same, but that she takes extra precautions. For an isolated incident of sexual misconduct, such as if a student was groped at a party, Susan said they would begin by asking about the incident: Do you know who it was? Was it a Brandeis student? If the perpetrator was not a Brandeis student, there would not be very much the university could do. If the perpetrator was a Brandeis student, Susan said they would offer resources and get a sense of what the complainant wants moving forward, which could be a no-contact order. However, for intimate partner violence, although the process might be the same and they would ask similar questions, due to the higher risk of ongoing harm intimate partner violence cases are more likely
to trigger a university initiated investigation, even if the student ultimately decides that she or he does not want to.

Rebecca, from the care perspective, and perhaps as a first responder on the Rape Crisis Center’s hotline, reflects that the call itself could be different and require more careful treading:

Recognizing it would be much likely that the abuser may be sharing that space with them. I would check in to see, “Are you in a safe place where you can talk?” Or, I might offer yes or no questions. […] And then I might ask, “Is the abusive person in your space right now?” And they might say yes, and so then I'll [ask], “Do you need me to call on your behalf any emergency responses, do you need the police there, do you have medical concerns?” So they might say yes, so I can coordinate care that way.

The Brandeis police might also be first responders: Erica says that for a domestic violence call, if there is any evidence of physical assault the perpetrator is arrested immediately. While these kinds of first-responses are not typically handled by the Title IX office, these examples of extreme sensitivity speak to the carefulness that many intimate partner violence cases require. After a complainant calls because they don’t feel safe, a third party may assume that the complainant would leave their clearly abusive partner. However, with intimate partner violence and a cycle of abuse in play, the relationship may not actually end soon or ever (Walker 2000). Margaret re-articulates that reporting an incident of intimate partner violence does not necessarily mean that the relationship is over. In this case, intimate partner violence should be treated differently than sexual misconduct. Margaret recognizes that the student may not want to take any further action:

Particularly in situations involving intimate partner violence, people don’t always understand well that the student doesn’t want a no-contact order. Well of course they don’t want a no-contact order because that means that they can’t talk to their partner, or they’re not really sure they want to leave the relationship.

Rebecca also specified another type of conversation that can be instrumental in helping students. Students might not understand the fundamental basics of intimate partner violence, or
they might have a lot of confusion about their situation. If students don’t know how this
situation came to be, they might not know how to escape:

I might introduce the power and control [Cycle of Abuse], if they're interested, […] or
offer some psycho-education about why they might be feeling this way, why it might be
so confusing how their partner is treating them, why they have hope that the partner is
going to not continue the behavior, […] why does this keep happening?

Students who are still in abusive relationships may also have a lot of denial, which
Margaret believes compromises their ability to find ways to feel safer:

Oftentimes with intimate partner violence, it’s a little different in that there are often are
pretty significant safety issues that may be shared but are shared in a way that downplays
the seriousness. […] I had a student who had an issue with a partner saying they needed
to give them $800 or a $1000, some large sum of money, for a student especially, for
something that they were insistent that the student themselves had done, something they
had damaged and of course that wasn’t the case, so again just giving that feedback of
like, wow that’s a lot of money. How do you feel about that expectation? It sounds like
you aren’t actually responsible. Do you feel responsible?

When Margaret works with students in abusive relationships, she does a lot of reflecting
and reframing of the student’s own words. This intentional mindfulness to specific questions
and reframing of the conversation can be part of what helps students realize the severity of their
situations for themselves. This awareness, of course, is a preliminary step to regaining their own
control.

Brandeis’s sexual misconduct policy does include intimate partner violence and there are
specific procedures for investigating. What’s more important than the policy writing, the staff
predominately recognizes the differences and implements the policy for intimate partner violence
cases with the needed wariness.
Policies are always changing

Title IX standards and interpretations have taken several turns since it was first implemented in 1972. Title IX was originally interpreted to mean equal access, such as access to sports scholarships and facilities for both women and men. The standard was revised in 1999 with *Davis v. Monroe*, a case that called for an institutional responsibility to intervene in student-on-student offenses because these incidents inhibited students’ ability to participate in the institution as normal. Most recently in 2011, the Dear Colleague Letter changed the standard again. This time, institutional responsibility is interpreted not only because incidents that fall under Title IX inhibit students’ ability to participate, but because sexual violence is a feminist, social, and equal right issue.

As the standards for Title IX are changing, the policy at Brandeis is also always evolving, which is a good thing. Brandeis’ sexual misconduct policy in Rights and Responsibilities is revised every year by the Title IX Task Force. After the Dear Colleague Letter in 2011, colleges and universities across the United States returned to their sexual misconduct policies and started making revisions; Brandeis was no exception. Margaret reflected on how she came to Brandeis:

> After the federal government through the Department of Education issued the Dear Colleague Letter, the university went into a process of basically, I think, feeling very concerned that we didn't have any infrastructure that was formal in the institution for prevention or response for sexual assault.

In response to the Dear Colleague Letter in 2011, Brandeis recognized a major need for the institution to restructure its processes and resources for sexual misconduct and intimate partner violence. Rob, who is Brandeis’ lawyer, understands that the Office of Civil Rights positions are always evolving and so should the university policy. Brandeis restructured its approach to Title IX accordingly after 2011: Susan was asked to develop the university structures to addresses sexual misconduct and Title IX after the Dear Colleague Letter. Prior to
the letter, Margaret, Rebecca, Theresa, Sylvia, and Sharon’s jobs did not exist. Sharon was hired in 2011, Margaret’s office was developed in 2013, Theresa, Sylvia, and Rebecca were hired in 2015. The process of developing how Brandeis approaches Title IX has been evolving ever since.

Margaret was originally hired as a one-person office and she started working with survivors for crisis counseling, response, and advocacy work. She eventually started the Bystander Intervention program from her office, now the Office of Prevention Services, and the Rape Crisis Center with Rebecca, whom Margaret supervises. The two offices now also have multiple student workers to carry out regular tasks and facilitate trainings. Rebecca focuses mainly on offering general support and overseeing the Rape Crisis Center, while Margaret has refocused herself on prevention work.

When Margaret first came to Brandeis, she presented the Board of Trustees with national data about sexual assault and dating violence. She was met with doubts: “They either felt that this couldn’t happen at Brandeis, or that if it did happen at Brandeis, it must not be as bad as other places.” This response from the Board is part of what inspired Margaret to write the Campus Climate Survey, with help from colleagues from other universities. This survey found the shocking disparities between actual prevalence of sexual misconduct and intimate partner violence and what is reported to the university: In 2015, there were two incidents reported of dating violence, domestic violence, or stalking, whereas the Campus Climate Survey reported that as of Spring 2015, there have been at least 94 incidents of abusive or controlling relationships. The university had no reports of stalking, contradictory to the 139 students who said they have experienced stalking while at Brandeis. Also in 2015, there were 19 incidents of rape, fondling, incest, or statutory rape reported to the university, while the Campus Climate
Survey found that there were at least 262 students who have experienced sexual assault or rape while at Brandeis. These survey results along with the Dear Colleague Letter, are part of the influence on Brandeis’ ever-evolving approach to sexual misconduct policy.

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<td>Abusive or controlling relationship</td>
</tr>
<tr>
<td>Stalking</td>
</tr>
<tr>
<td>Sexually assaulted</td>
</tr>
<tr>
<td>Raped</td>
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</tbody>
</table>

There have also been concerted efforts to incorporate more streamlining into Brandeis’ Title IX process. The person who manages Title IX cases and the point-person for students throughout Title IX investigations used to be two separate people, until Sylvia merged the two jobs. When Title IX first became concerned with sexual misconduct, Theresa remembered that a common complaint was that there was no streamlined response by the institution to provide resources and implement interim measures. If a student had an experience that fell under Title IX, they could say that they do not want an investigation, but they don’t want to see their perpetrator, or maybe they have to write a paper for class but they’re too distracted and nervous to finish it. These student needs are examples of things that the core Title IX office does not handle on its own because they are outside of an investigation. As a result, there is a Title IX
committee that meets weekly to bring together people from all different departments to quickly address multi-dimensional needs. Theresa sees this committee as an intersectional approach:

[The Title IX committee sees that] these needs need to be met as an institution, recognizing that Title IX cases usually involve ancillary issues regarding a student ability to access and/or participate in their education and/or mental and emotional health, and this committee is way of making sure these different needs are met.

Other recent changes at Brandeis aim to reflect changes that the Brandeis community wants. “I find a big part of my role is,” Margaret says, “for better or for worse, getting negative feedback about the failures of the policies.” Margaret found that some students needed a process that was more focused on healing than getting justice through an investigation, so she brought in Restorative Justice as an alternative to the investigation processes. The community wanted an investigation option that was not the full-fledged five-month long Special Examiner’s Process, so the most recent Rights and Responsibilities includes a new section, Section 23, that describes an informal investigation, although that particular process has existed for years. The Appeals Administrator was also established as its own role. Rob said that feedback showed a concern that the Outcomes Administrator would be biased in reviewing appeals to their own decision. Making the Appeals Administrator its own role ensures a more objective decision. The Office of Prevention Services also formulated a partnership with the Student Union this year, which now requires that all student club leaders do bystander training: “We trained 800 students this past fall [2016 semester]” Margaret shares, which is as many as they usually train throughout an entire academic year.

**Should we still be skeptical?**

The most important way to assess whether or not Brandeis’ approach to sexual misconduct and intimate partner violence meets students’ needs is to actually talk to students.
However, because of my IRB restrictions on who I am allowed to use as research subjects, speaking with students who have or have not reported incidents was not an option. While the administrators believe in the system in place and trust the changes that they have made to the process over the years, I have no direct accounts from students saying whether or not they found Brandeis’ most recent system helpful, trustworthy, or healing.

I also did not interview with people who are on the Sanctions or Appeals Panel. These roles change for each case and are selected from a pool of trained university staff who have full-time jobs in other areas of the university. Compared to most of the Title IX office, who were hired after the Dear Colleague Letter and tend to operate with feminist incentives, the staff on the Sanctions and Appeals Panels may have out-of-date understandings of sexual misconduct and intimate partner violence and blame a student for not leaving an abusive relationship. These staff members work with recommendations from Theresa and do not make final decisions, but they do have influence on outcomes.
Chapter IV: If the process is sound, why don’t students report?

