Sexual Misconduct Case Report

January 2015 through August 2016

Institutional Equity
Western Michigan University strives to cultivate a healthy and diverse community that recognizes the value of each individual and helps foster safety, civility and respect for all people. Policies have been developed to reaffirm these principles, to provide resources for those individuals whose rights may have been violated, and to provide accountability for conduct that violates policy. This aligns with the University’s Strategic Plan commitment to “Learner Success” and “Inclusive Excellence and Equity”. The purpose of this report is to share information about sexual misconduct, including how it is defined, how the University responds to reports of prohibited behaviors and the extent to which our campus community members are impacted. These data, along with the results from the recent Title IX Sexual Misconduct and Safety survey, should inform the University in its efforts to end sexual violence and harassment.

Sexual Misconduct Legal Context

Unlawful sex or gender-based discrimination, including sexual harassment, sexual violence and other forms of sexual misconduct, is prohibited by Title IX of the Education Amendments of 1972, a federal law that states “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.”

In 2011 and 2013, the U.S. Department of Education released specific guidance on how sexual violence allegations should be addressed by colleges and universities under Title IX. Additionally, WMU’s response to sexual assault, intimate partner violence and stalking are governed by the Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act (the Clery Act) and Section 304 of the Violence Against Women Reauthorization Act of 2013 (VAWA). In sum, Universities are called to use a thorough, reliable and impartial process to stop sexual misconduct, prevent its recurrence and remedy its effects.

Background

Institutional Equity (IE) is the campus office that has historically had responsibility for facilitating sexual misconduct investigations and complaint resolutions where faculty or staff were alleged to have engaged in the prohibited behavior. Similarly, a complaint that a student engaged in sexual misconduct was addressed under the Student Code through the Office of Student Conduct. In 2014, the decision was made to create one policy that would consistently address all sexual misconduct and assign responsibility for the policy to one office; Institutional Equity. A Title IX Committee of representatives from across campus was formed, and with the guidance of a consultant, created the Sexual and Gender-Based Harassment and Violence, Intimate Partner Violence, and Stalking Policy and Procedures. The interim Policy went into effect January 2015, was approved by the Board of Trustees in July 2015 and updated in September 2016. It is available at wmich.edu/sexualmisconduct.

Policy Scope

Sexual misconduct is the phrase used to broadly describe the behaviors prohibited under the Policy. Those behaviors include sexual and gender-based harassment, sexual assault, non-consensual sexual contact, sexual exploitation, harm to others, stalking, intimate partner violence and retaliation. Full definitions of the prohibited behavior are in the Policy. A brief description of each is listed below.

- **Sexual harassment**: any unwelcome sexual advance, request for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature. This includes harassment based on gender identity.
- **Sexual assault**: having or attempting to have sexual intercourse with another individual by force or threat of force, without consent or where that individual is incapacitated.
• **Non-consensual sexual contact**: having sexual contact with another individual by force or threat of force, without consent or where that individual is incapacitated.

• **Sexual exploitation**: when an individual takes non-consensual or abusive sexual advantage of another for one's own advantage or benefit, or to benefit or advantage anyone other than the one being exploited.

• **Harm to others**: words or types of conduct that threaten or endanger the health or safety of any person based on gender, including physical abuse, verbal abuse, threats, intimidation and/or harassment.

• **Stalking**: a course of physical or verbal conduct directed at another individual in a manner that could be reasonably regarded as likely to alarm, harass, or cause fear of harm or injury to that person or to a third party. A course of conduct consists of at least two acts.

• **Intimate partner violence**: any act of violence or threatened act of violence against a person who is, or has been involved in a sexual, dating, domestic or other intimate relationship with the respondent.

• **Retaliation**: acts, words or attempts to take adverse action against the complainant, respondent, or any other individual or group of individuals because of their good-faith complaint or participation in an investigation and/or resolution of an allegation of prohibited conduct.

The Policy applies to all WMU students, faculty, staff, administrators, Board members, consultants, vendors, others engaged to do business with the University, guests and visitors. The Policy also applies to other third parties under circumstances within the University’s control. To be consistent with U.S. Department of Education language, the Policy and this report refer to the person claiming subjection to the prohibited behavior as the Complainant, and the person accused of the prohibited behavior is referred to as the Respondent.

