DOI: 10.1111/lapo.12194

ORIGINAL ARTICLE

LAW & POLICY UNIVERSITY OF DENVER WILEY

The illusion of choice: Organizational dependency and the neutralization of university sexual assault complaints

Nicole Bedera

Sociology, University of Michigan, Ann Arbor, Michigan, USA

Correspondence
Nicole Bedera, Room 3115 LSA Building, 500 S. State St., Ann Arbor, MI 48109, USA.
Email: nbedera@umich.edu

Funding information
Horace H. Rackham School of Graduate Studies, University of Michigan, Grant/Award Number: REF-18435

Abstract

In response to new regulations, universities have created multiple options for managing sexual misconduct complaints. These options are described as maximizing survivors' autonomy through feminist paradigms of choice. This study uses data from ethnographic observation and 76 interviews with survivors, perpetrators, and administrators to examine whether providing options gave survivors control over their complaints. The findings indicate that survivors found the complicated and vague sexual misconduct policies overwhelming and confusing. As a result, they became dependent on university actors in decision-making, giving the university more control over survivors' complaints as institutional actors guided survivors to options that required minimal university action.

1 | INTRODUCTION

Over the past decade, college sexual violence has received renewed attention in the national discourse, with a persistent focus on the high rate of victimization and the low rate of reports made to the organizations tasked with adjudicating cases of sexual assault (e.g., university police, Title IX Offices) (Cantor et al., 2015; Krebs et al., 2007). In contrast to other survivor-supportive resources, reporting is unique in that it is often the first step to any kind of action that mandates the participation of the perpetrator, including accountability-focused measures (e.g., expulsion or suspension) and protective actions to ensure survivors' safety and comfort (e.g., coordination of academic schedules to avoid contact, moving a perpetrator to a different dorm). Survivors unable to report may also struggle to access other formal services that

This is an open access article under the terms of the Creative Commons Attribution-NonCommercial-NoDerivs License, which permits use and distribution in any medium, provided the original work is properly cited, the use is non-commercial, and no modifications or adaptations are made.

© 2022 The Author. *Law & Policy* published by University of Denver and Wiley Periodicals LLC.

facilitate healing after trauma (Campbell, 2008; Campbell et al., 1999, 2009). Many scholars have demonstrated that low reporting rates are not indicative of survivors' lack of interest in reporting, but instead reflect structural and cultural barriers to the reporting process, such as survivors' fear of refusal of services after not being believed (Allen et al., 2015; Amar, 2008; Sable et al., 2006; Walsh et al., 2010; Zinzow & Thompson, 2011) or a difficulty in labeling their experiences as "severe" enough to "count" as discrimination and merit intervention (Hlavka, 2014; Holland & Cortina, 2017). Notably, universities have recently implemented policies and procedures—such as instituting "Start by Believing" policies, offering survivors multiple reporting options, and hiring campus victim advocates who can provide support through the reporting process—with the stated intention of encouraging reporting by removing known barriers. Still, survivors who wish to report are struggling to do so.

The current study examines college sexual misconduct policies and procedures themselves as barriers to reporting. Specifically, this study focuses on the now legally mandated practice of providing multiple reporting options to survivors with the stated goal of maximizing survivor autonomy in choosing how their cases will be handled. I argue that these practices have the opposite effect, instead creating complexity in policies and procedures that forces survivors to become dependent on organizational actors to make sense of them. In this state of "organizational dependency," universities can—and do—subtly discourage survivors from pursuing formal investigations that pose a risk to the institution and instead steer them toward options that require minimal university action. More broadly, the current study offers insight into how organizations exert control over individuals who seek to hold them accountable or access legal rights that are threatening or inconvenient to the organization.

2 | LITERATURE REVIEW

2.1 | Background on Title IX and universities' role in reporting sexual violence

Title IX is a federal regulation originally passed as a part of the US Education Amendments Act of 1972 that obligates all educational institutions that receive federal funds to provide a learning environment free from gender discrimination (Educational Amendments, 1972). Title IX was first successfully applied to sexual violence and harassment in the courts (e.g., Alexander v. Yale University, 1980), and an interpretation of Title IX explicitly inclusive of sexual violence was codified into federal guidance through multiple Dear Colleague Letters by the Department of Education's Office for Civil Rights (e.g., 1997; 2001; 2014; 2017). There is well-established legal precedent that universities must take action in response to reports of sexual violence with the goal of providing redress for survivors and preventing future harm. A failure to do so constitutes a form of organizational discrimination against survivors of gender-based violence since unsupported survivors face disadvantages in educational outcomes (e.g., low GPA, high risk of dropping out) (Baker et al., 2016; Jordan et al., 2014).

To meet these legal obligations, universities must ensure that students can report incidents of sexual violence after they occur in order to prompt university action (US Department of Education, 2001, 2014). Importantly, any options for redress must be accessible to survivors and described in detail in a campus "sexual misconduct policy." University actors cannot discourage survivors from reporting or retaliate against them for coming forward. Undue structural burdens or barriers in the reporting process are also prohibited, as they, too, can discourage reporting, resulting in what experts call a "chilling effect." If a university's policies and procedures have a demonstrable chilling effect on complaints of sexual misconduct, the university can be held legally responsible for the production of a discriminatory environment, although scholars have recognized that the legal landscape makes it extremely difficult to hold noncompliant schools accountable (e.g., Buzuvis, 2020).

As a way to combat this chilling effect on reporting, many have advocated for making multiple reporting options available to survivors (e.g., Holland & Bedera, 2019; Koss et al., 2014). The availability of multiple options recognizes the heterogeneity in survivors' experiences and personal ideologies. For example, a survivor who believes in prison abolition may prefer rehabilitative or restorative practices to punitive options, whereas a survivor of intimate partner violence may be resistant to engage in restorative justice efforts that require cooperation with an abuser. Some survivors prefer not to relinquish their time and energy to accountability-focused initiatives at all, but would like to leave a statement to support the efforts of any other victims who may come forward in the future about the same perpetrator. Ultimately, these activist-driven initiatives for multiple options were rooted in feminist paradigms of choice and a belief that, when provided with adequate information, survivors will make the best decision for themselves (e.g., Holland et al., 2018; Holland & Bedera, 2019; New York Radical Feminists, 1974). However, those decisions can be constrained by structural barriers (Bumiller, 1987; Dunn & Powell-Williams, 2007; Sable et al., 2006). In the college context, universities have primarily adopted two reporting options: informal resolution and formal investigation (American Law Institute, 2018). At the time of data collection for this study, the use of these two adjudication models was optional for universities; now, it is mandated by federal regulation (Department of Education, 2020).

2.2 | Conflicting organizational incentives

While universities have incentives to comply with Title IX law and take a proactive approach to preventing and responding to sexual violence, they have competing—and often stronger—incentives to maintain the status quo. Sexual violence investigations are disruptive to the traditions and financial situations of universities, particularly if they escalate into civil litigation or garner unflattering attention from donors or alumni (Kennedy, 1994; Martin, 2016). Even when they avoid public scrutiny, such investigations are time-consuming and resource-intensive (e.g., Triplett, 2012). Some individual actors also personally disagree with their organizations' sexual misconduct policies, criticizing and mocking them even when they are tasked with abiding by them or enforcing them (e.g., Munkres, 2008), creating tension between organizational policies and how they are instituted (Hallett et al., 2009; Hallett & Meanwell, 2016).

For these reasons, universities commonly fail to end discrimination and instead engage in symbolic compliance with civil rights law (Edelman, 1992, 2016; Edelman & Cabrera, 2020). Symbolic compliance reflects a tendency for regulatory bodies (e.g., civil courts) to focus on organizational policies and procedures that communicate an attempt to address discrimination, rather than scrutinize the outcomes of those practices (Edelman, 1992, 2016; Krieger et al., 2015). As organizations look to implement practices that present minimal legal risk, they mimic the actions of other organizations that have succeeded in defending their policies, allowing ineffective—or harmful—policies to proliferate (DiMaggio & Powell, 1983; Edelman et al., 1999; Townsend & Campbell, 2007). As a result, universities can appear to take a proactive approach to combatting discrimination while their seemingly progressive policies are decoupled from practice (Ray, 2019).

Symbolic compliance is common in organizational approaches to combatting sexual violence (e.g., Bisom-Rapp, 2018; Edelman & Cabrera, 2020). For example, trainings about what constitutes workplace sexual harassment are widely used as evidence of organizations' compliance with anti-discrimination laws, despite scholarly consensus that they do not prevent sexual harassment and may exacerbate gender inequality (Bingham & Scherer, 2001; Dobbin & Kalev, 2019; Robb & Doverspike, 2001). The most harmful sexual harassment trainings intensify sexist attitudes in attendees (Tinkler, 2013), which, in turn, may create an environment in which sexual harassment is normalized (Quinn, 2000; Tinkler, 2012), making it more difficult for victims to name their experiences and seek recourse (Hlavka, 2014; Holland & Cortina, 2017; Marshall, 2006; Sweet, 2020).