Brandeis University’s approach to sexual misconduct and intimate partner violence has undergone important changes in response to alarming reporting rates, federal instructions, and student activism. Although the system in place is not without flaws, my general impression is that it’s sound, constructed with caring intentions, and is recognized as needing to evolve along with the student body; I trust Brandeis’ system. The question therein lies in the same alarming numbers that show a major disparity between reported incidents and actual prevalence of sexual misconduct and intimate partner violence at Brandeis (Brandeis Department of Public Safety 2016; Brandeis University 2015). I’ve investigated the system and I’ve assessed it to be sound and fair, so why don’t students report?

There are many personal and internal reasons why students might not report. Fears of being blamed, fears of reprisal or retaliation, shame, guilt, self-blame, thinking that a situation wasn’t serious enough, and being scared that other people will find out are all commonly cited concerns (James and Lee 2015; Thompson et al. 2007). I could focus on survivors’ internal reasons for not reporting or reasons that reflect their emotional state or cultural influences; however, I want to examine the structural dissuasions within the institution. The question then becomes not only why don’t students report, but what about the existing system keeps students from reporting?

When I asked Erica from the Brandeis Department of Public Safety why she thought students don’t report, her response transitioned the conversation from Brandeis-specific to a national problem: “Why is it that way in the real world?” Of students who experience some form of sexual assault, some estimates say only 5% report the incident, but in general, of all crimes across all demographics, sexual assault is the least reported (James and Lee 2015).
Women are more likely to report to the police than men, white people are more likely to report than people of color, and survivors of stranger rape are more likely to report than survivors of acquaintance rape or intimate partner rape (James and Lee 2015; Thompson et al. 2007). Although not specific to university “bubble” communities or Title IX processes, the larger society can certainly influence college students’ decisions to report, even if there is a very different context.

The public’s satisfaction with the police affects the likelihood of survivors reporting incidents. James and Lee surveyed 642 students in 2009 from two large Pennsylvania universities, each with more than 10,000 students. They found that a direct relationship between whether students report to the police and their level of satisfaction with the police. Students of color are especially less likely to report sexual assault to the police and they generally have more negative views about police (James and Lee 2015). Thompson et al. found that 47% of sexual assault survivors at a large, southeastern university chose not to report because they did not want the police involved (2007). Police officers have more general training, respond to all different incidents, and have more of a presence in everyday life. Regular exposure to the police gives the public impressions that they carry with them.

This relationship between the people and police departments is difficult to examine alongside Title IX because college students usually don’t have pre-existing relationships with Title IX. Brandeis’ Title IX office has a specific agenda: sexual misconduct and sex-based discrimination. Students generally do not interact with Title IX outside of reporting and investigations. Students’ initial impressions of the office may instead be associated with the overarching administration which, for the most part, does not have a direct role in Title IX investigations. As with police departments in larger society, students’ perception of the
administration, specifically the Title IX office, pushes students away. People in larger society and students in universities do not report for personal, institutional, and social reasons.

**Why staff think students don’t report**

Title IX staff have a complex role that involves implementing the actual process and maneuvering through what they think students think about their work. If the staff wants students to report, then the staff has to think empathetically to try to understand students. However, there are important discrepancies between what the staff thinks and what students think. Why they, the staff, think students don’t report influences how the staff adjusts the system to encourage students to report and get help if they’ve been harmed.

The staff also considers the structures that make up Title IX investigations and substantiate the process that may dissuade students from reporting. I asked each interviewee why they thought students do not report, which creates part of the narrative. The Title IX staff think that students have many fears about the process, which may feel overwhelming or re-traumatizing. When I asked why they thought students don’t report, interviewees often responded with a slew of ideas, which demonstrates not only that they recognize that students’ decisions are complicated, but that students’ concerns are intersectional and come from different parts of their lives. Students’ fears can stem from how reporting can affect their interactions with their assailant, with Brandeis as an institution, within their own community, or the larger society.

*Fears about the respondent*

Students may fear retaliation for initiating an investigation against their perpetrator, whether it’s direct continual abuse or suing the complainant in civil court. One idea that
Margaret pointed out is that in cases of intimate partner violence, students probably won’t want a no-contact order because if they are still in the relationship, they wouldn’t be able to see or talk to their partner. This same concern could easily apply to reporting: if a student is in an abusive relationship, the student may be afraid of the effects of reporting on their current relationship. Especially if the student has no intention of ending the relationship, filing a report against the abusive partner could heighten tensions or trigger retaliations.

_Fears about the community_

Within a small university, navigating reports and communities can be particularly challenging, especially when there are mutual friends between a complainant and respondent. Margaret and Rebecca, because their Title IX work is primarily student support, are the closest that I can get to hearing student survivors’ concerns. Since they offer students general support, they also provide insight into student concerns that reflect more interpersonal matters. Outside of the complainant’s relationship to the respondent, a complainant’s other relationships to their social communities can be considerably affected. Friendship circles and their participation in campus life can be jeopardized or altered. Margaret ruminated on what a student might think:

I think sometimes coming forward means alienation from a social circle. [...] I think that there’s also a situation of feeling like, if I come forward, I’m betraying my community, my sub-community, that is otherwise supportive of me.

Brandeis University, like many institutions of higher education in the United States, creates a community that exists within a small bubble, which complicates students’ incentives to report. Students may stay on campus for days or weeks because they live, take classes, work, participate in clubs or activities, and go to social events all on one campus. This bubble community dynamic forces any university intervention in Title IX cases to be intersectional. Being able to participate in the institution, as the Education Amendments of 1972 guarantees,
includes the realms of classes, living space, dining halls, clubs or activities, and social events. The factors that exist within close-knit bubble communities not only influences how the university responds, but can be a major deterrent to student reporting.

Self-blame and shame

Survivors may think abuse was their fault. Rebecca mentioned self-doubt that is implicit in the larger society, beyond an abusive partner or an abusive incident: “A student may not report because they didn’t think it was ‘serious enough.’ It might be a reflection of the rape culture, where victims are often dismissed or minimized or blamed.” A person’s relationship to the community can be their safeguard and support system, but can also be a source of judgment that discourages reporting. In addition to these feelings of blame coming from the surroundings, students may also face self-blame as an internal obstacle. Students may react to trauma by doubting that the abusive reality actually occurred, feeling ashamed, and believing the assault was their fault or that they brought the abuse on themselves by “asking for it.” While these feelings are not substantiated, they are common symptoms of Battered Women’s Syndrome and can discourage students from reporting (Walker 2000).

Sometimes, despite all of these potential external factors, Rebecca thought that the main reason students are dissuaded from reporting is the immediate reaction to trauma: “Reporting in that exact moment might feel even more overwhelming. It might feel like that's a risk to their own health and safety and stability.” The contradiction that Rebecca points out between the administration and the student’s goal is that although the school wants to react and take preventive measures, these actions with long-term goals may be re-traumatizing and hurtful to students trying to heal and move on.
The investigation process creates distrust among students because of the pieces that Sharon, who supervises Title IX investigation processes, described as the necessary evils: time required, due process, and anonymity. The phrase seemed to materialize itself in the array of her office: piles and piles of papers and folders all around her desk and a small table; any available surface was the base for a stack of papers. Although her job at Brandeis has two distinct roles, working in Human Resources and supervising Title IX, her work focuses a lot on overseeing university bureaucratic compliance. While Susan’s role is to oversee the content of investigations, Sharon’s is overseeing the process, checking for due course, fairness, and an unbiased process. The evil is the bureaucratic mess, the many steps and different processes, and the complications that seem endless and yet are crucial to personalizing each case.

While some steps and standards that exist within university structures may appear sound and in the best interest of students to the administrative staff, students may feel very differently. I want to draw attention to the animosity that exists between university staff and students. Facts can be proved wrong, but feelings are always true. In order to bridge the animus gap between the staff and students, the Title IX staff tries to understand how the university process is harmful to students by recognizing that some structures that they think are necessary take tolls on students.

Sharon identified the time needed as a necessary evil that may dissuade students from reporting. There is no immediate fix. As previously stated, the complainant and respondent are never in the same room, so scheduling meetings, interviews, and emailing back and forth takes time. The Office of Civil Rights recommended a 60-day timeframe for the entire Title IX investigation, not including Appeals (2014). Brandeis’ attorney, Rob noted how challenging it
was to stay within that timeframe because cases vary. Theresa recalled one investigation that had 20-30 witnesses. If there are few witnesses, an investigation can take 30-40 days, but if there are upwards towards 30 witnesses, a Special Examiner’s Process can take five months.

There are several due process steps that lengthen the investigations. After Theresa meets with all potential witnesses and collects evidence, she must initiate another process with an external co-examiner if the investigation is a Special Examiner’s Process. Both the complainant and the respondent review report drafts, which gives them a chance to respond to the evidence. Students’ due process rights allow them the chance to request more information in one area, or indicate that investigators missed an important witness or overarching point. Students give their feedback to the Outcomes Administrator, usually Susan, who at her own discretion may question Theresa and the co-examiner, request a supplementary report, or request a re-interview. All of the interviews, evidence collection, and due process must be complete for the Outcomes Administrator to make a final decision. Then, the investigation moves forward to the Sanctions Panel and possibly the Appeals Panel.

The legal requirement for due process protections must be respected, despite the additional complications that it adds to investigations. The additional layers for due process take more time, but the staff tries to move as efficiently as possible. Susan, who typically serves as the Outcomes Administrator has sent the final notification letter while she’s been on vacation in order to remain within the timeframe. She is wary of the anxiety that the process can create for students and understands that students are anxious to meet with her and hear the outcomes. She sees staying within the timeframe as another way to alleviate the stress of going through an investigation.
A Special Examiner’s Process with due process can be as short as two months and as long five months, but Sharon believes it is “necessary time to have a thorough investigation.” Theresa believes that the extended time and complicated process may deter students from reporting. Nevertheless, she thinks that these due process rights are built into the system to avoid re-victimization and overall protect students better and provide a more comprehensive report.

Conducting all interviews with the complainant, respondent, and witnesses separately, along with the back-and-forth correspondence of due process significantly prolongs the process. However, avoiding contact between complainant and respondent is crucial to avoid re-victimization and re-traumatization, and re-reviewing the report offers a chance to clarify and gather more information.