The Policy applies to prohibited conduct that takes place in the following locations:

- on campus;
- in the context of an education program or activity of the University (including but not limited to service learning activities, study abroad and internship programs);
- where either the Complainant or the Respondent involved is a WMU student or employee;
- off-campus when the conduct has continuing adverse effects on campus or in an off-campus education program or activity;
- on-line and/or through social media.

**Reporting and Investigation Process**

When an allegation of prohibited behavior is reported to Institutional Equity, a trained, neutral Title IX investigator will explain the reporting/investigation process to the person bringing forth the report. The investigator will listen and discuss temporary actions (interim measures) and available resources. In the investigation process, individual interviews will be conducted with each person involved, including any witnesses. Both parties will be notified of the investigation outcome. A finding of “responsible” for violation of the sexual misconduct policy will be forwarded for disciplinary review to the Office of Student Conduct or Human Resources/Collective Bargaining, as appropriate. A person may also choose to work with Public Safety to file a police report. The diagram on the next page depicts the full process.
Sexual Misconduct Cases Reported

Reporting for sexual misconduct cases is based on the academic year. The academic year consists of the fall and spring semesters and the summer I and summer II sessions; approximately September through August. IE began oversight of all sexual misconduct cases in January 2015, so the data on the following page represents a partial academic year (January through August 2015), and a full academic year (September 2015 through August 2016).

Case Outcome Descriptions

Responsible for Policy Violation - The investigation revealed a preponderance of evidence that a violation of the policy occurred. The finding was given to the Office of Student Conduct for sanctioning.

Not Responsible for Policy Violation - The investigation did not reveal a preponderance of evidence that a violation of the policy occurred.

Complaint Withdrawn – The incident was reported, then the complaint was withdrawn.

Informal Resolution – This was used when a Complainant requested anonymity, did not consent to participation in an investigation but requested that the behavior be addressed, or when the alleged conduct, even if it did not rise to the level of a Policy violation, suggested the need for remedial, educational or preventive action.

Closed After Assessment – The case did not go forward for a full investigation based on one of the following reasons:

Anonymous Report – These incidents were reported through the online form or from another office on campus. No contact information was given for follow up.

Complainant Declined Participation – The Complainant elected not to participate in the investigation process or did not respond to IE’s requests to meet.

Respondent not Affiliated with WMU – The Respondent was not a WMU student or employee, therefore, the Policy provision for investigation was not applicable.

Unknown Respondent – The Complainant (or reporter) did not identify the respondent.

In all cases, the Complainant was provided resources and an opportunity to discuss interim safety measures, such as no contact orders and walking Public Safety escorts on campus. All cases are tracked for incident type and location to determine if there are patterns.
# Sexual Misconduct Cases Reported - January through August 2015

<table>
<thead>
<tr>
<th>Sexual Misconduct</th>
<th>Incidents</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>Harm to Others</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Intimate Partner Violence-Relationship</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Intimate Partner Violence-Dating</td>
<td>7</td>
<td>1 Closed After Assessment - Respondent not Affiliated with WMU</td>
</tr>
<tr>
<td></td>
<td></td>
<td>6 Closed After Assessment - Complainant Declined Participation</td>
</tr>
<tr>
<td>Intimate Partner Violence-Domestic</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Non-consensual Sexual Contact</td>
<td>2</td>
<td>2 Closed After Assessment - Complainant Declined Participation</td>
</tr>
<tr>
<td>Sexual Assault</td>
<td>10</td>
<td>1 Responsible for Policy Violation (Sanction: Expulsion)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 Not Responsible for Policy Violation</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 Closed After Assessment - Respondent not Affiliated with WMU</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3 Closed After Assessment - Anonymous Report</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4 Closed After Assessment - Complainant Declined Participation</td>
</tr>
<tr>
<td>Sexual Exploitation</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Sexual Harassment</td>
<td>8</td>
<td>1 Responsible for Policy Violation (Sanction: Probation &amp; Training)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4 Informal Resolution</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3 Closed After Assessment - Complainant Declined Participation</td>
</tr>
<tr>
<td>Stalking of a Sexual Nature</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td><strong>Total Incidents:</strong></td>
<td><strong>27</strong></td>
<td></td>
</tr>
</tbody>
</table>

During the assessment, IE provided resources for support, educational/prevention information and facilitated requests for no contact orders and changes to class, living or working arrangements, as appropriate.