As a result, sexual harassment may become not only more difficult to intervene against, but also more likely to take place, as environments in which sexual harassment is normalized are those in which it is most likely to occur (Fitzgerald et al., 1997; Williams et al., 1999). In these ways, the symbolic use of sexual harassment trainings is not merely ineffective but actively undermines the goals of civil rights laws. While interventions specific to campus sexual violence are relatively recent, there is already evidence emerging that university interventions have been symbolic in nature (Gualtieri, 2020) and have created industry-wide norms that are ineffective in adjudicating sexual violence and harmful to survivors (Cruz, 2020).

A university's failure to take meaningful action to combat sexual violence is particularly harmful. Contrary to popular perception, the traumas of sexual violence do not necessarily end when a sexual assault is over, but instead may persist if survivors continue to face maltreatment, especially if survivors lose control over the aftermath of violence (Dworkin et al., 2019; Orchowski et al., 2013; Peter-Hagene & Ullman, 2013). Social psychologists have long recognized that the reactions survivors receive to disclosures of sexual assault can promote either healing or additional harm (Ahrens, Cabral, & Abeling, 2009; Campbell, 2008; Campbell et al., 1999, 2009). University inaction in response to student reports of sexual violence has been studied explicitly, and researchers have found that it can produce "institutional betrayal," in which an institution's actions (or inaction) toward a survivor create traumatic symptoms similar in nature and severity to those caused by the original act of sexual violence (Smith & Freyd, 2013, 2017). These risks are particularly elevated for people of color and queer-identified survivors who are the most likely to experience inaction or maltreatment when seeking assistance (Gómez, 2015; Smith et al., 2016). To put it simply, the risk of symbolic compliance in sexual misconduct policies and procedures is not merely that it will uphold the status quo, but that it is akin to violence itself. However, little is known about the organizational mechanisms through which institutional betrayal is produced.

2.3 | (Impeding) the understanding of legal rights

While symbolic methods of compliance are widely accepted in how organizations address sexual violence, it is also true that organizations cannot simply call any policy or procedure evidence of compliance. They must appear rational and to make some good faith effort to meet the mandates of the law. In the case of federal regulations governing appropriate reporting mechanisms for student survivors, I argue that the mechanism that universities use to appear compliant is the campus sexual misconduct policy itself. To be specific, universities craft overly complex and legalistic policies that meet federal mandates, but have peculiarities for individual campuses. These policies change and evolve regularly, often without the consent or knowledge of the general population. Since the policies are so complex and change so often, students struggle to understand them (Albrecht et al., 2022), and there are few—if any—experts on an individual university's sexual misconduct policy outside of organizational actors. I argue that this creates an "organizational dependency," in which survivors who seek to use the campus policy must rely on university representatives to make sense of their rights and the decisions before them. These university representatives are then well-positioned to protect the institution by limiting the information they make available to each survivor and—in a policy that allows for multiple different outcomes—sorting survivors into the option for redress that poses a minimal threat to the institution. To put it simply, this allows a university to provide options for redress that meet the spirit of Title IX law while controlling when—or if—they will ever be used. Even when appearing to offer survivors agency through choice, a university can ultimately constrain the choices available through the structure of organizational dependency.

In doing so, universities take advantage of one of the simplest and most widespread barriers individuals have in accessing their rights: their ability to understand them. Scholars have long understood that the existence of a law does not ensure it will be utilized—that equally as

important is "legal consciousness," or an individual's capacity to understand how their lived experiences interact with the legal arena (Ewick & Silbey, 1991; Silbey, 2005). Through interference in survivors' development of legal consciousness, universities can change the way a survivor thinks about essential processes of naming, blaming, and claiming (Felstiner et al., 1980), even if the survivor originally had a strong intention of filing a report. Sexual violence survivors may be particularly vulnerable to organizational misrepresentations of their rights or their options due to the broader legal context through which survivors make sense of experiences of violence (Nielsen, 2000)—a legal context that minimizes their experiences and offers few satisfactory or trustworthy options for recourse (Bumiller, 1987; Marshall, 2005; Morgan, 1999; Quinn, 2000). Previous research also indicates that perpetrators specifically target victims who they imagine are unlikely to have the capacity to report (Blackstone, Uggen, & McLaughlin, 2009) and that the guidance survivors receive in the reporting process has a significant impact on the outcome (Campbell, 2006; Campbell et al., 1999). In these ways, interfering in a survivor's ability to make sense of a multifaceted sexual misconduct policy could prove an effective mechanism for controlling survivors' decisions in order to limit organizational risk.

2.4 | Current study

Understanding the struggle over who maintains control in the aftermath of sexual violence is crucial to understanding organizational responses to sexual assault. The current study attempts to examine the degree to which survivors have control over the trajectory of their sexual misconduct complaints. Specifically, this study interrogates the practices of one university that offers survivors multiple options for reporting the violence they have endured for the purpose of producing university intervention. Were survivors' decisions about which option to take freely made or constrained through university policies and procedures? Who ultimately had control over the path that survivors' complaints took? How did they maintain control? In answering these questions, this study seeks to explore how organizational norms and power dynamics impact individuals' ability to access their legal rights, particularly when doing so conflicts with other organizational objectives.

3 | DATA AND METHODS

The data from this study come from 12 months of ethnographic observation and 76 semi-structured interviews conducted between July 2018 and September 2019[1] at a large public university in the western United States (Western University). The broader project includes semi-structured interviews with survivors, perpetrators, and relevant university staff who provided victim advocacy resources or facilitated the university's reporting process for sexual violence during the time of data collection. It also includes 47 hours of observation of non-confidential meetings, trainings, and events hosted by university staff on the adjudication of sexual violence; hundreds of hours[2] spent on campus completing other research-related tasks; and a content analysis of 79 sexual misconduct policy–related documents distributed by the university. For the present study, analyses focus primarily on ethnographic and textual data, as well as 22 interviews with 15 survivors of sexual harassment or assault who reported the abuses they endured.

3.1 | Ethnographic observation

I engaged in ethnographic observation of university actors in non-confidential meetings, trainings, and events hosted by university staff on the adjudication of sexual misconduct. Before

formally entering the field, I met with Western University's Title IX Coordinator and the lead victim advocate to identify relevant convenings I might observe that were not open to the general public. Ultimately, I regularly observed monthly meetings for staff who contribute to the creation and implementation of Title IX policies and procedures, as well as weekly meetings with staff in the Title IX Office, Dean of Students Office, and Victim Advocacy Office. In large meetings, I predominantly observed the interactions between staff while taking field notes. In smaller meetings (i.e., comprising three or fewer staff), I also asked clarifying questions about university policies and procedures. In general, I limited my own contributions to our interactions unless an administrator requested otherwise or my comments would build rapport.

At the end of each meeting, I asked staff in attendance whether there were any other campus happenings I should attend. I also attended public events that I saw advertised on campus or in the media, such as vigils for campus violence and press conferences on Western University's management of gender-based violence. All observed staff also completed a formal interview about their beliefs about Title IX resources and reporting options on campus. The data from those interviews are not presented in this manuscript, but staff interviews helped in building rapport and shaped my understanding of the field. To avoid tainting the data site, all of these interviews were conducted during the last two months in the field.

3.2 | Interviews

Survivor interview participants were recruited for the study through flyers distributed by the university victim advocates as part of an intake appointment during a survivor's first visit to the Victim Advocacy Office. All survivors who make a report of sexual misconduct are referred to victim advocacy services if they provide adequate contact information. All victim advocacy clients were invited to participate in a study conducted by a researcher external to the university about their experiences with campus organizations that respond to sexual misconduct complaints. Upon meeting the researcher, participants who were currently in the midst of filing a complaint to the university for the purposes of adjudication were invited to complete two interviews—one at their current stage of the complaint process and one after its completion. In total, 93 victim advocacy clients were recruited to the study, 65 expressed interest in participating, and 44 completed at least one interview. Of the 44 participants, 15 filed (or believed they had filed) complaints and, of that group, seven were involved in complaints that were still ongoing. In total, the interview data for this project focuses on those 15 participants and 22 interviews. By limiting analysis to this subset of participants, I was able to explore how (initially) desired complaints were disrupted. Participants were notified that they would receive $40 per interview completed.

The demographics of the interview participants are reflective of students and staff who file complaints about sexual violence to their universities. All participants identified as women. Most were white (53%), three were Asian (20%), two were biracial (13%), and two were Latina (13%). Two-thirds identified as heterosexual and the remaining third identified as bisexual, except for one participant who refused to disclose her sexual orientation. Participants ranged between 18 and 57 years of age with a median age of 22. In comparison to the student population of Western University, women, students of color, and queer students were overrepresented. Most participants were undergraduate students, but four graduate students and two staff members are also included in the sample.[iii] Interviews lasted between 42 and 193 min with a mean interview length of 94 min. Most variation in length reflects whether a participant had already completed her complaint at the time of the first interview.