This due process time can also be interpreted as a chance for respondents to defend themselves. While that is true, I believe survivors, and thus I believe that more evidence and time for a careful investigation will support survivors in the long run. Erica, who works in the Department of Public Safety and supervises all sexual assault and domestic violence cases, has been at Brandeis for more than 35 years and has only seen one case in which a complainant lied. Susan is sometimes left feeling that investigations do not uncover the whole narrative: “Sometimes, my intuition is that more has happened than the investigation has proved.” Rebecca also experiences tensions between believing survivors and trusting the system. She always believes survivors, it’s her job and her mantra, but she doesn’t necessarily disagree with outcomes because she trusts the Title IX staff and investigation process to do the best with what information they have. However, she also said, “I’m always clear with survivors that just because there wasn’t enough evidence to support the allegation, doesn’t mean that it didn’t happen.” Although due process does allow for respondents to further defend themselves, I still
believe that the chance for more information will benefit complainants because they are trying to piece together a truthful narrative.

Students may perceive certain university actions as silencing, such as stances on amnesty or the university’s role if the complainant and respondent end up in Civil Court. Building on a fear of retaliation, if a respondent sues the complainant in civil court, the university will not assist or pay for an attorney, although Brandeis may help connect the student to legal aid or additional resources. Mistrust in the administration can come from students seeing the administration’s boundaries, such as not paying for an attorney, as administrative unwillingness to protect students. If excessive alcohol consumption or illegal drugs were present during an incident, students could be scared that they will get in trouble themselves, or that their substance use could be used against them in an investigation.

There are also a lot of complications in the process when it comes to student anonymity. When a student submits an electronic CSR for sexual assault or intimate partner violence, they have the option to leave out her or his own name. A student could write the name of the perpetrator, give a narrative of the harmful incident, and click send without including any personal information or contact information for the Title IX office. An anonymous report can limit the administration in how it is able to respond, but university staff also recognized that “we’re going to have to totally understand the desire.” Students may report anonymously for any number of reasons, such as fears of other people finding out, fears of no one believing them, or fears that they, themselves, will be blamed, all of which are fears common to survivors nationally (Wolitzky-Taylor et al. 2011). Students may report anonymously because they are not aware of what will happen if they do include their names, but want the university to know that something happened, anyway.
Taking any action in an investigation or against a respondent requires a named complainant. If there is a named respondent, the Title IX office can keep that name on file, in case it comes up in future reports. However, if there are five anonymous reports against the same person, the Title IX office has no way of knowing if it is five different people who have experienced incidents with the same person, or if one person submitted five CSRs against the same person. If there are multiple anonymous reports against a named respondent, they may have a Deans Conversation, which Susan said consists of letting the student know that there are multiple allegations against them, but there is not much that the school can do beyond that. Sylvia told me that she struggles and generally feels terrible when she has to tell students that they cannot take action without an identity. Margaret thinks that student misunderstandings about what an anonymous report can actually do is likely a contributor to student distrust in the administration and system:

So sometimes I’ve worked with students where they filed anonymous police reports or anonymous community standards reports, that then have subsequently expected the university to do something, in terms of intervening against the person who did the harm. And the university can’t do that.

The respondent needs to know who the complainant is, even if they want to remain anonymous; there's no way to have the protections and the anonymity without violating rights.

Theresa recognized that there is a real fear of retaliation, so an anonymous report could feel safer for a student, despite the limitations it sets on Title IX. Erica turned the question onto me: doesn’t it make me mad that the university doesn’t do anything when there are multiple anonymous reports against the same person? Yes, I am frustrated. If survivors are too traumatized and scared to submit a report with their names on it, it baffles me that all the respondents get is a conversation. A more severe case could cause a student to want to take
serious action, and thus submit a named report. Conversely, a severe case could traumatize students and paralyze them with fear.

I want the system to be sensitive to the depth of a case, but I don’t want explicit bias. If there is a system that is known to be fair and just, then people are more likely to believe survivors. With only 2-8% of all reported rapes found false and only one false report in the past 35 years at Brandeis (Lonsway et al. 2009), I believe survivors. Not only do I want the system to be sound and actually prove the complainant’s case, but I want the Brandeis community to trust the system to have few biases, and in turn, trust the outcomes. If the university took action against a respondent because of an anonymous report, there would be an implicit bias towards complainants, which could potentially undermine the system’s impartiality.

Despite the administrative limitations, anonymous reports can be helpful. If there are multiple reports on a specific area, such as outside a dining hall, the university can review and maybe increase lighting, or install a blue light system for emergencies. If the Title IX office receives multiple anonymous reports against someone living in a certain residence hall, they can do a poster campaign that targets particular areas, informing about rights, resources available, and information about filing investigations. These poster campaigns can and have led to reports in the past, which shows that even though the office cannot respond to a specific case, the office is still able to do work that increases reports and prevention. Susan claimed, “even anonymous reports are helpful to us.” The institution can respond with education programs in strategic locations about understanding the investigations and knowing one’s rights, which are typically led by Theresa or Sylvia. Margaret, who works with students for support and prevention services, can lead trainings in specific residence halls. Of course, from an institutional standpoint, the office of Title IX’s ability to respond is compromised by anonymity, but if the
only way students are comfortable reporting is anonymously, Susan would rather have it anonymously than not at all: “My feeling is that the more reports, the better.”

*Rumors about institutions*

The Title IX staff seemed to struggle with finding the balance between addressing the reasons why they think students don’t report and what they see as necessary structures for the process. Staff members believed students have misunderstandings about the process. Students may associate initial reporting with crime shows, where the police knock down the door, dogs sniff for evidence, the complainant and respondent are brought in immediately, and an investigation starts the next day without any student agency. After this crime scene, students might not receive a response if there isn’t enough evidence, such as the exact bed sheets from the incident. Students may have heard that respondents are never found responsible or that they always get light sanctions, “Which isn't true, as long as [Theresa has] been here, anyway.” Students could have impressions about the whole process that they’ve collected from hearing others’ experiences, rumors, or the little they know about the process.

The most prominent idea that I found is that there is general confusion about the process. Sharon thinks that a lot of students don’t know what the policy is or what an investigation or simply reporting entails, so students rely on rumors from peers that are fraught with real experiences, impressions, as well as mistruths about the process. The television crime scene is also an example of students thinking that the university police response and the Title IX response are synonymous. And even so, this invasive scene of police breaking down a door and forcing an investigation is not how the Brandeis police would respond. The Title IX staff recognized the need to walk students through the process and explain every detail along the way because most students don’t know about the process. Perhaps because of rumors, as Sharon suggested, the
issue in reporting is that students don’t even come in to hear an initial explanation. All the while, interviewees referenced the validity of students not wanting to report for emotional reasons, and therefore they will probably never have a 100% reporting rate.

**Complexities that are easy to miss**

Rights and Responsibilities, the Brandeis student code of conduct, clearly sets the tone for a convoluted process, which is stressed even more after speaking with Title IX staff. Rights and Responsibilities along with flow charts depicting different reporting options are published by the Office of Prevention Services (Appendix A), stated Brandeis’ policy, examples of university intolerances, different investigation types, and the different roles and phases in investigations.

Different entry points for investigations allow for flexibility and more options for students, but unawareness of these possibilities can cause more student anxiety and stress. From the very beginning, in specifically the sections on sexual misconduct and Title IX investigations, Rights and Responsibilities does not mention the many possible entry points. Rather, Rights and Responsibilities only mentions only one: submitting a CSR (2016). As it became clear throughout interviews, there are actually many different ways that an incident can be brought to the Title IX office’s attention. Students can submit an electronic CSR, report directly to the campus police, or disclose information to a faculty member, all of whom are responsible employees and mandated reporters. A concerned friend could submit an electronic CSR about a survivor, a student could tell dorm staff who are also mandated reporters. Students can also go to Margaret or Rebecca for support and then decide whether to move forward with an investigation. Students could potentially meet with multiple people before meeting with Sylvia, or they could even accidentally disclose information to a mandated reporter and risk triggering
university initiated investigation. Due to the many entry points, students can either find a comfortable way to reach Title IX, speak with multiple people before actually reaching Title IX, or accidentally disclose information to someone and have their information shared against their will.

If a student reports initially to the Brandeis police, they may be faced with an additional investigation before Title IX. The Brandeis police are not part of the administrative process and have their own investigation. They are required to refer any report that they have to Title IX, but often not before they conduct their own investigation, which can be more invasive and forceful. The department allows complainants to stop the investigation at any time, but it is still another step that students may have to go through before reaching the Title IX office.

Despite the coordination with staff roles in Title IX depending on students’ entry points into the process, students may still need to go through a considerable number of people. It seems that for every step along the way, students have to speak to a different person. A student could start by talking to their Resident Advisor in their dorm, who would then report to their supervisor and generate a Community Standards Report (CSR). Someone from the Dean of Students office would receive the CSR and then have a conversation with the student. If they determine that the incident falls under Title IX, then the student meets with Sylvia to learn about the different investigation processes available. After deciding on an investigation, the student meets with Theresa for interviews and finally with Susan to hear the outcomes. The whole process sounds exhausting and fraught with many wearying steps.

This complicated web of university staff has potential for more constructive streamlining, which could look like huge arrows that point students directly to Sylvia. In addition to the Title IX staff, many students also have meetings for health and wellbeing. Students may meet with
Margaret in the Office of Prevention Services, Rebecca in the Rape Crisis Center, Genevieve to talk about a no-contact order, someone in Academic Services to get accommodations, or someone in the Brandeis Counseling Center for psychological help. Erica exclaimed, “That’s an awful lot of people to meet with!” Depending on a student’s point of entry, it could be a while before they are connected with Sylvia, who would then organize all future meetings and answer questions about the overarching process.

Students have to speak to a different person for every point in the process and it would be helpful if someone like Sylvia accompanied them all the way through. Sylvia works to manage these different meetings and help schedule as much as she can. However, it still seems that for any one thing, whether it’s the next step in the process or to get support in a particular area, students have to talk to a different person. Many people from different departments convene for the Title IX committee, in hopes of making sure there’s a holistic approach to addressing students’ support needs, but from what I have found, there is no centralized structure. There is value in keeping processes separate to ensure thoroughness and impartiality. However, more efforts to streamline, such as granting Sylvia the authority to reach out to academic services and ask for specific extensions on a student’s behalf, or being able to coordinate with the Dean of Students office herself for no-contact orders, could go miles towards alleviating students’ stress and re-traumatization.