The highlighted cases went beyond assessment to an investigation with a finding or to an informal resolution.

1 Prohibited Behavior under the WMU Sexual and Gender-Based Harassment and Violence, Intimate Partner Violence, and Stalking Policy and Procedures

2 Cases were reported January through August 2015, but the incident may have occurred in a previous year.
# Sexual Misconduct Cases Reported - September 2015 through August 2016

<table>
<thead>
<tr>
<th>Sexual Misconduct1</th>
<th>Incidents2</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>Harm to Others</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Intimate Partner</td>
<td>2</td>
<td>2 Closed After Assessment - Respondent not Affiliated with WMU</td>
</tr>
<tr>
<td>Violence-Relationship</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Intimate Partner</td>
<td>13</td>
<td>1 Not Responsible for Policy Violation</td>
</tr>
<tr>
<td>Violence-Dating</td>
<td></td>
<td>3 Closed After Assessment - Respondent not Affiliated with WMU</td>
</tr>
<tr>
<td></td>
<td></td>
<td>9 Closed After Assessment - Complainant Declined Participation</td>
</tr>
<tr>
<td>Intimate Partner</td>
<td>1</td>
<td>1 Closed After Assessment - Respondent not Affiliated with WMU</td>
</tr>
<tr>
<td>Violence-Domestic</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-consensual</td>
<td>8</td>
<td>2 Responsible for Policy Violation (Sanction: 1 Expulsion, 1 Suspension with Probation and Training)</td>
</tr>
<tr>
<td>Sexual Contact</td>
<td></td>
<td>1 Complainant Withdrawn</td>
</tr>
<tr>
<td>Sexual Assault</td>
<td>31</td>
<td>4 Closed After Assessment - Unknown Respondent</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7 Closed After Assessment - Anonymous Report</td>
</tr>
<tr>
<td></td>
<td></td>
<td>8 Closed After Assessment - Respondent not Affiliated with WMU</td>
</tr>
<tr>
<td></td>
<td></td>
<td>9 Closed After Assessment - Complainant Declined Participation</td>
</tr>
<tr>
<td>Sexual Exploitation</td>
<td>5</td>
<td>2 Responsible for Policy Violation (Sanction: 1 Expulsion3, 1 Suspension)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 Closed After Assessment - Complainant Declined Participation</td>
</tr>
<tr>
<td></td>
<td></td>
<td>2 Closed After Assessment – Unknown Respondent</td>
</tr>
<tr>
<td>Sexual Harassment</td>
<td>35</td>
<td>3 Not Responsible for Policy Violation</td>
</tr>
<tr>
<td></td>
<td></td>
<td>5 Responsible for Policy Violation (Sanction: 2 Expulsions3, 2 Training with Behavior Contracts, 1 Probation and Training)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7 Informal Resolution</td>
</tr>
<tr>
<td>Stalking of a Sexual</td>
<td>7</td>
<td>1 Informal Resolution</td>
</tr>
<tr>
<td>Nature</td>
<td></td>
<td>6 Closed After Assessment - Complainant Declined Participation</td>
</tr>
</tbody>
</table>

**Total Incidents:** 102

*During the assessment, IE provided resources for support, educational/prevention information and facilitated requests for no contact orders and changes to class, living or working arrangements, as appropriate.*

*The highlighted cases went beyond assessment to an investigation with a finding or to an informal resolution.*

1 Prohibited Behavior under the WMU Sexual and Gender-Based Harassment and Violence, Intimate Partner Violence, and Stalking Policy and Procedures
2 Cases were reported September 2015 through August 2016, but the incident may have occurred in a previous year.
3 One respondent was expelled for 1 sexual exploitation incident and 2 sexual harassment incidents.
Analysis of Outcomes

All 129 incidents reported to IE between January 2015 and August 2016 were considered as one data set. The Sankey chart below shows the largest case outcome is “Closed After Assessment” which warrants further analysis.