During interviews, survivors answered questions about their experiences of sexual violence and its adjudication on campus, as well as its impact on their well-being and relationships. Survivors were also asked about what they believed they deserved from the university following an

experience of sexual misconduct and whether they would pursue formal adjudication again if they experienced sexual misconduct in the future. To ease the burden of interviews on survivor participants and ensure high quality data, I relied on a trauma-informed interview methodology (Bedera & Nordmeyer, 2017), including meeting survivors and providing a sample interview guide in advance of each interview, taking breaks from interviews as needed, and avoiding potentially stigmatizing questions. Interview excerpts presented in this manuscript are edited for clarity and length.

3.3 | Analysis

For this study, I analyzed the interview data with a focus on the choices survivors made about their sexual misconduct complaints, including how they decided to pursue a complaint and which type of complaint they selected. I separated the participants into categories based on the type of recourse they pursued and then engaged in open coding within those categories to determine the most important factors in the decisions made, recognizing recurring themes such as "fear of retaliation" or "confusion about the process." Afterward, I turned to my ethnographic field notes to understand the structures in which the survivors made their choices. I separated out excerpts that referenced how campus administrators interacted with survivors trying to make a decision, as well as comments on implicit organizational norms concerning how to address different types of complaints. I compared these comments with written university policies and used both policy and practice to construct descriptions of the structural environments in which survivors made their choices about sexual misconduct adjudication. Finally, I selected one or two cases that were representative of the themes identified to present in this manuscript, allowing for an in-depth exploration of each survivor's experience.

I present the findings from this study from the perspective of survivors. During data collection, I did not review the formal campus policies until after leaving the field[iv] in order to avoid unintentionally filling in gaps or confusions that survivors experienced. In cases in which a survivor misunderstood a campus policy, I do not correct them in the findings of this article. Instead, these common mistakes should be understood as systematically created by university processes and, as such, central to understanding how survivors lost control of their cases. Accordingly, I also avoid pontification about administrators' intent (in this manuscript—see Bedera, 2021 for analysis of administrators' interviews) since uncertainty around whether administrators were acting out of personal ideology or structural constraint was central to survivors' experiences of university bureaucracies and decision-making processes.

4 | FINDINGS

On its face, Western University's policy appeared to offer survivors a variety of options to address the sexual violence they endured with the intention of maximizing survivors' autonomy in selecting how to proceed. In practice, however, survivors overwhelmed or confused by their choices often deferred the decision-making process to university actors, who habitually selected the process that would require the least university action and had little hope of holding perpetrators of sexual violence accountable for their actions. University control over survivors' decisions was most visible in the context of two "choices" survivors had to make: (1) whether to escalate a report to a complaint, and (2) whether to pursue an informal resolution or a formal investigation. For an overview of the options available to survivors seeking recourse, see Figure 1.

4.1 | Reports and complaints

At Western University, reports and complaints are different (for an overview, see Figure 2). A report refers to notifying a non-confidential university official tasked with Title IX compliance that an incident of sexual violence has occurred. For example, a professor who overhears a student disclosing a sexual assault to a friend is required to notify the Title IX Coordinator by making a report. Students can also file reports themselves. In most cases, reports do not require action, although universities have the right to investigate any reports they choose. Complaints are substantively similar to reports, but they *do* require university action. Complaints and reports are differentiated for good reason—not all survivors named in reports, particularly by mandatory reporters, are interested in seeking recourse for the sexual misconduct they endured. However, few survivors understood the difference between reports and complaints. As a result, university staff controlled which reports required action based on who they clued into the necessity of filing a complaint.

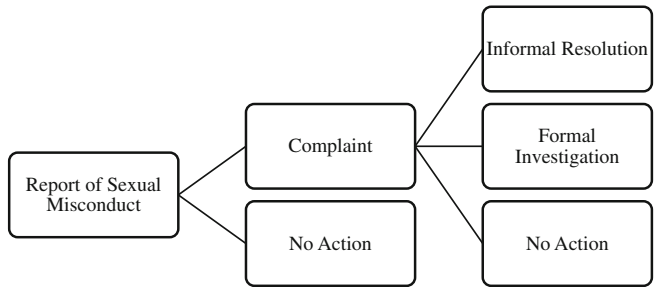


FIGURE 1 Overview of sexual violence adjudication options at Western University. *Key*: All lines indicate a decision available to a survivor.

Reports	Complaints
- Can be filed by anyone (e.g., survivor, staff, faculty) - Creates a record of sexual misconduct concern - **Does not** require university action	- Can be filed by a survivor or the Dean of Students - Creates a record of a sexual misconduct concern - **Does** require university action - Required to begin any accountability-based Title IX proceeding (i.e., informal resolution or formal investigation)
Informal Resolution	**Formal Investigation**
- Compliance by the accused is voluntary - Interventions can take place immediately - Anonymity permitted (in some cases) - Sanctions cannot be punitive (e.g., letters of apology, non-enforceable agreement to keep distance, educational interventions)	- Compliance by the accused is mandatory - Full investigation required before interventions applied - Anonymity prohibited - All sanctions are punitive (e.g., suspension or expulsion)

FIGURE 2 Key distinctions in Western University's sexual misconduct policy.

The distinction between reports and complaints is difficult to understand on its own, but Western University also obscured the differences between the two processes in other ways. Most obviously, the words "report" and "complaint" were used interchangeably by administrators in conversation and in university materials on the sexual violence adjudication process. For example, the online reporting form had a header of, "Submit a Title IX Complaint," even though the rest of the form referred to filing a "Title IX Report." The reporting form also did not make clear what would take place after its submission. It promised only that, "If you provide contact information, someone will follow up with you." There was no indication that a report was not a complaint or that the university's Title IX Office was not required to take action in response to a report.

The confusion this caused for survivors could be devastating. Samantha, a white 18-year-old freshman, filed an online report following an attempted sexual assault. Unaware that she also needed to file a complaint for the university to take action, she spent more than two months eagerly awaiting information about how her investigation would unfold. The process of waiting was hard for her. As she explained:

> SAMANTHA: I'm an emotional wreck. . . . It was really bad the first week after [the attempted assault]. I was just so anxious. I was getting lunch and a guy, like, walked past me and bumped my shoulder as he walked past me and I started crying. Like, I was not good and then I'm just anxious always.
>
> RESEARCHER: Did the investigation—or impending investigation—amp up that anxiety?
>
> SAMANTHA: Yeah. 'Cause, well, I haven't heard anything from them since I reported it almost four weeks ago. And so I'm just, like, constantly checking my email, like, "When am I going to get a response? When am I going to hear back from them?"

Since Samantha expected the university to intervene on her behalf, she did not advocate for herself in situations where, in retrospect, she wished she would have. In particular, she regretted not demanding safety before a school trip that she and her perpetrator both attended:

> [My perpetrator] is in the same [honors program I am] and he was allowed to go on the Chicago trip with me this past weekend. So I was there and I had to be around him all weekend. It was awful. . . . I thought about [saying something], but I really thought something would have happened [by now] 'cause it was, like, three weeks after it happened before we went to Chicago. I knew he was going, so I'm kind of wishing I went to the director [of the program] and been like, "Hey, either he can't go or I'm not going." I wish I could have done that. It sucked a lot. . . . I was just so anxious the whole time . . . like, being in the airport, being on planes, when we would all go out to dinner together, and, like, staying in the hotel. I was just so anxious and stressed out.

After just over 2 months of waiting, Samantha gave up hope. From her perspective, the university had simply ignored her concerns about a violent individual on campus, which made her lose faith in the university's willingness to protect women. As she explained:

> It sucks a lot [that I never heard back]. I think, you know, I was just straight up ignored. I never heard anything from them. I don't know if, like, maybe during the reporting process I did something wrong—as far as, like, the information to get

> back to me—but I don't think I did. I think it was pretty self-explanatory. . . . And it makes me worried that, like, if something were to happen to somebody I know who knows what's happening to me or, like, God forbid, something happens to me again, we're not going to want to report it because we think the exact same thing is going to happen. It stressed me out way worse than if I would have done nothing because I thought something good was going to come out of it. Like, people don't want to go through that. . . . I don't think I would report it again if something did happen.

The university's opaque distinction between reports and complaints not only suppressed Samantha's ability to hold her perpetrator accountable, but it also discouraged her and her friends from pursuing recourse through the university in the event of future sexual violence. This is particularly concerning because, despite her concerns, Samantha did not make a mistake. She simply did not know that Western University did not mandate a response to reports.

Unlike many survivors relying on online reporting tools, Samantha also connected with a victim advocate shortly after filing her report. Victim advocates contact any survivor named in a report to offer resources and discuss their options, but many survivors are unaware that the email they receive from the Victim Advocacy Office is connected to their reports. They anticipate that all correspondence will come from the office they contacted to make the report—the Title IX Office. Samantha shared this confusion. She did not know that her report prompted the email she received from the Victim Advocacy Office and did not recognize the need to discuss her report.