Furthermore, determining sanctions and appeals is fairly unclear in Rights and Responsibilities and leaves discrepancies where students make assumptions. Susan pointed to non-consensual intercourse without physical force as an example in Rights and Responsibilities. Rights and Responsibilities offers a range of sanctions to reflect a range of severity, but for non-consensual intercourse without physical force, the possible outcomes are suspension or dismissal.
(2016). Within this writing, there is no mention of the concept behind sanctions. Theresa and Susan described sanctions as meant to educate respondents about their wrongdoings, take measures to prevent future incidents, protect complainants, and change behaviors. Sanctions, as Theresa and Susan describe, are not meant to be punitive. Therefore, when a Sanctions Panel reviews a case of non-consensual intercourse without physical force, the discrepancy between what is written and what actually happens creates a space for students to assume that the university’s goal is to take punitive action. Then, when the Sanctions Panel decides on suspension from Brandeis instead of dismissal for the respondent, students may feel that the school did not do enough. Susan clarified that when a student is suspended, they are suspended until the complainant graduates; which can be for one semester or several years. The goal is to keep the students separate and to protect the complainant. While students may be frustrated that the respondent is able to return to Brandeis at all, sanctions’ directives are not intended to punish but to safeguard the community.

**Mistrust in the administration**

Although external investigations are completely separate from the administrative Title IX process, general feelings about overarching systems can bleed into a more localized setting: a mistrust in the criminal justice system can translate to a student’s mistrust in the administration. On a national scale, Wolitzky-Taylor found that of rape survivors who chose not to report, 68.1% cited concerns about fears of an attack or retaliation from their perpetrator. This fear of retaliation shows that people do not believe in the criminal justice system’s ability to protect them after a case (Wolitzky-Taylor et al. 2011).
This study is consistent with Sylvia’s perception of different student protests at Brandeis: there is a climate of distrust and “clearly, students are not happy with the administration” and its representation of students’ needs. This climate of distrust is not unrecognized by university staff members. In fact, many Title IX staff cited skepticism as a reason why they think students do not report. In addition to the structural changes that the administration has pursued in recent years, the relationship between students and the university itself needs to be addressed. Even if a reliable system exists, as I’ve assessed it does, students need to believe it.

In September 2014, a group of Brandeis students silently lined up next to speakers at the opening of the Rose Art Museum’s fall show, wearing all black, carrying handmade signs, and many with tape across their mouths. Signs read messages like, “I was raped. I was abused, I have PTSD” and “We respect Art. We don’t respect your silence,” all messages disagreeing with the administration’s approach to sexual assault at the time. One sign read, “Hey Fred [Lawrence, the university president at the time], you seem to be under the impression sexual assault is not a huge problem at Brandeis. I was anally raped my freshman year so I would disagree with you” (Hughes 2014: 1). The student group called for the administration to take sexual misconduct at Brandeis more seriously and recognize its prevalence on campus. Margaret also found similar responses from the administration:

When I first came to Brandeis [in 2013, I presented] national data to our Board of Trustees and there were some individuals, who I think […] were saying was that they either felt that this couldn’t happen at Brandeis, or that if it did happen at Brandeis, it must not be as bad as other places.

Students’ anger about the administration’s treatment of sexual misconduct, although not clearly presented in their initial platform with a set of demands, reflected frustrations with the administration.
Current students’ only impressions of the system may be from the protest outside of the Rose Art Museum. However, the year of the surge in student protests, 2014, is important because it preceded the Campus Climate Survey of the student body and the hiring of Rebecca, Theresa, and Sylvia. When these women were hired and worked to make the investigation processes fair, equitable, and supportive, they helped grow the team of invested people who want to help. Students don’t always follow the university policy and process changes.

Perhaps this distrust exists because the students and administration mutually do not understand each other, not necessarily because one is inherently bad. Sylvia thinks this distrust in the administration manifested itself from the Ford Hall demonstration. In November 2015, students gathered in pursuit of more university attention to diversity, increasing the number of black students and faculty on campus, and training for racial insensitivity. Students wanted the administration, faculty, staff, and campus resources to reflect the diverse range of students’ intersectional needs. For twelve days, students occupied the Bernstein-Marcus Administration Center, sleeping on the floor and holding rallies outside. They published a syllabus to educate the rest of the student body, stood by a list of demands, and worked to push and collaborate with administrators to have their demands met (Patkin 2015). Ford Hall showed another layer of student activism. Although it was not all encompassing, the antagonism was sincere: students’ activism clarified that they do not wholly trust the administration and vice versa.

**Staff demystifying student myths**

Title IX staff recognizes that there is a lot of confusion about investigation processes. On one side, there is general confusion, where students have no idea what the process is, how investigations work, what their roles are, or what can happen. Another side to this confusion is
what Sharon and many staff members saw as myths that students may unknowingly believe about the system: “Students say, I know x, y, z happens, but that’s not true!” Staff members disclosed to me myths they think that students think about the Title IX process at Brandeis: a dramatic first response to initial reports, their ability to respond to anonymous reports, and confidentiality issues.

Initially reporting

Initially reporting sounds traumatizing and the idea of enduring another situation in which they have no control can exacerbate the original trauma and fear from the abuse. With a crime scene image in their heads, it makes sense why students would be wary about reporting.

In reality, if a student submits a CSR about a rape or an abusive partner, the only automatic step is an email from Sylvia, or Sharon, depending on schedule availability. This email typically says that she’s been made aware of a concerning incident, and if the student would like, she can schedule a time to meet and talk about options. If she gets no response, Sylvia follows up a week later. If students choose not to reply to the email at all, nothing happens.

The minimal invasiveness of initially reporting is a major step in the process that aims to set the tone for student agency in participation throughout any Title IX process. Even if students submit a CSR, meet with Sylvia, and then decide not to move forward, their incident is still included in the university’s Annual Security Report and can still help the university respond (Brandeis Department of Public Safety 2016). This myth about an invasive and traumatizing first-response to a CSR is damaging because it is a direct block to the university obtaining basic information about an incident and in turn its ability to respond.

Anonymous reports and a punitive directive
There are still a lot of lingering myths about university responses to anonymous reports. Rebecca marveled at the idea of an anonymous report and says it can be a wonderful option for students who want the university to know but also want to forget about the incident or focus on their own emotional wellbeing. However, Margaret has worked with students who have expected immediate action:

Sometimes I’ve worked with students where they filed anonymous police reports or anonymous Community Standards Reports, that then have subsequently expected the university to do something, in terms of intervening against the person who did the harm.

A major gap in understanding lies in how the administration is limited in how it can respond to anonymous reports. Suspensions and dismissals are considered sanctions, which can only be implemented from a Special Examiner’s Process and require voluntary complainant participation to proceed. If a student meets with Sylvia and wants both their perpetrator removed from campus and no further involvement, there is no way to meet both of these directives without violating due process and due course rights.

If a student wants interim measures without any further involvement with a process, the goal is to help students feel safe. “We can’t be punitive without substantiation,” Sylvia said, meaning that the university cannot assume guilt and force a student to leave the university for interim measures. Theresa said that the school can remove a respondent from a class or have them virtually participate through lecture recordings, Skype, or conference calls. This action is an interim measure, which is meant to protect students during an investigation before responsibility is determined. Since Theresa has been at Brandeis, they have not removed any complainants. The Dear Colleague Letter confirms Theresa’s point, that the university should implement interim measures before final determinations and that the burden of these measures
should not be on complainants (Office of Civil Rights 2011). For example, if a complainant and respondent live in the same dorm, the complainant should not be the one to move.

The goal of these interim measures is to protect, not to punish. Anything beyond these initial protections are official protective measures or sanctions, and although more severe, are still not crafted as punishment. Protective or interim measures are usually to help a complainant feel safe, such as no-contact orders, changing classes, or changing housing to minimize any future harm. Protective measures can also entail telling the respondent to go to educational trainings, such as consent training or anger management counseling, with the goal of understanding how their conduct was harmful. More severe sanctions, such as suspension or dismissal, are not punitively formulated, but used if the respondent poses a serious threat to the complainant’s safety or the safety of the community at large.

Anonymous reports can be helpful because they can help the university direct poster campaigns or additional trainings. However, it is a myth that an anonymous report will get the perpetrator immediately dismissed. Due to this misunderstanding of the university’s directive, students can be disappointed when their perpetrator is not dismissed immediately or at all. If students want the most severe outcome for their perpetrator, the university policy points them to participate in an onerous Special Examiner’s Process, a necessary evil of Title IX that can result in sanctions.

They’re going to call my parents

Another common concern about reporting is that people will find out, whether they are family, friends, or acquaintances in the community (Wolitzky-Taylor et al. 2011). Margaret has worked with students who were scared that their parents would be notified, or the school would call the perpetrator, or that their case would be published on different media, such as the
Kleban

Brandeis website, Facebook, or other university publications. Unless there is a major safety concern, the school keeps Title IX information private. If a student wants to notify their parents, the school could help facilitate that conversation—there’s no gag-order—but if students don’t want their parents to know, even in a university where parents are usually financially responsible, Brandeis honors students’ privacy wishes.

Why it’s hard to demystify

There are a lot of barriers, whether structural or social, that tend to keep students and Title IX staff apart at Brandeis. Sylvia and Theresa are the primary Title IX staff who have the most contact with students throughout investigations. They are cognizant of the general unawareness that students have about Title IX and work with the Office of Prevention Services to offer more training and education to students about Title IX. Sylvia also recognized that by the time students meet with her or Theresa for Title IX purposes, students are unhappy: “It's usually not a sunshine and rainbows type of meeting.” Since Sylvia is also a mandated reporter, it makes sense that students might not want to seek her out for information and advice about the process, even though she has an open-door policy. Students might risk their incidents being reported by a responsible employee, a process that we’ve already established as unknown territory to students.

Theresa, who conducts the interviews and investigations, has an intimidating role and is not necessarily in the most comfortable physical setting. During investigations, she has a strictly neutral role that is focused on a fair and equitable investigation; she cannot let any survivor bias influence her work. Furthermore, her office is located in the same building as the Department of Public Safety, where police officers are the first people you see when you walk in and the offices
in the building are separated from the waiting room by a locked door—you need access to get in and see Theresa, an intimidating first impression.

