

## Why is OSAC Filing Federal Complaints against Occidental College?

*“My rapists admitted to ‘gang raping’ me to all their friends, and were proud of it. Even though this was horrible to hear, I was still glad I didn’t report my rape to Oxy. The reporting process most likely would have been just as damaging as the rape itself. It is sad to me that even when my assailants admitted to rape, I was still afraid to report to the school for fear of not being believed.” – Anonymous Survivor Story*

*“Because his sanction was overturned on appeal, once I graduate, I can never come back to Oxy. I can’t visit friends who still go here, I can’t go to alumni events, I can’t even show people around where I went to school because there will always be a chance that he is here. He is allowed to be here. I was raped during the first week of my first year at Oxy. I was robbed of anything resembling a normal college experience. Yet four years later, after reporting in the hopes that I could feel safe on campus again, I’m still the one who doesn’t get to feel safe or valued at the college I go to.” – Anonymous Survivor Story*

*“I would love to someday feel proud when people ask me where I went to college, instead of ashamed. I would love to feel welcome on campus. I would love to be able to encourage students to attend Occidental. But how could I ever in good conscience recommend that anyone enroll there?” – Anonymous Survivor Story*

Over the past two years the Occidental Sexual Assault Coalition (OSAC) has documented an illegal and unjust approach to addressing sexual assault on Occidental’s campus. In order to improve our policy, process, and programming, OSAC spent a year reading the literature on preventing and adjudicating sexual assault on college campuses. With this information, they wrote an 80+ point document, comparing and contrasting Occidental’s policy with best practices and the Department of Education’s (2011) “Dear Colleague” letter which outlined campus sexual assault as a Title IX issue. In their “12 Demands” they asked for basic changes for which the literature offered the most support and on which Occidental was particularly delinquent.

Ten of these demands were accepted in the Fall of 2012 by President Veitch, but he largely did not move forward with implementation. OSAC shared with President Veitch, Dean Avery, and Dean O’Neal Howard that they were preparing federal Title IX complaints but agreed to hold off on filing them given the Administration’s good faith agreement to make critical changes. When the administration failed to share a report of campus sexual assault this Spring, it was a clear violation of his agreement with the campus community and OSAC. When pressed for an explanation, our President revoked the agreement, denying that he had ever agreed to the ten demands. It was clear that the administration did not intend to honor its commitment to reform.

At that time, OSAC voted to seek assistance from federal enforcement agencies and to move forward with the Title IX and Clery complaints. They began preparing to file two complaints: one with the Office for Civil Rights establishing a failure to protect women on campus and a second complaint documenting violations of the Clery Act, a law that requires that colleges disclose reports of crime. (See page five for short descriptions of these acts and organizations.) President Jonathan

Veitch, Dean of Students Barbara Avery, Associate Dean Erica O’Neal Howard, and College Counsel Carl Botterud, as well as other administrators and staff, are implicated in these reports.

These reports are confidential in order to protect the identities of survivors and the solvency of the federal complaints. However, in an effort to inform the campus community as to their content, Faculty Council asked that OSAC put together an outline of the types of evidence in these complaints. Below is a quantitative summary of the data and a qualitative list with examples of unjust and illegal behavior.

<b>Violation</b>	<b>Percentage</b>
Incident Creates Hostile Environment	100%
Incident Affects Academic Performance	100%
*Discouraged from Reporting	56%
*Not informed of Rights	44%
*Harassment During the Adjudication Process	28%
*The Complaint Process not Prompt and Equitable	50%
*Failure to Accommodate Documented Disabilities	100%
Inadequate Sanctions Foster Hostile Environment	40%
*Appeals Granted to Alleged Perpetrators without Standing	75%
*Unequal Access to Appeals for Alleged Perpetrators and Alleged Victims	100%
Retaliation against Survivors and Whistle Blowers	26%
*Failure to Provide an Adequate, Reliable, and Impartial Investigation	56%
Inadequate Education and Prevention Fosters Hostile Environment	40%

*\*Percentages reflect number of individuals who reported and/or went through adjudication.*

**Discouraging reporting and proceeding with adjudication. Students have been told that:**

- They are not credible or are “too sensitive.”
- There is no point in reporting unless they have physical proof (e.g., bruises, forensic evidence).
- They are not allowed to discuss their assault with others, even their parents (e.g., because it will “compromise the school’s investigation”).
- There is no point to reporting crimes that are one to two years old (sexual assault survivors at Oxy, on average, wait one year before coming forward).
- They will suffer consequences if they report or proceed with adjudication (e.g., requiring alleged victims to move out of their dorms).
- They should not go to the police (e.g., by saying that the “LAPD wasn’t going to be as nice” as Oxy).

**Harassment of complainants and retaliation**

- Sending College Counsel to a complainant’s workplace to press her to settle a case that she was not party to when a respondent sued the College.
- College Counsel discussing a complainant’s cases within earshot of others.
- College Counsel calling a mandatory meeting with representatives of men’s athletic teams, telling them that OSAC is “vilifying” male students, and encouraging them to start an alternative group with a less “radical” and more “middle-ground” approach to sexual

assault; Complaining that white straight men's words get contorted; "if we speak up we get killed;" Ending the meeting by saying "Fuck 'em," referring to members of OSAC.