When she met with a victim advocate, Samantha explained that she planned to go through the formal investigation progress and had not yet heard from anyone in the Title IX Office. Her victim advocate did not explain that Samantha would also need to file a complaint. Instead, she chastised Samantha for the way she decided to file a report. She said, "[The victim advocates] didn't like that I decided to [file a report] because my sister talked me into it. They said that should be, like, a personal decision." Samantha's experience with her victim advocate was not uncommon. It was standard procedure for victim advocates to withhold information about the complaint process from survivors. The lead victim advocate asserted that doing so was best practice. During an informal interview, she explained to me that doing so was "trauma-informed and survivor-centered," as victim advocates should limit the amount of information offered to survivors to avoid "overwhelming them." Victim advocates were also prohibited—under threat of termination—by the university's Office of General Counsel from encouraging complaints in any way, especially if a survivor expressed any uncertainty or apprehension about the process. In general, staff across all student-facing positions were regularly verbally admonished by their peers and superiors for any behavior that could be construed as "encouraging complaints," including explaining the process of filing a complaint if the survivor did not explicitly request information on the subject. As a result, victim advocates rarely volunteered information about the distinction between reports and complaints and survivors often did not recognize the need to pursue both. Based on internal records provided by Western University, only 18.4% of reports were escalated into complaints during the 2018–2019 academic year (see Table 1).

4.2 | Informal resolutions

If a survivor managed to escalate a report into a complaint, she then had a decision to make: would she pursue a formal investigation or an informal resolution? (for an overview of the distinctions between these types of recourse, see Figure 2). A formal investigation refers to the process through which universities interrogate the validity of survivors' narratives of sexual violence and, potentially, sanction a perpetrator if a claim is considered to be true. Western

TABLE 1 Western University internal records on reports and complaints made

Type of complaint	Reports received	Complaints initiated
Sexual harassment	22	46 (20.7%)
Nonconsensual sexual contact (sexual assault)	103	18 (17.5%)
Nonconsensual sexual penetration (rape)	34	8 (23.5%)
Intimate partner violence	51	4 (7.8%)
Stalking	42	7 (16.7%)
All sexual misconduct complaints	**452**	**83 (18.4%)**

University's policies around formal investigation were legalistic and specific. In total, the university's description of the formal investigation process in the sexual misconduct policy comprised 18 pages of written materials. Some elements were also described in more detail in supplemental pamphlets and graphics. Every survivor in the study found these documents overwhelming.

In contrast, informal resolution—as a term and as a policy—is vague. Western University's sexual misconduct policy dedicated only a single page to informal resolution. Most staff were not aware that any written materials on informal resolution existed and, accordingly, did not share these materials with survivors. In fact, most staff—including the victim advocates tasked with explaining informal resolution to survivors—could not clearly define what informal resolution was. In practice, Western University's informal resolution policy mirrored current federal regulations (US Department of Education, 2020) in that there were only two defining characteristics: informal resolution could not produce punitive outcomes (e.g., suspension, expulsion) and participation in informal resolution must be voluntary for all individuals (i.e., complainants *and* respondents). However, the only staff that understood these parameters were investigators in the Title IX Office. Staff in other offices commonly described informal resolution as what they *hoped* it was or believed it *should* be, such as "a form of restorative justice" or a "not as time-consuming" or arduous way of seeking accountability. As a result, informal resolution was regularly misconstrued by survivors. They were regularly told by staff to "shoot for the stars" in imagining what potential informal resolution outcomes could be. Survivors commonly requested interventions such as educational trainings and changes in accommodations (e.g., switching offices), but also prohibited interventions, including a respondent's demotion, dismissal, or banishment from campus. Survivors' requests were submitted even if they violated the restrictions on what informal resolution could achieve. Ultimately, most requests were denied.

The primary reason so many survivors' cases were funneled toward informal resolution is simple: it was the only way survivors were permitted to "delay" their decision about how to move forward. Without adequate, clear information to differentiate informal resolution from formal investigations, survivors were often unready to rule out either choice. When they were told that they could pursue both options to address the sexual violence they endured, they were eager to do so. However, university officials did not pursue both options equally. As the Title IX Coordinator explained during a meeting I observed, they had an unwritten policy of "resolving all issues at the lowest possible level." In practice, when a survivor chose to pursue all available options, the university pursued only informal resolution.

Brandi, a white 29-year-old university employee, had a typical experience of seeking formal adjudication, but ending up with an unsatisfactory informal resolution instead. Brandi reported sexual harassment she experienced at work mere hours after the first instance of harassment took place. When faced with the decision of which recourse option to choose, Brandi sought the advice of a victim advocate about how to proceed. She received a straightforward

recommendation: if she wasn't sure, she could select both. After four weeks of deliberation, selecting both seemed like the right choice to Brandi, if an unclear one:

> BRANDI: In the complaint, it says, you know, mark what you want to have happen in the investigation or informal resolution. When I talked to my advocate, she said that I could have—I could request both. And so I was like, well, yes, I guess I want both because if they are approached and they deny what happened then I would want an investigation to go forward. But if they don't, I guess an informal resolution is fine with me.
>
> RESEARCHER: Did you know what that meant? An informal resolution?
>
> BRANDI: No, I did not. They would suggest, like, you could request a letter of apology. That was one suggestion that [Title IX] kept referring to. And actually, my advocate too. She said that I could request a letter of apology and I was like, "I don't want a letter of apology" . . . I didn't want to read anything that [my harassers] had written. . . . I don't know what [other] possibilities are, so what I just kind of came up with was I just want them to have specific sexual harassment training and, um, someone to talk to them and tell them that I was not okay with how that situation went down. I didn't really know what more I could ask for other than that really. . . . I would have liked to have known some examples maybe of what [informal resolutions] had happened [in other cases]—like, what they were allowed to do and have the power to do. I felt a bit like I had limitations just because I didn't know what I was limited to.

Brandi soon found out that selecting both processes did not mean both would be applied evenly. After contributing her time and energy to share evidence required for a formal investigation, Brandi learned that her investigation had come to an abrupt halt after the university had applied an informal resolution without consulting her. She felt disappointed, but unable to request that the university pursue her investigation further. She explained:

> I didn't recognize at what point I needed to say, "Oh, actually, I would like you to move forward with the investigation." I do kind of feel like [the informal resolution] eclipsed [the investigation]. I felt a little bit deflated when I got that email from [my investigator] saying, "Oh, [the Title IX coordinator] did these things. This is what you asked for. Do you have any questions?" And so that kind of signaled, "Oh, I guess this is over."

Ultimately, Brandi felt that the university's unstated preference for informal resolution indicated a lack of commitment to addressing sexual misconduct—and to her as a survivor. She explained:

> BRANDI: I feel like they were trying to work really quickly through the process. I feel like they were considerate of my feelings, but I felt like it was more important to them to be finished with the case—like, have it closed and everything.
>
> RESEARCHER: How did that make you feel?
>
> BRANDI: I don't really—I don't know. It made me feel, like, they're kind of just for show. Like they had an opportunity to really help me and they didn't. They just wanted it over quickly because it's their job to move through cases.

In cases like Brandi's, survivors lacked the information they needed to understand the informal resolution process, yet felt actively encouraged to permit the university to pursue informal resolution anyway. They were unaware that doing so would allow the university to prioritize informal resolution over the investigations that they had originally sought out. In the end, they felt that they had lost agency during the process and felt that the university had little interest in helping them address on their own terms the sexual violence they had experienced.

Not all survivors were as compliant with the university's preferred path as Brandi. Others had to be subtly discouraged from seeking a formal investigation. In those cases, it was the university's vague policy to address retaliation that convinced them to pursue informal resolution. When requesting a formal investigation, administrators turned the conversation to retaliation, creating (an often inappropriately extreme) fear in survivors about the hostility they could face. Survivors also encountered conversation about retaliation in nearly all interactions with the victim advocacy office. Following the murder of a woman on campus, the office had instituted a mandatory lethality risk assessment for all survivors using campus services.[5] As a result, even victims of types of discrimination at low risk of escalation to physical violence (e.g., verbal sexual harassment) began to consider reporting as a potentially life-threatening action. While Western University had a retaliation policy, it provided little comfort to the survivors. It was simply a statement that retaliation is prohibited. Every survivor was required to read the statement before submitting a complaint, which also stoked their fears about the ubiquity of retaliation. Western University had a procedure for investigating retaliation complaints after the initial Title IX complaint had concluded, but only a single survivor in the study was aware of it and she recognized that the procedure could not intervene on an active threat. Instead, survivors felt that they lacked adequate protection to endure the formal investigation process. With their newly stoked fears and a lack of meaningful institutional protection, they settled on informal resolution as a way to protect themselves. Commonly, their fears also led them to select interventions that would not require their identities to become known or for their perpetrator to be involved.

As an example, Camilla, a Black and Latina 25-year-old university employee and graduate student, felt that the university was generally encouraging of her desire for a formal investigation to address sexual harassment she faced at work, but the concerns administrators raised about her harassers' willingness to retaliate violently scared her into choosing informal resolution. As she described:

> [The Title IX administrators] said that they would be open to an investigation. . . . I was kind of surprised by that, but I was also, like, happy about that. But I told them I wanted to, like, talk to my parents about it because—one, I didn't think it would go to an investigation because of the time [that had passed] and then, two, also because I was initially kind of scared of my safety. . . . I was kind of explaining, like, I am concerned about my safety and, you know, [one administrator] was obviously like, "There's [a] no retaliation policy." But like, in the end, that's just a piece of paper, like, that doesn't really mean much for a lot of people.