The Brandeis police, whom students can call as first-responders before they are referred to Title IX, also have barriers between themselves and the students. Erica said that urban legends can linger and taint the Brandeis police’s reputation: “I think that our department is judged. If you had a negative interaction when you were a first year, then the whole department is judged by that interaction for your whole four years.” She gave examples, such as if a student is locked out of their room and has to wait 20 minutes for the police to show up and unlock the door, they’re judged as slow and unresponsive. The officers may have been preoccupied with a medical emergency on campus or fire alarm response, but the angry student waiting for the door doesn’t know that. Or if an officer has to break up a party and yells at students, they may have yelled because the music was loud and they needed to be heard. These negative interactions, as Erica referred to them, encompass most interactions that students have with the campus police because for the most part, when students call the police, the situation is already bad. These impressions create barriers between the campus police and the students.

From an administrative perspective, the policy and implementation needs to be reliable, but so does the student population’s general understanding of Title IX at Brandeis. Title IX staff are intimidating because of their job descriptions, so students do not have much of a relationship with them. These relationships, or lack thereof, are part of why it’s so difficult to bridge misunderstandings that students may have about the process. When students accept rumors as truths, or communicate through social media networks, the university cannot intervene to correct misinformation. Educational programs and informational campaigns are methods for the Title
IX office to reach students but unless these are mandatory, self-selection determines who is able to accurately assess the system from a student perspective.

**Uniquely Brandeis**

For the most part, Brandeis blends in with the landscape of universities in the United States that struggle with low reporting rates of Title IX incidents and that underwent major reforms after the Dear Colleague Letter in 2011. Yet, Brandeis does employ some tactics that are not common practice for universities. For example, Brandeis requires all university faculty, including graduate teaching assistants, and staff to be responsible employees and mandated reporters, not only staff in managerial positions, such as department chairs or office directors. This mandate excludes confidential resources on campus, including Margaret, Rebecca, the chaplaincy, the Counseling Center, the Health Center, and the Ombuds office (“A Resource Guide for Sexual Assault” 2016). Sharon said that faculty members have fought strongly against this policy at Brandeis for a long time because they believe that being a responsible employee can have a “chilling effect” on students-faculty relationships. The contradiction is that a trusting relationship between a student and a faculty member could encourage a comfortable space to share information, but it could also mandate a faculty member to report information against students’ wishes.

The long investigation process that Brandeis employs is also uncommon at other schools. Brandeis’ process takes special precautions to avoid re-victimization. Sylvia noted that long investigations are unfortunate, but she prefers this system to an alternate hearing mode. The alternative can look like meeting with everyone in the same room at the same time: the complainant, the respondent, witnesses, and investigators. In Brock Turner’s case at Stanford
University, he was dismissed from the school within two weeks of the incident (Stanford University 2016). Brandeis’ system does not allow for such a quick response because of the student separations, individual meetings, and due process. Although this system takes much longer, and can thus aggravate students’ stress and anxiety, the actual meetings can be significantly less traumatizing for students because they do not have the pressure of other spectators in the room.

**Wanting to help**

The Dear Colleague Letter in 2011 was a turning point for college and universities’ approach to Title IX, and Brandeis was no exception. Brandeis saw a need for university structures to better address Title IX and established the Title IX office. Sharon was hired in 2011, Margaret’s office was developed in 2013 and eventually turned into the Office of Presentation Services, and Theresa, Sylvia, and Rebecca were all hired in 2015. Establishing Brandeis’ structures for Title IX was not a case of re-assigning current staff away from their main jobs to focus on Title IX, but instead established new dedicated positions and brought in new people who deeply care about helping students.

Before coming to Brandeis, Theresa conducted administrative sexual misconduct investigations for other institutions, Rebecca has worked with survivors of sexual assault for most of her career, and Susan has worked at Brandeis for 18 years and is an alumna, so she has a deep understanding of the Brandeis community and deeply cares for its wellbeing.

Sylvia used to work as a Victim Advocate for the District Attorney and eventually left because her job had no built-in supports: if clients did not want to pursue legal action, her hands were tied from doing anything else. Working with clients to develop safety plans was not part of
her job. She came to her current job at Brandeis because she wanted to help survivors beyond legal obligation. When Margaret was in college, her close friend was raped and told only her about it, which inspired Margaret to obtain peer training and she has been invested in helping survivors for the past 20 years.

Despite their neutral roles in investigations, Title IX staff still keep the complainant at the center of attention. Everyone who I spoke with emphasized that they wanted to support the complainant and the community at large. Supporting students and offering any resources that she can is the “primary, primary reason” that Sharon meets with them. This kind of support was echoed throughout the Title IX staff: they were all trauma-informed, kept up to date on different trainings, Title IX or otherwise, and constantly reiterated that they can offer students resources, that investigations are driven by students, and that they want to help.

Coming into this research as a skeptic and facing pushback from the Institutional Review Board to do this research, I was surprised by how much I trusted these people and their ethical integrity. I assumed that the reason for pushback from IRB was that they did not want me to investigate and feared I would criticize the institution. This completely contrasted with my experience speaking with the staff. Genevieve, who works in the Dean of Students office and helps implement no-contact orders, cancelled her next meeting so she could continue speaking with me, “This is important to me because we’ve been trying to [speak more with students and help them understand our system].” She was excited and committed to helping me understand the different intricacies and complexities of the system. I felt a similar reception to my research across the board with different university staff. Some people even thanked me for taking on this project, asking me to keep them updated on my findings.
The counterpart to the Title IX staff, the support staff, took a very stern stance on their relationship with students in that they always believe survivors. While they have no role in the official Title IX process, they are always there to support survivors in whatever they may experience. They validate that something unwanted happened to a student, even if they did not have the words to verbalize it at the time. Even if the process does not find the respondent responsible, Rebecca ensures students that “that just because there wasn’t enough evidence to support the allegation, doesn’t mean that it didn’t happen.”

All of these staff members, who are at the core of investigation processes and supporting students, came from backgrounds of related works and left me with deeply caring impressions. I believe that they want to help students and remedy the wrongs of sexual assault and intimate partner violence, whether through a Title IX investigation or offering general support. Susan remarked on the how overarching process reflects the general university staff’s stance on Brandeis’ policy and approach: “I think it’s really important that we have a team of folks doing this work who are really invested, who are trying to make things better.” The Title IX staff and the support staff may experience contradictions in their desire for increased student reporting, but that only sets the tone for more prevention work. Margaret’s office wants to focus on educating and preventing future incidents and Rebecca wants to offer general support to students, which they can still work on while attaining enough information, student-willing, to submit information to the Clery Act and be treated by the Title IX office as an anonymous report. Throughout their different efforts for support, administrative actions, and ensuring fair treatment, I can see that the staff cares, they mostly trust the system, and they recognize in “trying to make things better” that the administration still has work ahead of them.
Chapter V: Concluding thoughts and moving forward

Students should be able to turn to their institution for help. When sexual assault caused them to lose a sense of power and control over themselves, students need the option for some kind of intervention that helps navigate a complicated and dangerous relationship, that helps them feel safe, and helps them heal. As an institution that is legally obligated to intervene and protect its participants, it’s important for the university to do its part, but it’s also important for students to actually seek out the help they want.

Every Title IX staff member whom I interviewed spoke of the complexity of the system and the range of patterns of behavior. An incident could be between two students who live in the same building, who have class together, or maybe one of the students is the other’s Teaching Assistant. Students could be in the same club or student organization, they could play on the same sports team, or have mutual friends. The students could be in a relationship, they could have just started dating or been together for years, they could be roommates. The abuse could be sexual, physical, verbal, manipulative, or look like any combination of different abuses. The abuse could be sustained, part of a pattern, a one-time incident, or a culmination of other stressors. The abuse could come from a stranger, someone who is not a student at Brandeis, an acquaintance, a friend, or a romantic partner.

There are many complicated layers in each Title IX case, and the first one is knowledge about accessing the system and the different entry points. Students need to know how to report, what will happen to them if they report, and the different measures that the university could take if they do report. Students also need to know who the different Title IX staff members are, and what role each faculty and staff member play. They need basic information about how to enter the Title IX system, or avoid it, if that’s what they want. Brandeis’ Title IX system is
intentionally built to help students make their own informed decisions, including the initial step of accessing Title IX. If students don’t know what’s available to them or how to get preliminary information, they may not even reach the point of deciding how they want to move forward, with or without institutional support. Students may also struggle with being justifiably critical of the university administration at the same time.

Brandeis’ Title IX system is designed to avoid re-traumatization, but it has many contradictions between voluntary participation, university initiated investigations, due process and keeping students separate, anonymity, and mandated reporting/responsible employees. The system itself is thick, complex, and has multiple paths that are confusing, difficult to understand, and seem never-ending with due process. Steps are taken throughout the process to ensure a thorough investigation, but students may feel that the system is biased. What administrators may see as fair and equitable, such as allowing both parties to file for appeals or requiring a name to move forward with an investigation, students may consider inadequately protective of one party.

Voluntary participation is meant to give complainants agency by following their directive, but participation is also voluntary for respondents. Investigators will move forward with an investigation, collect evidence, and interview witnesses regardless whether respondents choose to participate. However, the narrative may not be thoroughly represented.

University initiated investigations are meant to protect students and the institution, especially if the harm is likely to occur again in the future. However, triggering a university initiated investigation counteracts any student agency that voluntary participation is supposed to allow. A student currently in an abusive relationship is in a dangerous position, both emotionally and physically. This kind of case, because it is part of a pattern and likely risk for continual abuse in the future, can trigger a university initiated investigation. For a person in an abusive
relationship, where a sense of power and control over themselves is waning or lost, losing agency over a university investigation is further traumatizing.

Steps are taken to ensure that meetings are not re-traumatizing or re-victimizing, such as conducting all interviews separately. The complainant and respondent never meet and are only required to tell their full narrative once, but students also have to meet with a different person at each step of the way and navigate bureaucratic obstacles to obtain institutional changes. Any clarifying questions that investigators may require an additional interview, which can be difficult to schedule, or a conversation through email that has a slower response rate. Both parties also have due process rights, giving them a chance to review the investigation report before the Outcomes Administrator makes final determinations. While these steps are meant to ensure a thorough investigation and to avoid re-traumatization, collecting, analyzing, and reviewing evidence take significantly longer.

