



EDUCATION

## A FORCING STUDENTS TO REPORT SEXUAL ASSAULT TO THE POLICE MAKES THEM LESS SAFE: WHAT YOU SHOULD KNOW ABOUT MANDATORY POLICE REFERRAL BILLS

Over the last few years, survivor advocates and their allies have pushed colleges and universities to prevent and appropriately respond to incidents of sexual assault, as they are required to do under Title IX, the federal law prohibiting sex discrimination in education. Unfortunately, these victories have inspired a backlash, driven by lawmakers, lobbyists, and men's rights activists who want to roll back students' rights to an education free from sexual harassment, including sexual violence. Many of these anti-survivor advocates have supported "mandatory police referral" bills that would require colleges to forward reports of sexual assault to the police, even against the victim's wishes. These laws would make schools less safe for all students and push survivors out of school. Here's why mandatory referral bills are harmful:

### Fewer students will report their assaults to colleges.

In a March 2015 survey conducted by Know Your IX and the National Alliance to End Sexual Violence, 88% of survivors said that if schools were forced to report sexual assaults to the police against the victim's wishes, fewer students would report incidents to their schools.<sup>1</sup> Currently, survivors can choose whether and how to report to the police—and some do choose to involve law enforcement. However, there are many reasons a survivor may choose to do otherwise:

- Prosecutors rarely bring charges and juries rarely convict in rape cases.<sup>2</sup> Some survivors may decide that being involved in a criminal trial is not worth the emotional and educational toll given the low chance of a conviction.

- Among some communities of color and LGBTQ communities, there is a deep mistrust of law enforcement stemming from a history of police violence and harassment and officers' frequent skepticism of rape survivors.
- Most survivors know their assailants, and may fear retaliation or may not necessarily want to see their assailants go to prison.
- International or undocumented students may fear that being involved in a criminal investigation could jeopardize their visa status or expose them or their families to threats of deportation.

### Students won't get the support they need.

If students can't report to their schools for fear of police involvement, they will be denied the crucial support they need to keep learning. Many survivors report to their schools to access key resources and accommodations such as mental health care, dorm changes, or tutoring. Without these accommodations, which are required by Title IX, many survivors are pushed out of school.

### Wrongdoers won't be held accountable.

If survivors don't feel safe reporting to their schools, college administrators will lose opportunities to investigate assaults, discipline wrongdoers, and keep students safe. That's particularly concerning because some sexual assault perpetrators are repeat offenders.<sup>3</sup> Contrary to the claims of mandatory referral supporters, these laws would result in more violence, less accountability, and less safe campuses.



## Survivors oppose mandatory referral.

Legislators who introduce mandatory referral bills claim they are motivated by their concern for survivors. But according to one survey, nine in ten student victims oppose these laws that rob them of control over how to handle a sexual assault<sup>4</sup>—a second violation of their will. Ultimately, the choice about whether to report to college administrators, the police, neither, or both should continue to be made by the victim.

1 *Resisting State-Level Mandatory Police Referral Efforts*, Know Your IX, <http://knowyourix.org/ask-survivors>.

2 *Reporting Rates, Rape, Abuse, & Incest National Network*, <https://rainn.org/get-information/statistics/reporting-rates> (aggregating data from U.S. Dep't of Justice, Bureau of Justice Statistics, National Crime Victimization Surveys from 2008-2012, Fed. Bureau of Investigation, Uniform Crime Reports from 2006-2010; and U.S. Dep't of Justice, Felony Defendants in Large Urban Counties from 2002-2006).

3 See Catharine A. MacKinnon, *In Their Hands: Restoring Institutional Liability for Sexual Harassment in Education*, 125 Yale L.J. 2038, 2053-54 (2016) (discussing evidence of repeat perpetration by students).

4 *Resisting State-Level Mandatory Police Referral Efforts*, Know Your IX, <http://knowyourix.org/ask-survivors>.