Camilla was particularly unlikely to face retaliation. She waited to file her complaint until after she had accepted a new job in a different state. At the time of the investigation, she would have been living thousands of miles away in a location unknown to her harassers. Still, the repeated conversations about the threat of retaliation made her too fearful to agree to an investigation, particularly since the university's retaliation policy was more symbolic than substantive.

Lexie, a white 27-year-old graduate student, also opted against a formal investigation out of fear of retaliation. She did not raise these concerns herself, but rather felt alerted to the danger by her victim advocate, who had an emotional reaction to Lexie's story of receiving inappropriate messages from a campus guest speaker.

> LEXIE: So I gave [my advocate] like a brief overview of what happened with this person, then she helped me write [the complaint]. I think it was when we were done writing it and then, I don't know, if we were talking about—maybe we were jumping ahead and talking about filing a report with, like, the university police or something. Then she was, like, kind of more seriously, "This is stalking and this is a huge issue and it's, like, one of the more dangerous situations to be in." And I forget all the statistics she said.
>
> RESEARCHER: Did that make you feel pressured to file a police report?
>
> LEXIE: No. I don't think it pressured me. I think—I think that it scared me. I think that was when I realized, like, the gravity of what was happening kind of sunk in, and I was like, "Oh." And then she, like, stepped out. I think she was tearing up and I was like, "Uh . . . " I started tearing up too.
>
> RESEARCHER: It sounds like she had a pretty emotional reaction.
>
> LEXIE: She did. Yeah, I don't know if it was 'cause she was picking up my very nonchalant vibes about, you know, the whole thing—more calm, I guess maybe. Or maybe not. I don't really know.

Even though Lexie had originally felt calm about filing a complaint with the university, she became afraid after meeting with her victim advocate. This reinforced her interest in informal resolution since some informal resolutions could be pursued anonymously. Her advocate insisted that Lexie could still get everything she wanted from an informal resolution. The two worked together on completing the necessary form:

> First, [my advocate] asked me what I wanted to do and I was like, "I don't know. Ban him from campus. Ban him from any kind of student event—all that. So that was my first thought. And then she was really nice like, "Shoot for the stars! Do whatever you want! If you could do anything, just put it down in this part."

Lexie felt good about the informal resolution she filed—she thought it would have a meaningful impact while also maintaining her anonymity and safety. However, her victim advocate had oversold the capabilities of informal resolution. Lexie learned about the limits of informal resolution over a month after pursuing the process. She described the phone call with a Title IX investigator:

> [The investigator] was like, "Can't ban this person from campus, can't ban them from any student events, can't ban them from speaking again." But they can let the, um, I guess director or somebody know that, like, organizes the events or whatever. "We can let them know about this person, exactly what happened, but, you know, it's under their discretion to invite that person back. . . . " He was kind of like, "Unfortunately, I can't do this. You aren't doing an investigation. . . . We need a formal investigation in order to be able to ban someone from campus."

At that point, Lexie was still too afraid of violent retaliation from her perpetrator to seek formal investigation. Instead, she gave up on pursuing any kind of recourse. The only thing she gained from her seeking recourse was a newfound fear. As she explained:

> LEXIE: It's painful 'cause, you know, I felt like such a superhero, you know? Like coming out and being like, "This happened and this person's a horrible person and

> we need to do something about it." And if nothing else, just make my professor aware of it, you know, talk to my friends and family and they know about [it] so if anything were to happen, they could be like, "This guy. He's been emailing her and texting her." And I mean, nothing's happened since, which has been really nice, but I just don't know. And that's the scary part is, like, you just don't know. Like he knows where I work, like he could be there.
>
> RESEARCHER: Do you walk around with that fear right now? Like nothing has happened to him, [so] he could show up at work one day?
>
> LEXIE: I mean, I didn't have that fear until I talked to [my victim advocate] and she was like, "This is very serious," and I was like, "Oh yeah, like, he could do that."

Like Lexie, most survivors who pursued informal resolution gained little from the process, but many were more fearful of their perpetrators than when they began and, correspondingly, were even less inclined to pursue formal investigation.

The process through which Western University guided survivors to informal resolution was effective. Of the participants in this study, all but one who was eligible for informal resolution saw their cases managed without a formal investigation.[v] Accordingly, none of their perpetrators could face strong sanctions, such as suspension or dismissal. Many declined to participate in the reparative sanctions required of them. Even more commonly, the survivors' requested interventions were denied and their perpetrators were never made aware that a complaint had been filed against them at all.

At the time of data collection, informal resolution could only be used in cases that did not involve sexual penetration (US Department of Education, 2014). Under the most recent federal regulations on Title IX (US Department of Education, 2020, 2022), informal resolution must be available at all universities and can be used to address all types of sexual violence. All survivors are now subject to the decision-influencing processes described in this study.

5 | DISCUSSION

To avoid retraumatiziation, it is essential that survivors maintain control over the trajectory of their Title IX cases. This study examines the options available for survivors of sexual misconduct who wish to seek recourse through their universities—and specifically, the degree to which survivors had agency over the choices they made. Even though Western University espoused a philosophy of maximizing survivors' control of the adjudication process by offering many options to survivors seeking recourse, the survivors in this study faced constraints on their choices that discouraged them from the formal investigations they originally sought. Specifically, the complexity of the organization-specific policies made survivors dependent on organizational actors to understand them, permitting the institution to control the outcome of each case. Survivors who originally sought a formal investigation settled for ineffective options that, in many cases, offered no meaningful intervention and left survivors feeling unwilling or unable to seek recourse in the future. This type of discouragement is best understood as a chilling effect.

The constraints on survivors' choices were the direct result of Western University's policies and procedures. From a survivor's perspective, Western University's sexual misconduct policy had two complementary flaws: in some places (i.e., the formal investigation policy) it was long and complex, while in others (i.e., the informal resolution policy) it was vague and incomplete. Both problems made it impossible for survivors to navigate the policies available on their own and, accordingly, choose between the available options with full autonomy. In the case of the long and complex formal investigation policy, survivors could not understand the legalistic documents and felt overwhelmed by the daunting prospect of parsing nuanced issues themselves. In

the case of the vague and incomplete informal resolution and retaliation policies, survivors simply did not have the information they needed to understand what the relevant process entailed. Conflicting information and imprecise language further muddled all university documents. Accordingly, survivors could not navigate the sexual misconduct policy and procedures on their own, instead becoming dependent on the university actors to understand the options presented to them. As a result, the university had a significant amount of control over the information survivors received and the decisions they made.

Since survivors could not understand the documents before them, the university faced no resistance from survivors when they invoked unwritten organizational procedures that violated Title IX in service of the university's objectives (e.g., maintaining the status quo, minimizing risk from legal complaints). For example, arguably illegal internal practices, such as addressing complaints "at the lowest possible level," further exacerbated university control over the trajectory of sexual misconduct cases without the detection of survivors. Survivors' poor understanding of the policies governing Title IX made it difficult for them recognize that the closure of their investigations was inappropriate. They simply assumed they had made a mistake along the way. Because the university's procedures were so institution-specific, the inclusion of external experts (e.g., lawyers, community advocates) likely would not have given survivors more control over their cases since they, too, would lack knowledge about key organizational norms and dynamics. Just like the survivors, external experts would be dependent on university actors to make sense of university policy. The result of these practices was clear: there were fewer formal investigations into sexual misconduct than desired by survivors. Unsurprisingly, survivors did not feel that they had the control that they had been promised over their cases.

The findings from this study underscore both the importance and the perils of providing survivors options for recourse. For most of the participants in this study, the loss of control of their complaints was a source of harm, echoing previous research on institutional betrayal (Smith & Freyd, 2013, 2017) and survivors' negative experiences with Title IX reporting (Germain, 2016; Holland & Cipriano, 2021; Lorenz et al., 2022; Nesbitt & Carson, 2021). It follows that survivors need autonomy over the course of their complaints to feel truly supported by their universities. However, offering multiple options for recourse is insufficient to meet survivors' needs, particularly if some options are merely symbolic (Edelman, 1992, 2016; Edelman & Cabrera, 2020), as both informal resolution and the anti-retaliation policy appeared to be in the case of the university studied. These findings are particularly alarming considering the US Department of Education's (2020, 2022) recent embrace of informal resolution as the primary means of addressing sexual violence. In some cases, this new focus on informal resolution would be tantamount to permitting universities to eschew their legal responsibility to address violence on their campus, especially as formal investigation continues to fail survivors as a viable option for redress. Critics of campus sexual violence adjudication have long recognized that formal investigation is often inaccessible or traumatizing to survivors (Smith & Freyd, 2013, 2017), and recent federal regulations (US Department of Education, 2020, 2022) are likely to only exacerbate those problems (Holland et al., 2020). Moving forward, survivors will only have true autonomy over how their cases are managed if *all* options available are viable, including formal investigation. Crucially, this will require universities to take a more proactive and effective approach to addressing retaliation. External regulatory bodies, including civil courts, should take structural barriers such as inadequate retaliation policies into account when considering whether a university has created an unlawful chilling effect on sexual misconduct complaints.