Sexual Misconduct Case Flow - January 2015 through August 2016

Of the reasons for “Closed After Assessment” 59% were due to the Complainant deciding not to participate in an investigation. The University could not go forward with an investigation on the remaining 41% of cases due to the status of the respondent.
The majority of the cases were reported by other offices on campus, such as Admissions and the Ombudsman. Fourteen Complainants initiated the report themselves, and two were initiated by parents. Most cases came from mandated reporters on campus. The Complainants in those cases had a higher rate (47%) of declining an investigation or not responding to requests to discuss the incident. The level of police involvement was higher than represented in the chart. When Residence Life referred cases to IE, WMU Department of Public Safety was also contacted if the sexual misconduct was of a criminal nature (involved violence, sexual assault, stalking, non-consensual sexual contact, exploitation). It should be noted that the original report to Residence Life was often made by a student that was not involved in the incident, indicating that peers are aware of inappropriate or harmful behaviors and report them to Residence Hall staff.

Complainants gave the following reasons why they did not want to participate in an investigation:

- The Respondent is a friend or in my friend group.
- I don’t want the Respondent to know they were reported.
- I am in a dating relationship with the Respondent (Intimate Partner Violence cases).
- I don’t want anything bad (expulsion/termination) to happen to the Respondent.
- I am worried about retaliation.
- I don’t want to deal with this right now.
- I don’t have time; I’m too busy with school.
- The behavior stopped once interim measures were put in place (changed class, etc.)

When police are involved, complainants may not understand the value in pursuing a separate University investigation. A criminal and University investigation can happen simultaneously, each with different evidence standards and consequences. For example, a person can be found not guilty by the criminal “beyond a reasonable doubt” standard, but found responsible for a Policy violation under the Title IX “preponderance of evidence” standard. There are instances where the University may decide to proceed with an investigation without the involvement of the Complainant. In those cases, the University considers its obligations to provide a safe and non-discriminatory environment for all University community members. The Policy outlines the full decision making process in section 8a.
Analysis of Complainants, Respondents and Location

In the reported cases, 85% of Complainants were female. The majority of the known Respondents were male. There is no gender data available for respondents that were unknown, not affiliated with WMU, or anonymously reported. In March 2016, the online incident report form and tracking system were modified to include transgender female, transgender male and gender queer/gender non-conforming, at the recommendation of the LBGT Student Council.

First and second year students represent nearly half (47%) of the Complainants. Slightly more than half of the Respondents with a known classification were in their first or second year. Similar to the data on gender, there was a considerable amount of data missing for respondent classification.

Complainant Classification at Time of Report of Sexual Misconduct
January 2015 through August 2016

<table>
<thead>
<tr>
<th>Classification</th>
<th>Cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Freshman</td>
<td>36</td>
</tr>
<tr>
<td>Sophomore</td>
<td>25</td>
</tr>
<tr>
<td>Senior</td>
<td>23</td>
</tr>
<tr>
<td>Junior</td>
<td>16</td>
</tr>
<tr>
<td>Student Class Unknown</td>
<td>12</td>
</tr>
<tr>
<td>Graduate Student</td>
<td>5</td>
</tr>
<tr>
<td>Employee</td>
<td>4</td>
</tr>
<tr>
<td>Community Member</td>
<td>7</td>
</tr>
<tr>
<td>Unknown/Anonymous</td>
<td>1</td>
</tr>
</tbody>
</table>

Total Cases=129
The highest number of reported incidents occurred on campus. Many employees are mandated reporters so there was more information available about incidents that occurred on campus, particularly in the Residence Halls. WMU Department of Public Safety routinely reports incidents involving sexual misconduct to IE. However, a systematic way to receive reports of off campus sexual misconduct allegations from community police agencies has not been established.

**Summary**

Since the implementation of the Sexual and Gender-Based Harassment and Violence, Intimate Partner Violence, and Stalking Policy and Procedures in January 2015, there has been an increase in the number of sexual misconduct incidents reported. However, the data suggest continued opportunities for us to address barriers to reporting sexual misconduct and support participation in the University response procedures.
We are expanding campus and community partnerships and enhancing the coordination of internal and external resources and services to strengthen our education, outreach and prevention efforts. The goal is to create an environment intolerant of all forms of sexual and gender-based violence and harassment.

For additional information about the University's Sexual Misconduct Policy, campus and community resources please visit wmich.edu/sexualmisconduct.

Please submit questions, comments or feedback about this report to the Title IX Coordinator:

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