From an administrative viewpoint, an anonymous report can still provide some useful information, but the university is limited in its ability to respond. However, anonymous reports are important because they may be the only way that a student feels safe coming forward.

All faculty and most staff at Brandeis are responsible employees, meaning they are mandated to report any concerning information about students to the university. This may be the product of an initiative to obtain more reports because it creates more entry points into the system. However, this system can create conflicts in trusting relationships between some students and faculty. A student may feel comfortable disclosing private information to a faculty member, but because faculty are mandated reporters, they may have to violate that trust by submitting a report about the student.
While investigative practice may follow a model, the different precautions taken, options offered, and areas to examine complicate the process commensurate with the particulars of the case. Not only is Brandeis’ system complicated because of the process itself, but there are not always clear-cut explanations for exactly what an investigation will look like. As a result, students face a confusing landscape that can be difficult to understand or navigate.

As the system currently exists, I’ve assessed it to be fair, impartial, and legally compliant. The staff seem to truly care and are dedicated to helping students. Certain precautions are contradictory, but are crafted with the primary intention of avoiding direct re-traumatization. Finally, I think the long, onerous investigation process is beneficial. A sound investigation that strives for fairness is more likely to be accepted and respected, will hopefully uncover enough evidence to support the complainant’s claims.

Even if all of these complications are smoothed out, streamlined, or reconstructed, there will always be reasons why students do not want to report. Working within the structures of the Title IX process is the best way for the administration to reach students. Due to the ever-changing nature of student cases, there will never be a perfect system. If students are too involved, such as constantly being in contact with investigators and explaining their situation in depth to every staff member, it could be difficult to emotionally move past their experience. If students are too removed from the process, they could overlook how the harm affects them and not be able to heal. Margaret recognized that the administrative changes need do their part to provide a comfortable space for students: “We want people to come forward and feel safe doing so.” The staff cannot change internal obstacles students may face, but they can continue to build a system that makes students feel safe and able to seek help.
Changes staff want to see

Rights and Responsibility, the student code of conduct, is revised every year. Constant change and revisions in university policy and civil laws are important because the administration is always learning about different student needs and is still working to develop best-practice. In the policy overview, I chronicled some of the major changes in Brandeis’ domestic violence policy over the past 20 years. Since the policy is always changing and adding pieces, the policy is more thorough than it was 20 years ago, and will hopefully continue to follow this developing pattern for the next 20 years.

Many staff members work on revising and refining the policy each year, including updating and clarifying language. The Title IX sections of Rights and Responsibility are revised by the Title IX Task Force, of which all of my interviewees, except Rebecca, take part. They all have the mindset that the current policy and system is not permanent and needs to change in response to student needs and practice: “We learn from experience,” Rob reflected on the revision process. For example, the Title IX staff found that the investigation process was not always conducive to student healing, so Margaret worked to bring Restorative Justice to Brandeis as an alternative to an informal investigation. However, there are still changes that the staff discusses amongst themselves and hopes to incorporate in the future.

Some changes that staff want are straightforward and do not necessarily change the policy, such as illustrative writing. Sharon would like to see more examples in Rights and Responsibilities. She believes real-life examples would put the scenario in perspective and help students imagine different outcomes. This change would also affect the layout of the written policy: Currently, examples of sanctions and interim measures are in their own section, but
Sharon thinks it would be helpful for students to have some real-life examples incorporated into the policy or investigation description. Displaying both the policy and the examples together could help clarify tangible outcomes from the Title IX process.

Another example of a snag in the system is bringing in respondents. If a complainant wants to move forward with a Special Examiner’s Process, respondents may take a long time to come forward and meet with the administration. Margaret recognizes that a delayed response time can contribute to the emotional toll of a complainant deciding to move forward with an investigation: “We need to make sure the processes are responsive.”

Margaret would also like to change larger structures and concepts in Brandeis’ approach to Title IX, such as who can be considered a complainant. The policy is not currently structured to include alumni as possible complainants. An alumnus may not need the same protections as a current student, but alumni are also not able to secure protective measures or sanctions against a respondent, such as educational training or anger management counseling. If the university recognized an alumnus as a complainant, they could take administrative action against a respondent who is still a student in order to prevent future abuse.

Margaret also sees this issue of who can or cannot be a complainant when it applies to students from other schools. She gave an example of a student from Tufts University, a mere 40-minute drive from Brandeis, as a complainant against a Brandeis student. The Tufts student cannot go through the Brandeis Title IX process as it currently exists. Instead, the Tufts student would have to get someone from Brandeis, likely from the Dean of Students office, to act as a proxy. Margaret does not think this is an effective approach. Wanting students from other schools to use Brandeis’ system speaks to the trust Margaret has in the Title IX staff: “Given the good work that Theresa and Sylvia do, I think when you have a good investigator and you have a
good process […], I’d like that process just to be available more broadly.” She wants more people to be able to use the process, either as an alternative or in addition to going to the police. In her argument for expanding who can be a complainant, her criticism lies more in the administration than in the process itself.

To further recognize the dependability of Title IX investigations, Margaret wants this process used for a variety of incidents, not just sex-based discrimination. She introduced to me the idea of one policy one process, where the same university approach to sexual and gendered violence is applied to issues of race and racism, homophobia, discrimination on the basis of religion, ableism, etc.:

It can be of course very costly, because then you’re using processes like the Special Examiner’s Process [that requires hiring an external attorney] to deal with all different kinds of cases, but it communicates a message to the community that the university both understands that these issues intersect and also that there’s a really high commitment to addressing all kinds of Civil Rights violations.

Margaret said that as a whole the administration resists this idea, but this one policy one process system has potential to completely change the university approach and change the way students see the administration. If students see that the administration responds to all Civil Rights issues with the same process, there will be more occasions for the institution to demonstrate their efforts for equal and thorough investigations. Students may have more exposure to the system and there will hopefully be less animosity between the students and the administration. Students will also see a major commitment by the university to recognize that their incidents are intersectional and so are their healing needs.

Campus-wide education is another area where staff members would like changes. Currently there is no required continual education or training for students on sexuality and healthy relationships. Margaret’s office offers Bystander Intervention training that gives
students a base understanding of domestic violence, the many different forms it can take, and how students can intervene in a situation. However, this is not a required training for all Brandeis students. The Office of Prevention Services recently partnered with the Student Union to require all student club leaders to participate in Bystander Intervention training, dramatically increasing the number of trainees. “We’ve trained 800 students this past fall […]. Normally, we would train 800 over the course of the entire academic year.”

Continual education throughout the four years at college would serve as a refresher, keep students updated on prevention tactics, and make domestic violence a community problem for which everyone is responsible. Margaret mentioned a colleague at Dartmouth College who is designing a four-year prevention program for undergraduate students: “They’ll test it out and they’ll be able to see if it’s efficacious. And if it’s not, who benefits from it, who doesn’t, what changes need to be made, what outreach needs to be done.” Continual education about sexuality and healthy relationships could make domestic violence between individuals a community problem.

Sharon also wants to see required coursework for all students that would help them make decisions about Title IX following incidents. She imagines a semester-long course that would cover information about Title IX, sex-based discrimination, awareness, information about the LGBTQ community, sexuality, and healthy relationships. A course that follows this model would ensure required education for all students about prevention, rape culture, and also about the Title IX process itself. It could help demystify what an investigation or simply reporting entails. If students are ever in a situation, they would be able to make an informed decision on their own on whether they want administrative support.
Throughout her time working with Brandeis Title IX, Sharon has seen more reporting month by month and year by year. She does not attribute this to increased prevalence on campus, but comfort with the process, more education, and awareness of university resources: “We’re chipping away at more increased reporting.” With a sound investigation process, caring staff, and a thorough written policy, the focus is on the administration’s relationship to the students: what they can do so students are able and comfortable to reach out for administrative support to best meet their emotional and institutional needs.

My recommendations for moving forward

Brandeis’ system is complicated and very few students understand the particulars of it. Through my work, I gained a comprehensive understanding of Brandeis’s system, but I spent a year researching it. I looked at the written policies and changes over time, I interviewed nine key staff members who work with sexual misconduct, intimate partner violence, and Title IX, and spent months doing background research. I had to do an entire thesis to understand the intricacies and complexities of Brandeis’ Title IX process; I’m sure there are still corners that I never found.

The system is meant to be available to the entire Brandeis student body and I find that the greatest problem is that most students do not access the structures that exist. As a student, if I or a friend had an unwanted sexual or intimate experience, I would now confidently encourage, at the very least, submitting an anonymous report or reaching out to Margaret or Rebecca for confidential support. These are minimally invasive steps that can help students get support and would contribute to the data collected for the Clery Act, increasing the university’s ability to
respond and an incentive to look at larger structural changes. However, these are once again recommendations that I am able to offer because I have done extensive research on this subject.

It is important to clarify that my recommendations are about the institutional structures of the system at Brandeis, not necessarily the social constructs that allow sexual and gendered violence to occur in the first place. The Office of Prevention Services already exists to help address social structures. However, when incidents do happen, I want a vehicle of communication so students can understand and take advantage of Brandeis’ system.

Someone who is specifically seeking information about reporting, Title IX, and student conduct may take the time to read Rights and Responsibilities or as Survivor Flow Charts in their entirety, but there’s no guarantee that the average student will. Sharon suggested that more examples should be included in the written policy in Rights and Responsibilities. However, I don’t think many students actually read Rights and Responsibilities. Though they are distributed in dorms and are available in the Department of Community Living office and online, it’s a fairly thick booklet with small print. The Office of Prevention Services published the Brandeis Sexual Assault Response Guide for Survivors flow chart, in addition to flow charts that map out informal investigation processes and the Special Examiner’s Process. All of these resources are detailed, helpful, provide options for moving forward, and explain how the process works, but they each take up an entire sheet of paper and have small print that spans margin to margin. If a video on Facebook is longer than a minute and a half, I probably won’t watch it. I do not believe that I am unique in this impatience. When rumors are the only resource that students use because everything else is too long or a nuisance to read, it makes sense that students would rely on word of mouth.
There are posters that are all around campus and are in many bathroom stalls that are aimed at crisis response. The posters read:

If you or a friend has had an unwanted sexual experience…
GET HELP NOW
University Police Emergency Line [Phone number] If you contact the University Police, you will still have the choice of whether or not you file a formal complaint.
Brandeis Rape Crisis Center [Phone number] Confidential help is available 24/7. You are not alone. (Appendix B)

At the bottom of the poster, the website for Brandeis Title IX is listed. These posters are crafted with the right intentions, offering resources for immediate help and support and pointing out that there’s a connection between the Rape Crisis Center and reporting to the campus police. However, there is no mention of the Title IX office or actually reporting to the university. These posters are focused on first-response to help students feel safe immediately.