This study also calls into question the efficacy of university processes for sharing information about sexual misconduct complaints with students. Victim advocates are typically considered the appropriate conduits for information about the options available to student survivors. In general, this is sensible—many victim advocates (including nearly all advocates in this study) come into their profession because they are survivors themselves; they can empathize with other survivors and enter the field with the best of intentions to improve services. However, unlike community

victim advocates, campus victim advocates face substantial constraints imposed by the university they service, particularly in regard to their competing goals of supporting survivors and protecting the university (Moylan, 2017; Brubaker & Keegan, 2018). The victim advocates in this study had limited ability to truly advocate for their clients, especially around formal investigations. According to university policy, encouraging complaints could be a termination-worthy offense, severely curbing victim advocates' capacity to provide sufficient information to clients who are unsure about whether they are ready to file a formal complaint or what doing so would entail. Arguably, these are the survivors who most need information about complaints, but they were also the most likely to be denied the information they sought out. Like the survivors, campus victim advocates need more autonomy to be able to effectively navigate the recourse options available. This is particularly important since there are few other viable candidates to guide survivors through their choices in a campus context. Since university policies can be so specific to the campus environment, external experts such as lawyers and community victim advocates typically lack the knowledge necessary to effectively counsel a survivor through the campus process. While such occurrences are rare, a few survivors in this study sought external assistance, and they faced the same barriers in understanding the unique policies and procedures at Western University as those who did not. Powerful and independent campus victim advocates are key to the successful adjudication of college sexual misconduct. In the absence of victim advocates' autonomy, even the most well-intentioned actors can still cause harm as the result of structural constraints.

There is still an even simpler solution to the problems identified by this study: campus sexual misconduct policies and procedures should not be so complicated or vague. By definition, university students have had access to a higher education, making them a population particularly capable of understanding complex written materials. If university students cannot understand sexual misconduct policies as they are currently written, they should be considered unreasonably complex or missing key information. Accordingly, external regulatory bodies should also consider overly complicated or vague sexual misconduct policies as the source of an unlawful chilling effect on sexual misconduct complaints. Additionally, the problems with Western University's sexual misconduct policy underscore the necessity of Congressional reform on the topic of campus sexual violence. In the absence of a clear legal mandate (Edelman, 2016; Edelman & Cabrera, 2020), universities across the country have relied heavily on federal guidance from the Department of Education in drafting materials for their own campuses. As Title IX regulation—especially around adjudication—has been politicized in presidential races over the past decade, the federal regulations have become increasingly lengthy, complicated, and contradictory. While adherence to federal guidance is *not* required for a school to be in compliance with the law, many organizations consider creating their own policies to be more legally risky, especially on such a hotly contested issue. As a result, many schools—including Western University—have adopted policies that are nearly identical to federal guidance and replicate its problems. Most obviously, federal guidelines around what should constitute formal adjudication are complicated and difficult for even legal experts to parse. Conversely, the federal government has provided almost no clarification on what informal resolution should be, with the most recent regulations including only a single, vague paragraph (US Department of Education, 2020) that uses identical language to the paragraph in Western University's sexual misconduct policy. Federal legislation on campus sexual violence—or organizational harassment and discrimination more broadly—could rectify the problems in the executive branch and, accordingly, on the campuses that take their cues on sexual misconduct prevention and response from the government, rather than students.

5.1 | General applicability

While this study focuses on student survivors' experiences of seeking recourse following campus sexual assault and harassment, the findings have broader implications for understanding how

organizations exert control over individual actors. Both overly complex and vague policies and procedures used by organizations to address discrimination make those who attempt to invoke their rights dependent on the organization that has wronged them—and often sees them as a legal liability. As a result, organizations can exert control over the course of a complaint, perhaps (subtly or overtly) discouraging the complaint altogether. It is likely that this process of organizational control is especially pervasive in structures tasked with addressing discrimination, since many organizations adapt others' policies and procedures to avoid legal liability without adequate concern for the efficacy of adopted programs (Edelman, 1992, 2016). I argue that this type of symbolic compliance is not only ineffective, but perhaps harmful, as each newly incorporated policy or procedural symbol further complicates the process through which to address discrimination. Each additional layer of complexity increases individuals' dependence on organizational actors to understand the process for redress. These complexities include the adoption of vague policies intended to stand in as symbols. While it might appear contradictory to argue that Western University's sexual misconduct policy is both too complicated and too vague, this is a feature of symbolic compliance. The problem is not that Western University's policy would work well if students could only understand it, but that many policies (e.g., informal resolution) were never intended to have a clear function. Instead, they were adopted as a way to appease political, legal, and moral pressures while maintaining the status quo, as evidenced by the fact that even staff could not point to their purpose. Layered on top of one another, these vague symbolic polices *become* long, complex, and difficult to understand, even if each individual element lacks substance. Since legal systems often consider the volume of policies around discrimination as evidence of compliance on its own (e.g., Edelman, 1992, 2016), it should be unsurprising that the result is long, arduous policies containing many vague (if not entirely meaningless) components.

5.2 | Limitations and future directions

There are limitations to the current study. The sample size of survivors seeking recourse is relatively small and the study was conducted on a single university campus. Future research would benefit from the inclusion of more universities and more survivors' experiences, including those of cisgender male and gender non-conforming survivors. It is possible that masculine survivors in particular may be treated differently due to service providers' reliance on gendered stereotypes (Allen et al., 2015; Bedera, 2021). This study's participants were also recruited through campus organizations, which certainly created a selection effect—the survivors in this study were the most connected to campus organizations, while other survivors likely faced barriers to accessing these processes at all. Research is also needed on the long-term impact on survivors who have faced organizational discouragement from filing sexual misconduct complaints. The mechanisms of organizational control over discrimination victims could also be studied in other self-regulated organizations. Comparative studies between self-regulated organizations and organizations that are subjected to regular external oversight might be particularly instructive.

6 | CONCLUSION

In sum, the current study examined the degree to which options for recourse provide survivors with control over the trajectory of their sexual misconduct complaints. Based on ethnographic observation of university administrators and 22 interviews with 15 survivors seeking recourse through their university, I find that survivors had little control over the choices they made due to organizational barriers to pursuing formal complaints. Instead, complicated and vague options exacerbated university control as survivors became dependent on university

administrators for advice on their cases. It is imperative to simplify and clarify university sexual misconduct policies and ensure that all available options are truly viable for every survivor.

ACKNOWLEDGMENTS

The author would like to thank Fatma Müge Göçek, Erin Cech, Alford Young Jr., Margo Mahan, Paige Sweet, Kristjane Nordmeyer, Kathryn Holland, Jacqueline Cruz, William Rothwell, and the University of Michigan's Sociologists in Action for their support and development of this article and broader project, as well as the University of Michigan Gender and Sexuality Workshop (F20) and Nona Gronert, Jessica Cabrera, Arialle Crabtree, and Katelyn Malae for their feedback. The biggest thanks of all go to the many research assistants who worked on this project, including Sabi Lowder, Kate McMaster, Katy Molinari, Quinn Myrick, Naomi Shapiro, Enan Whitby, Nina Asef, Emily Bagley, Annie Brown, Kenzie Campbell, Keaton Murray, Eliza Van Dyk, Rebecca Dennis, Nina Eldredge, Maxwell Kee, Kara McShane-Hefley, Yihao Qin, and especially Calen Smith, Mary Grace Lewis, Logan Deutchman, and Katie Saad. Finally, a thank you to everyone who provided the emotional support required for a project like this one, especially Danielle Autino, Jonté Jones, Deleska Crockett, and Colin Eichinger.

ORCID

Nicole Bedera https://orcid.org/0000-0003-0411-8586

ENDNOTES

[i] I conducted ethnographic observation between July 2018 and June 2019. I conducted interviews between September 2018 and September 2019. No new interview participants were recruited to the study after the academic year, and ethnographic observation ended in June 2019, but two participants had ongoing sexual misconduct complaints that concluded in September. We completed their second interviews at that time.

[ii] During data collection, I spent an average of three days per week working from campus for four hours or longer. Excluding university breaks, weekends, and trips back to my home institution, I spent the majority of my working hours on campus nearly every day for a calendar year.

[iii] The university uses the sexual misconduct policy for students and staff. One of the staff members (Camilla) was also a graduate student, but filed a complaint about misconduct in her workplace.

[iv] Formal campus policies were collected in real time by research assistants who reviewed the campus website on a regular basis. I also collected physical materials given to me by university actors or that I encountered during field work; however, I did not read them until later unless guided to do so by a university actor or a survivor participant. This best reflected the experiences of survivors attempting to navigate the field.

[v] In this exceptional case, the survivor had already received threats from her perpetrator that he was stockpiling weapons to murder her in a mass shooting. Accordingly, she did not believe that retaliation for filing a Title IX complaint could endanger her any further. She already faced the most extreme threat to her safety.

[vi] This protocol is another example of symbolic compliance. It has failed to prevent similar escalations in intimate partner violence and has led many survivors to withdraw from services early out of fear or a desire to save limited resources for victims "in more danger."

REFERENCES

Albrecht, Kat, Laura Beth Nielsen, and Lydia Wuorinen. 2022. "Misunderstanding Law: Undergraduates' Analysis of Campus Title IX Policies." *Education Evaluation and Policy Analysis.*

Allen, Christopher T., Rebecca Ridgeway, and Suzanne C. Swan. 2015. "College Students' Beliefs Regarding Help Seeking for Male and Female Sexual Assault Survivors: Even Less Support for Male Survivors." *Journal of Aggression, Maltreatment & Trauma* 24(1): 102–15.

Amar, Angela Frederick. 2008. "African-American College Women's Perceptions of Resources and Barriers When Reporting Forced Sex." *Journal of the National Black Nurses Association* 19(2): 34–40.

American Law Institute. 2018. *The Principles of the Law, Student Sexual Misconduct: Procedural Frameworks for Colleges and Universities—Preliminary Draft No. 5*. Philadelphia: Executive Office, American Law Institute.

Ahrens, Courtney E., Giannina Cabral, and Samantha Abeling. 2009. "Healing or Hurtful: Sexual Assault Survivors' Interpretations of Social Reactions from Support Providers." *Psychology of Women Quarterly* 33(1): 81–94.

Baker, Majel R., Patricia A. Frazier, Christiaan Greer, Jacob A. Paulsen, Kelli Howard, Liza N. Meredith, Samantha L. Anders, and Sandra L. Shallcross. 2016. "Sexual Victimization History Predicts Academic Performance in College Women." *Journal of Counseling Psychology* 63(6): 685–92.

Bedera, Nicole. 2021. "Settling for Less: How Organizations Shape Survivors' Legal Ideologies around College Sexual Assault." PhD diss., University of Michigan.

Bedera, Nicole, and Kristjane Nordmeyer. 2017. "Doing Trauma-Informed and Survivor-Centered Research: Reflections on Interviews with Queer Sexual Assault Victims." Paper presented at the annual meeting of the Society for the Study of Social Problems, Montreal, QC, Canada, August 11–13.

Bingham, Shereen G., and Lisa L. Scherer. 2001. "The Unexpected Effects of a Sexual Harassment Education Program." *Journal of Applied Behavioral Science* 37(2): 125–53.

Bisom-Rapp, Susan. 2018. "Sex Harassment Training Must Change: The Case for Legal Incentives for Transformative Education and Prevention." *Stanford Law Review* 60(1): 62-75.

Blackstone, Amy, Christopher Uggen, and Heather McLaughlin. 2009. "Legal Consciousness and Responses to Sexual Harassment." *Law & Society Review* 43(3): 631-668.

Brubaker, Sarah Jane, and Brittany Keegan. 2018. "'Suddenly Everyone's an Expert in Our Field': Campus Victim Advocates and the Promise and Peril of Professionalization." *Violence Against Women* 25(9): 1116–37.

Bumiller, Kristin. 1987. "Victims in the Shadow of the Law: A Critique of the Model of Legal Protection." *Signs* 12(3): 421–39.

Buzuvis, Erin E. 2020. "Title IX and Official Policy Liability: Maximizing the Law's Potential to Hold Education Institutions Accountable for Their Responses to Sexual Misconduct." *Oklahoma Law Review* 73(1): 35–67.

Campbell, Rebecca. 2006. "Rape Survivors' Experiences with the Legal and Medical Systems: Do Rape Victim Advocates Make a Difference?" *Violence Against Women* 12(1): 1–16.

Campbell, Rebecca. 2008. "The Psychological Impact of Rape Victims' Experiences with the Legal, Medical, and Mental Health Systems." *American Psychologist* 63(8): 702–17.

Campbell, Rebecca, Emily Dworkin, and Giannina Cabral. 2009. "An Ecological Model of the Impact of Sexual Assault on Women's Mental Health." *Trauma, Violence & Abuse* 10(3): 225–46.

Campbell, Rebecca, Tracey Sefl, Holly E. Barnes, Courtney E. Ahrens, Sharon W. Wasco, and Yoland Zaragoza-Diesfeld. 1999. "Community Services for Rape Survivors: Enhancing Psychological Well-Being or Increasing Trauma?" *Journal of Counseling and Clinical Psychology* 67(6): 847–58.

Cantor, David, Bonnie Fisher, Susan Chibnall, Resanne Townsend, Hyunshik Lee, Carol Bruce, and Gail Thomas. 2015. *Report on the AAU Campus Climate Survey on Sexual Assault and Sexual Misconduct*. Rockville, MD: The Association of American Universities.

Cruz, Jacqueline. 2020. "The Constraints of Fear and Neutrality in Title IX Administrators' Responses to Sexual Violence." *The Journal of Higher Education* 92(3): 363–384. https://doi.org/10.1080/00221546.2020.1809268.

DiMaggio, Paul J., and Walter W. Powell. 1983. "The Iron Cage Revisited: Institutional Isomorphism and Collective Rationality in Organizational Fields." *American Sociological Review* 48(2): 147–60.

Dobbin, Frank, and Alexandra Kalev. 2019. "The Promise and Peril of Sexual Harassment Programs." *PNAS* 116(25): 12255–60.

Dunn, Jennifer L., and Melissa Powell-Williams. 2007. "'Everybody Makes Choices': Victim Advocates and the Social Construction of Battered Women's Victimization and Agency." *Violence Against Women* 13(10): 997–1001.

Dworkin, Emily R., Charlotte D. Brill, and Sarah E. Ullman. 2019. "Social Reactions to Disclosure of Interpersonal Violence and Psychopathology: A Systematic Review and Meta-Analysis." *Clinical Psychology Review* 72: 101750.

Edelman, Lauren B. 1992. "Legal Ambiguity and Symbolic Structures: Organizational Mediation of Civil Rights Law." *American Journal of Sociology* 97(6): 1531–76.

Edelman, Lauren B. 2016. *Working Law: Courts, Corporations, and Symbolic Civil Rights*. Chicago: University of Chicago Press.

Edelman, Lauren B., Christopher Uggen, and Howard S. Erlanger. 1999. "The Endogeneity of Legal Regulation: Grievance Procedures as Rational Myth." *American Journal of Sociology* 105(2): 406–54.

Edelman, Lauren B., and Jessica Cabrera. 2020. "Sex-Based Harassment and Symbolic Compliance." *Annual Review of Law and Social Science* 16: 10.1–10.23. https://doi.org/10.1146/annurev-lawsocsci-031820-122129.

Ewick, Patricia, and Susan S. Silbey. 1991. "Conformity, Contestation, and Resistance: An Account of Legal Consciousness." *New England Law Review* 26: 731–49.

Felstiner, William, Richard L. Abel, and Austin Sarat. 1980. "The Emergence of Disputes: Naming, Blaming, and Claiming." *Law & Society Review* 15: 631–54.

Fitzgerald, Louise F., Fritz Drasgow, Charles L. Hulin, Michele J. Gelfand, and Vicki J. Magley. 1997. "Antecedents and Consequences of Sexual Harassment in Organizations: A Test of an Integrated Model." *Journal of Applied Psychology* 82(4): 578–89.

Germain, Lauren J. 2016. *Campus Sexual Assault: College Women Respond*. Baltimore: John Hopkins University Press.

Gómez, Jennifer. 2015. "Microaggressions and Enduring Mental Health Disparity: Black Americans at Risk for Institutional Betrayal." *Journal of Black Psychology* 41(2): 121–43.