I emailed Theresa, in search of an electronic copy of this poster, and she sent me a different one about Title IX at Brandeis that read:

A Survivor’s Guide to Resources & Reporting
If you would like to report an incident of sexual misconduct, you may do so online at: [hyperlink]
You may also do so anonymously at: [hyperlink]
If you submit a report and choose to disclose your name…
• [Sylvia] will reach out via e-mail to see if you would like to set up a meeting.
• During this meeting, Sylvia will explain both formal and informal investigation processes.
• The goal is to figure out what next steps feel best for you (Appendix B)

The bottom half of the poster includes information about the Rape Crisis Center, confidential professional resources, and confidential peer resources. This is a helpful poster and I think that it, with a few changes, would be instrumental in getting basic information about reporting to students. The Rape Crisis poster, about getting immediate help, is printed on
adhesive sheets and is found in almost every bathroom stall. This Resources & Reporting poster should be treated similarly.

For a public information campaign, I think the three most important points should be that (1) any participation with Title IX is completely voluntary, (2) if students want any kind of administrative support or more information about Title IX, they should go directly to Sylvia, and (3) information about confidential support resources on campus. Below are explanations of these three main points:

(1) Participation is completely voluntary. If a student reports, either to the Rape Crisis Center, the campus police, to a responsible employee/mandated reporter, or through a CSR, they do not have to follow through with an investigation. The only thing that happens after reporting is that students Sylvia or Sharon will email them about meeting, and students do not have to reply if they do not wish.

(2) For more information about Title IX or administrative support, contact Sylvia. Sylvia is the point person throughout any Title IX investigation, and if students ultimately decide that is the path they want to pursue, they will eventually work with her. There should be efforts to send students to Sylvia first to limit the number of people they have to speak with.

(3) Confidential campus resources for support. If students do not want anything to do with reporting or Title IX, they can go to the Rape Crisis Center for support and help navigating the school’s system to help them feel safe. Examples of steps that Rebecca can help students navigate should be included, such as changing classes, changing dorms, or creating self-care plans.

The Resources & Reporting poster already includes information about campus resources for support, so I would not change the bottom half of the poster. The top half of the poster about
reporting, however, should be altered. Highlighting Sylvia as the point-person for reporting is helpful, but I would also include a small note to contact her about any other questions about administrative support, Title IX, and that she is a mandated reporter. For example: “To learn more about reporting and Title IX, contact Sylvia. Sylvia is a mandated reporter—share specific information at your own discretion.”

The poster also implies voluntary participation and complainant agency through its language use, such as, “If you would like to report,” and “The goal is to figure out what next steps feel best for you.” However, I think it could be more explicit about the entry point agency. In the first bullet, “[Sylvia] will reach out via e-mail to see if you would like to set up a meeting,” I would add: “You don’t have to reply.”

There also needs to be a cultural change within the student body, which can start in education. This could be a semester long course, as Sharon suggested, or continual education throughout four years, as Margaret wants. A mandatory curriculum could cover many topics, such as sexual health, sexuality, rape culture, mandatory consent, and intersectionality in domestic violence. However, in regard specifically to Title IX and reporting to the university, this curriculum ought to include an expanded definition of abuse, information about Title IX and reporting, and in-depth information about campus resources.

This information and mandatory education needs to be compelling to be effective. I do not recommend adding another semester-long required course to the curriculum because I know students often resent them. However, this required coursework could be incorporated into an already required course, such as the University Writing Seminar, which is required for all first years. This class could meet three days a week and split the time: two days a week on writing, one day a week on sexuality, sexual health, intersectionality in domestic violence, campus
resources, Title IX, etc. The problem with this coursework proposal is that the University Writing Seminars are typically taught by graduate students, who are not necessarily well-versed in the subject. To establish a compelling course that is engaging and does not feel like a chore to students, it would need experts.

Another option to incorporating this information into the Brandeis curriculum would be to offer a semester-long course that is not required, but offered every semester. The course could be a large lecture class that breaks off into smaller discussion sections, and is cross-listed in many departments and fulfills several different course requirements to incentivize student enrollment. Possible departments include Health: Science, Society, and Policy, Women’s, Gender, and Sexuality Studies, Sociology, Psychology, Sexuality and Queer Studies, and Biology. This course could also fulfill general university requirements, such as a course in the School of Science and the School of Social Science.

Brandeis could also bring in local organizations to be guest lecturers for each class: Boston Area Rape Crisis Center (BARCC) to teach about sexual violence, REACH Beyond Domestic Violence to teach about domestic violence, The Network/La Red to teach about gender, sexuality, and domestic violence in the LGBTQ community, Samaritans to teach about suicide, therapists from the Counseling Center to teach about depression, anxiety, self harm, and the Counseling Center’s resources, nurses from the Health Center to teach about sexual health and the resources at the Health Center, Theresa and Sylvia to teach about Title IX at Brandeis, Rebecca to talk about the Rape Crisis Center, Margaret to talk about the Office of Prevention Services, as well as leading Bystander Intervention training, and different professors who focus on gender, sexuality, and power dynamics.
An obstacle in domestic violence treatment is a disconnect between the general public and the communities that actively work against domestic violence, and not always recognizing that sexual assault is not exclusively forced penetration. Donald Trump was recorded bragging about nonconsensual kissing and grabbing women in 2005 by Access Hollywood. After the recording was released in October 2016, many women came forward to share incidents when he assaulted them. Women reported Trump touching their breasts, reaching his hands up their skirts, kissing them, hugging them, and walking in on pageant contestants in their dressing rooms (Bullock 2016; Kurtzleben 2016). The release of this recording and the backlash from the media and public increased an awareness about sexual assault; it does not have to be rape. With common concerns that an incident is not severe enough to report (James and Lee 2015; Thompson et al. 2007), the release of the Access Hollywood tape helped people understand that sexual assault can take many forms. Even if there is no forced penetration, any kind of unwanted physical or sexual contact is assault.

Expanding the definition of sexual assault in the language used on campus should validate that what happened to students was something they did not want and is serious enough to report. Students may even be dissuaded from seeking support at the Rape Crisis Center because in their minds, they weren’t exactly raped, even though someone kissed them when they did not want to be kissed. Susan said that they are seeing more harassment reports, which means more students are learning about behaviors that are not safe and reject them; this is just a beginning of society’s expanded understanding of abuse. More broadly applicable language looks like, “Do you ever feel uncomfortable in your relationship?” or “Has anything ever happened to you physically or sexually that you did not want?” The administration should
incorporate this concept of a broadly applicable definition of sexual and partner abuse in their language choice for publicity campaigns and education.

Another part of this public information campaign should be to make it students’ business to know about Title IX and how to get help from the institution. This campus cultural change is difficult for the institution to do. However, enforcing education and teaching basic information about Title IX rights throughout students’ time at Brandeis will instigate new standards. This can be more incorporated into the Bystander Trainings offered by the Office of Prevention Services, first year orientations, and Community Advisor training. Continual prevention education, such as the four-year program that Margaret would like, can include a module on the specifics of Title IX at Brandeis. Whereas prevention slogan tones over the years have transitioned from “consent is sexy” to “consent is mandatory,” similar slogan campaigns can be about Title IX: “Title IX wants to help,” “Title IX is completely voluntary,” “Title IX follows your directive.”

When I met with Sylvia, I think she liked meeting with me because I asked her clarifying questions to understand the process. She wants students to know about the process and understand that the Title IX staff will do what they can to mitigate the scariness of reporting. The Title IX staff and myself have a similar mission of sharing the same information with students. For the institution to protect students and students to feel safe, moving forward must focus on filling discrepancies between what students believe about the system and how the institution can respond.
Appendix A: Campus resource flowcharts

Special Examiner’s Process (SEP): Formal Title IX administrative investigation into allegations that a student violated Brandeis University sexual misconduct and interpersonal violence policy.

*Brandeis University strives to align with the U.S. Department of Education suggestion that investigations be completed within 60 calendar days following receipt of the complaint. Based on past experiences, investigations may take longer due to the complexity of the investigation and depending on the severity and extent of the allegations.

*This flow chart is meant to be a visual guide of the adjudication process and does not contain all policy language. The full policy statements enumerated in Rights and Responsibilities take priority.

*This document may be updated to reflect Brandeis University policies and procedures.
Informal Title IX Administrative Investigation: Investigation into allegations that a student violated Brandeis University sexual misconduct and interpersonal violence policy

Submission of a Community Standards Report (CSR) or Campus Police Report alleging sexual misconduct.

Informal Title IX

Formal Title IX Investigation: Special Examiner’s Report (SEP)

View SEP chart for process details

Point of Contact (POC) meeting occurs between University administrator and complainant. Discussion includes right to report to criminal law enforcement and/or a University Title IX investigation, interim measures and community resources.

Complainant informs POC they would like to pursue an informal Title IX investigation. In an informal investigation, formal charges are NOT levied against the respondent. Accordingly, sanctions will not result from an informal investigation, however, protective measures focusing on the safety of the complaining party and community may be applied. Examples of protective measures include, but are not limited to, No Contact Orders, relocation of residence hall room, or restricting the respondent’s movements on and around campus.

Complainant meets with Case Manager to determine which policy provisions from Section 3 of the Rights and Responsibilities Handbook may have been violated. Case Manager works with complainant throughout the informal investigation by providing weekly case updates, scheduling meetings with the investigator and connecting the complainant to resources.

Case Manager meets with respondent to notify them of alleged policy violations and informal investigation. Case Manager works with the respondent throughout the informal investigation by providing weekly case updates, scheduling meetings with the investigator and connecting the respondent to resources.