Gualtieri, Gillian. 2020. "Symbolic Compliance and Student Concerns: Legal Endogeneity and Title IX at American Colleges and Universities." *Sociological Forum* 35(1): 207–28.
Hallett, Tim, David Shulman, and Alan Fine. 2009. "Peopling Organizations: The Promise of Classic Symbolic Interactionism for an Inhabited Institutionalism." In *The Oxford Handbook of Organizational Studies: Classical Foundations*, edited by Paul S. Adler. Oxford: Oxford University Press.
Hallett, Tim, and Emily Meanwell. 2016. "Accountability as an Inhabited Institution: Contested Meanings and the Symbolic Politics of Reform." *Symbolic Interaction* 39(3): 374–96.
Hlavka, Heather R. 2014. "Normalizing Sexual Violence: Young Women Account for Harassment and Abuse." *Gender & Society* 28(3): 337–58.
Holland, Kathryn J., and Allison E. Cipriano. 2021. "Does a Report = Support? A Qualitative Analysis of College Sexual Assault Survivors' Title IX Office Knowledge, Perceptions, and Experience." *Analyses of Social Issue and Public Policy* 21(1): 1054–1081. https://doi.org/10.1111/asap.12271.
Holland, Kathryn J., and Lilia Cortina. 2017. "'It Happens to Girls All the Time': Examining Sexual Assault Survivors' Reasons for Not Using Campus Supports." *American Journal of Community Psychology* 59(1): 50–64.
Holland, Kathryn J., Lilia Cortina, and Jennifer J. Freyd. 2018. "Compelled Disclosure of College Sexual Assault." *American Psychologist* 73(3): 256–68.
Holland, Kathryn J., and Nicole Bedera. 2019. "'Call For Help Immediately': A Discourse Analysis of Resident Assistants' Responses to Sexual Assault Disclosure." *Violence Against Women* 26(11): 1383–402.
Holland, Kathryn J., Nicole Bedera, and Aliya R. Webermann. 2020. "The Selective Shield of Due Process: Analysis of the U.S. Department of Education's 2020 Title IX Regulations on Live Cross-Examination." *Analyses of Social Issues and Public Policy* 20(1): 584–612. https://doi.org/10.1111/asap.12216.
Jordan, Carol E., Jessica L. Combs, and Gregory T. Smith. 2014. "An Exploration of Sexual Victimization and Academic Performance among College Women." *Trauma, Violence & Abuse* 15(3): 191–200.
Kennedy, Ruth A. 1994. "Insulating Sexual Harassment Grievance Procedures from the Chilling Effect of Defamation Litigation." *Washington Law Review* 69: 235–253.
Koss, Mary P., Jay K. Wilgus, and Kaaren M. Williamsen. 2014. "Campus Sexual Misconduct: Restorative Justice Approaches to Enhance Compliance with Title IX Guidance." *Trauma, Violence & Abuse* 15(3): 242–57.
Krebs, Christopher P., Christine H. Lindquist, Tara D. Warner, Bonnie S. Fisher, and Sandra L. Martin. 2007. *The Campus Sexual Assault (CSA) Study*. Washington, DC: U.S. Department of Justice.
Krieger, Linda Hamilton, Rachel Kahn Best, and Lauren B. Edelman. 2015. "When 'Best Practices' Win, Employees Lose: Symbolic Compliance and Judicial Inference in Federal Equal Employment Opportunity Cases." *Law & Social Inquiry* 40(4): 843–79.
Lorenz, Katherine, Rebecca Hayes, and Cathrine Jacobsen. 2022. "'Keeping the Wound Open': Survivor Experiences with Title IX Investigations." *Women & Criminal Justice*. https://doi.org/10.1080/08974454.2022/2060896.
Marshall, Anna-Maria. 2005. "Idle Rights: Employees' Rights Consciousness and the Construction of Sexual Harassment Policies." *Law & Society Review* 39(1): 83–123.
Marshall, Anna-Maria. 2006. "Injustice Frames, Legality, and the Everyday Construction of Sexual Harassment." *Law & Social Inquiry* 28(3): 659–89.
Martin, Patricia Yancey. 2016. "The Rape Prone Culture of Academic Contexts: Fraternities and Athletics." *Gender & Society* 30(1): 30–43.
Morgan, Phoebe A. 1999. "Risking Relationships: Understanding the Litigation Choices of Sexually Harassed Women." *Law & Society* 33(1): 67–92.
Moylan, Carrie A. 2017. "'I Fear I'm a Checkbox': College and University Victim Advocates' Perspectives of Campus Rape Reforms." *Violence Against Women* 23(9): 1122–39.
Munkres, Susan A. 2008. "Claiming 'Victim' to Harassment Law: Legal Consciousness of the Privileged." *Law & Social Inquiry* 33(2): 447–72.
Nesbitt, Sarah, and Sage Carson. 2021. *The Cost of Reporting: Perpetrator Retaliation, Institutional Betrayal, and Student Survivor Pushout*. Washington: Know Your IX.
New York Radical Feminists. 1974. In *Rape: The First Sourcebook for Women*, edited by Noreen Connell and Cassandra Wilson. New York: Plume Books.
Nielsen, Laura Beth. 2000. "Situating Legal Consciousness: Experiences and Attitudes of Ordinary Citizens about Law and Street Harassment." *Law & Society* 34(4): 1055–90.
Orchowski, Lindsay M., Amy S. Untied, and Christine A. Gidycz. 2013. "Social Reactions to Disclosure of Sexual Victimization and Adjustment Among Survivors of Sexual Assault." *Journal of Interpersonal Violence* 28(10): 2005–23.
Peter-Hagene, Liana C., and Sarah E. Ullman. 2013. "Social Reactions to Sexual Assault Disclosure and Problem Drinking: Mediating Effects of Perceived Control and PTSD." *Journal of Interpersonal Violence* 29(8): 1418–37.
Quinn, Beth A. 2000. "The Paradox of Complaining: Law, Humor, and Harassment in the Everyday Work World." *Law & Social Inquiry* 25(2): 1151–85.
Ray, Victor. 2019. "A Theory of Racialized Organizations." *American Sociological Review* 84(1): 26–53.

Robb, Lori A., and Dennis Doverspike. 2001. "Self-Reported Proclivity to Harass as a Moderator of the Effectiveness of Sexual Harassment-Prevention Training." *Psychological Reports* 88: 85–8.
Sable, Marjorie R., Fran Danis, Denise L. Mauzy, and Sarah K. Gallagher. 2006. "Barriers to Reporting Sexual Assault for Women and Men: Perspectives of College Students." *Journal of American College Health* 55(3): 157–62.
Silbey, Susan S. 2005. "After Legal Consciousness." *Annual Review of Law and Society* 1: 323–68.
Smith, Carly Parnitzke, and Jennifer J. Freyd. 2013. "Dangerous Safe Havens: Institutional Betrayal Exacerbates Sexual Trauma." *Journal of Traumatic Stress* 26(1): 119-124.
Smith, Carly Parnitzke, and Jennifer J. Freyd. 2017. "Insult, Then Injury: Interpersonal and Institutional Betrayal Linked to Health and Dissociation." *Journal of Aggression, Maltreatment & Trauma* 26(10): 1117–31.
Smith, Caryle Parnitzke, Sarah A. Cunningham, and Jennifer J. Freyd. 2016. "Sexual Violence, Institutional Betrayal, and Psychological Outcomes for LGB College Students." *Translational Issues in Psychological Science* 2(4): 351–60.
Sweet, Paige. 2020. "The Sociology of Gaslighting." *American Sociological Review* 84(5): 851–75.
Tinkler, Justine E. 2012. "Resisting the Enforcement of Sexual Harassment Law." *Law & Social Inquiry* 37(1): 1–24.
Tinkler, Justin E. 2013. "How Do Sexual Harassment Policies Shape Gender Beliefs? An Exploration of the Moderating Effects on Norm Adherence and Gender." *Social Science Research* 42(5): 1269–83.
Townsend, Stephanie M., and Rebecca Campbell. 2007. "Homogeneity in Community-Based Rape Prevention Programs: Empirical Evidence of Institutional Isomorphism." *Journal of Community Psychology* 35(3): 367–82.
Triplett, Matthew R. 2012. "Sexual Assault on College Campuses: Seeking the Appropriate Balance between Due Process and Victim Protection." *Duke Law Journal* 62(2): 487–527.
US Department of Education. 2001. *Revised Sexual Harassment Guidance: Harassment of Students by Employees, Other Students, or Third Parties*. Washington, DC: Office of Civil Rights.
US Department of Education. 2014. *Question and Answers on Title IX and Sexual Violence*. Washington, DC: Office of Civil Rights.
US Department of Education. 2020. *Title IX Regulations Addressing Sexual Harassment*. Washington, DC: Office of Civil Rights.
US Department of Education. 2022. *Federal Register Notice of Proposed Rulemaking: Title IX of the Education Amendments of 1972*. Washington, DC: Office of Civil Rights.
Walsh, Wendy A., Victoria L. Banyard, Mary M. Moynihan, Sally Ward, and Ellen S. Cohn. 2010. "Disclosure and Service Use on a College Campus After an Unwanted Sexual Experience." *Journal of Trauma & Dissociation* 11 (2): 134–51.
Williams, Jill Hunter, Louise F. Fitzgerald, and Fritz Drasgow. 1999. "The Effects of Organizational Practices on Sexual Harassment and Individual Outcomes in the Military." *Military Psychology* 11(3): 303–28.
Zinzow, Heidi M., and Martie Thompson. 2011. "Barriers to Reporting Sexual Victimization: Prevalence and Correlates among Undergraduate Women." *Journal of Aggression, Maltreatment & Trauma* 20(7): 711–25.

CASES CITED

Alexander v. Yale. 1980. "459 F. Supp. 1, aff'd 631 F.2d 178" (2nd Cir. 1980).

LAWS CITED

Educational Amendments. 1972. "Act of 1972, 20 U.S.C." §§1681–8.

AUTHOR BIOGRAPHY

Nicole Bedera is a recent graduate of the University of Michigan's Sociology Doctoral Program. Her research focuses on how organizations shape the experience of sexual violence.

How to cite this article: Bedera, Nicole. 2022. "The Illusion of Choice: Organizational Dependency and the Neutralization of University Sexual Assault Complaints." *Law & Policy* 44(3): 208–229. https://doi.org/10.1111/lapo.12194