If respondent accepts responsibility, complainant and respondent hold separate meetings with Outcomes Administrator to discuss what, if any, protective measures will be implemented.

If respondent denies responsibility, informal investigation moves forward into fact-finding phase. Case manager works with the respondent throughout the informal investigation process by providing weekly case updates, scheduling meetings with the investigator and connecting the respondent to resources.

Fact-finding occurs with both parties having an opportunity to discuss their experiences and present evidence to the University Title IX Investigator. Both parties are entitled to utilize an advisor and advocate during the informal investigation. Only advisors may attend meetings with the investigator.

Upon conclusion of all interviews and collection of all known documents and materials deemed necessary and relevant, the Investigator drafts a memorandum of their findings for the Outcomes Administrator. The memorandum summarizes factual findings, offers conclusions about the credibility of testimony, and opinions about whether the respondent is responsible or not responsible for alleged policy violations.

Outcomes Administrator renders final decision as to any findings of responsibility. Complainant and respondent hold separate meetings with the Outcomes Administrator to discuss the findings and what, if any, protective measures will be implemented. Parties are also notified of the outcome in writing.

*Brandeis University strives to align with the U.S. Department of Education suggestion that investigations be completed within 60 calendar days following receipt of the complaint. Based on past experiences, investigations may take longer due to the complexity of the investigation and depending on the severity and extent of the allegations.

*This flow chart is meant to be a visual guide of the adjudication process and does not contain all policy language. The full policy statements enumerated in Rights and Responsibilities take priority.

*This document may be updated to reflect Brandeis University policies and procedures.
APPENDIX B: TITLE IX POSTER CAMPAIGNS

IF YOU OR A FRIEND HAS HAD AN UNWANTED SEXUAL EXPERIENCE ...

GET HELP NOW

University Police Emergency Line
781-736-3333

If you contact the University Police, you will still have the choice of whether or not you file a formal complaint.

Brandeis Rape Crisis Center
781-736-3370

Confidential help is available 24/7.

You are not alone.

brandeis.edu/sexual-misconduct-title-ix
A SURVIVOR'S GUIDE TO RESOURCES & REPORTING

If you would like to report an incident of sexual misconduct, you may do so online at: http://tinyurl.com/jhfgmw2
You may also do so anonymously at: http://tinyurl.com/gwy9e9x

If you submit a report and choose to disclose your name...

- [Name] Title IX Case Manager, will reach out via e-mail to see if you would like to set up a meeting.
- During this meeting, [Name] will explain both formal and informal investigation processes.
- The goal is to figure out what next steps feel best for you.

If you are seeking On-Campus Resources

The Brandeis University Rape Crisis Center provides confidential peer advocates who can answer questions and help you access resources that feel best for you.

You can explore medical, counseling, and reporting options, as well as accompaniment and academic/living accommodations.

12-5 PM in Usdan G108
M-F when class is in session
24-Hour Hotline: (781) 736-3370

Confidential Professional Resources
Brandeis Health Center - (781) 736-3677, After Hours: (781) 239-1948
Brandeis Counseling Center - Daytime: (781) 736-3730
Emergency line: (617) 431-4814, Mailman Building
The Multifaith Chaplaincy - (781) 736-3570

Confidential Peer Resources
Brandeis Counseling and Rape Crisis Hotline: 781-736-8255
Queer Resource Center: 781-736-8583
Student Sexuality and Information Services: 781-736-3695
Students Talking About Relationships: 781-736-4745

*Note: Feel free to check in with the RCC to explore additional resources.
Appendix C: Interview subjects

<table>
<thead>
<tr>
<th>Interview Subjects: Pseudonyms and Job Descriptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Theresa</td>
</tr>
<tr>
<td>Sylvia</td>
</tr>
<tr>
<td>Margaret</td>
</tr>
<tr>
<td>Rebecca</td>
</tr>
<tr>
<td>Erica</td>
</tr>
<tr>
<td>Sharon</td>
</tr>
<tr>
<td>Susan</td>
</tr>
<tr>
<td>Genevieve</td>
</tr>
<tr>
<td>Rob</td>
</tr>
</tbody>
</table>

Appendix D: Interview guide

I. Introduction
   a. Thank you for agreeing to participate
   b. I’m going to ask you about your role and experience with domestic violence policy on campus
   c. Reiterate consent form: audio record, voluntary participation means you can choose not to answer any questions or stop the interview at any time, pseudonym
   d. No right or wrong answers, take your time

II. Your job
   a. How did you come to do this kind of work?
   b. What was your previous job?
      i. Were you involved with anything related to sexual misconduct or intimate partner violence?
      ii. Why did you decide to come to your current job?
   c. How would you describe your current job?
   d. How is your job related to student sexual misconduct?
      i. Intimate partner violence?
   e. Does Brandeis have any specific protocols for your job?
      i. What are the mandated steps for your job that you do not have agency over?
   f. What is your relationship with the students who are reporting?
      i. How do you proceed if a student does not want to be involved?
      ii. How do you proceed if a student does want to be involved?
   g. Can you think of a time that you did something to help a student that was not mandated by your job?
      i. Can you tell me about that?
III. Policy development
   a. How do Brandeis policies influence how you do your job?
      i. Example: Policy for sexual misconduct, harassment, and discrimination in “Rights in Responsibilities”
   b. Were you involved in developing any of these policies at Brandeis?
      i. What was your goal?
      ii. Do you think that was achieved?
   c. Can you think of anything that you wish was included in these/this policy?

IV. Implementation
   a. What happens to a sexual misconduct or intimate partner violence case before it is brought to your desk?
   b. Where do you enter into the process in a case?
      i. How do you decide to move forward with an investigation?
         1. Sexual misconduct?
         2. Intimate partner violence?
      ii. Say someone calls and says they’ve been groped at a party, what do you do?
      iii. What if someone calls and says their partner is emotionally abusive?
      iv. Can you think of an instance where you addressed a case without the student victim/survivor’s prompting?
      v. Can you think of an instance when a case was reported despite student’s wishes?
         1. Have you ever moved forward with an investigation even if a student didn’t want to?
      vi. What would you do if a student reported, but didn’t want further involvement?
      vii. How do you address students’ anonymity requests?
         1. How do you address an anonymously submitted CSR?
         2. What if a student reports with a faculty member or staff member, but wants to remain anonymous?
         3. From an administrative perspective, what do you think about student anonymity?
         4. Do you proceed with an investigation if there is only the name of the complainant, not the respondent?
            a. The student hurt, not the name of the perpetrator
   c. Can you take me through what happens when a case comes to your desk?
      i. Can you give me an example of sexual misconduct case?
         1. If not specific case, a kind of case
         2. Please remember not to reveal any identifying information
      ii. Can you give me an example of an intimate partner violence case?
         1. Again, if not a specific case, a kind of case
         2. How is this addressed differently?
         3. Do you have specific protocols?
         4. Can you think of a time when the University was not mandated to do anything for a report of intimate partner violence?
            a. Why was that?
5. How do protective measures play into this?
d. How do you determine which type of investigation to pursue?
   i. Formal Title IX investigation
   ii. Informal investigation
e. What happens if a case is actually a federal crime?
   i. Is there a time when the University is obligated to bring in the Waltham police?
   ii. Is perpetration considered a criminal offence?
   iii. If found guilty, is the perpetrator registered as a sex offender, outside of Brandeis?

V. Investigation Process
   a. In the fact-finding section of investigations, how is evidence investigated?
   b. How are protective measures determined?
   c. Can you tell me about how the Sanctions Panel works?
      i. Who is on it?
      ii. How does that process work?
      iii. How are sanctions determined?

VI. Working with student victims/survivors and perpetrators
   a. What is your relationship to students who are reporting instances of sexual misconduct or intimate partner violence?
      i. Are you involved with students beyond official reporting processes?
      ii. In what ways?
   b. How is your relationship to students who are accused as perpetrators?
   c. How do you address situations when survivors might meet their perpetrators informally?
      i. Is this your responsibility?
      ii. No contact orders
      iii. Coping mechanisms
   d. How do you address situations when survivors might meet their perpetrators formally?
      i. Does this happen in a Brandeis investigation?
      ii. Mediation?
      iii. Court?
   e. How do you determine outcomes for a perpetrator who is found guilty?
      i. Is this part of your job?
   f. In general, how long does reporting an incident and going through with an investigation take?
      i. Throughout that time, how many times does the reporting student have to recount their narrative?

VII. Right now, there is a huge disparity in cases reported to Brandeis about sexual misconduct or intimate partner violence, and the actual prevalence of these, which was reported in the Campus Climate Survey.
   a. Why do you think students don’t report?

VIII. Is there anything else that you think I should know?

IX. Can you think of any other people or resources that would be helpful for my research?

X. Would you be interested in the possibility of a follow-up interview?
Bibliography

Brandeis Documents


Department of Student Development & Student Conduct. 2007. “Brandeis University Rights and Responsibilities 2007-08.” Robert D. Farber University Archives & Special Collections, Brandeis University.


Department of Student Development & Student Conduct. 2009. “Brandeis University Rights and Responsibilities 2009-10.” Robert D. Farber University Archives & Special Collections, Brandeis University.

Department of Student Development & Student Conduct. 2010. “Brandeis University Rights and Responsibilities 2010-11.” Robert D. Farber University Archives & Special Collections, Brandeis University.


Department of Student Development & Student Conduct. 2015. “Brandeis University Rights and Responsibilities 2015-16.” Robert D. Farber University Archives & Special Collections, Brandeis University.

Books and articles


Massachusetts General Laws. Part II, Title III, Chapter 209a.
Massachusetts General Laws. Part III, Title IV, Chapter 258e.
Massachusetts General Laws. Part IV, Title I, Chapter 265, Section 15d.


Tate, Emily. 2017. “Minority Students at Greater Risk of Sexual Assault.” Inside Higher Ed. https://www.insidehighered.com/quicktakes/2017/03/20/minority-students-greater-risk-sexual-assault?utm_source=Inside+Higher+Ed&utm_campaign=51acfc0a2c5-DNU20170320&utm_medium=email&utm_term=0_1fbc04421-51acfc0a2c5-198406857&mce_id=51acfc0a2c5&mce_cid=34f9156ff6