- Complainants or allies being fired or having their jobs eliminated by Administrators.
- Students being chastised for speaking about sexual assault with other students.
- Allowing respondents to directly confront complainants during the adjudication process.
- College President Veitch issuing a public letter in which he accused a junior faculty member and student speaking about her own rape at Oxy of "actively [seeking] to embarrass the College on the evening news."
- College President Veitch extending this critique in a Sexual Assault Task Force meeting, where he verbally attacked the junior faculty member.
- College President Veitch responding to concerned parents that the sexual assault issues being shared publicly (and documented here) are "simply not true."

### **Routine overturning of findings and sanctions on automatic appeal**

- After a thorough adjudication process in which a respondent is found responsible, administrators have granted "automatic appeals" to respondents; Complainants' requests for appeals are routinely denied; Complainants are not given the opportunity to appeal despite policy allowing them to do so; Nearly all findings of responsibility have been appealed.
- Sanctions for respondents are routinely downgraded or waived on appeal.
- Two of three respondents found responsible for multiple rapes have been invited back on campus, exposing a new crop of students to known predators (the majority of sexual assaults on campuses are performed by [serial rapists](#)).

### **Botched adjudication processes**

- Refusing to call complainants' witnesses.
- Failure to notify complainants of judicial outcomes.
- Failure to accommodate students with documented disabilities.
- Dragging out the adjudication process to ensure that respondents are able to finish out the semester and/or graduate to reduce the College's liability from litigious parents.

### **Rape myths perpetrated by administrators and campus counsel**

- Administrators telling survivors after meeting their assailants, "he didn't seem like the type of person who would do something like that" or "he didn't seem like a rapist."
- College Counsel Carl Botterud telling a group of male athletes that most of the cases of alleged rape at Oxy are "girls getting back at their ex-boyfriends" and that he's "seen that happen too many times."
- In a Sexual Assault Task Force meeting, our College Counsel stating that:
  - Rape and sexual assault are "communication issues."
  - Sexual assaults that occur involving intoxicated victims or between people who know each other are not "the type of cases" that require alerting the campus community because they do not put "others in imminent danger."
  - If the accused is "dumbfounded" or the assault involved alcohol or "questions of consent," then it does not rise to the occasion of alerting the campus as required by federal law.
  - The only sexual assaults that should be reported are those that include a "person jumping out of the bushes," a "physical attack," or "date rape drugs."

- College President Jonathan Veitch writing publicly that he is disinclined to believe reports of sexual assault on the assumption that sexual crimes are falsely reported more often than other crimes. In fact, there is no clear evidence that sexual crimes are falsely reported more or less often than other crimes.
  - “...it is not always clear what has happened in incidents like these” (Open Letter).
  - “I would never have agreed to notify the community every time a sexual assault occurred... because you can’t determine yet who’s telling the truth” (quote in Oxy Weekly).
- Rape myths are perpetuated at Orientation. Students have made the following comments about our Orientation programming (2009-2012):
  - The “administrators on the panel... were not taking the subject very seriously and contributed to an overall lax and non-constructive environment...”
  - Administrators saying, “sexual assault is essentially just a miscommunication.”
  - Administrators “focused more on how alcohol disrupts one’s ability to comprehend situations and puts one at risk for sexual assault, thus confusing who the responsible party is for rape.”

### **Manipulating and failing to report reports of rape and sexual assault**

- Dean of Students Office routinely hiding crime data from Campus Safety.
- Failure to include sexual violence reports in the Daily Crime Log (prior to March 2013).
- Downgrading the severity of reported assaults (from “assault” to “battery” and from “forcible” to “non-forcible rape,” which refers to incest and statutory rape).
- Multiple bizarre and unexplained manipulations of data and altered reports in the Daily Crime Log.
- Reporting sexual crimes to the campus community when the alleged perpetrator is not an Oxy student, but suppressing such reports when they are.
- Excluding reports of sexual crimes from our routine campus-wide alert system (when crimes involving bike thefts, laptop thefts, car break-ins, etc. are shared).

### **Grossly ineffective orientation**

- An online survey of Oxy’s programming (n = 42; oriented 2009-2012) reveals the ineffectiveness of existing orientation programming on sexual misconduct.
  - The majority of students report that they did NOT come out of Orientation with a “clear understanding of how Oxy defines sexual consent” (61%), “sexual harassment” (72%), “sexual battery” (83%), “sexual assault” (73%), and “rape” (56%).
  - 78% say that they are not sure they know how to “report experiences of sexual misconduct”; 48% say that they are not sure how to “seek emotional support for experiences of sexual misconduct” (e.g., “I was assaulted days after the talk [on sexual assault at Orientation] and didn’t understand anything or what to do.”).

### **Years of deliberate indifference on behalf of the administration**

- For a list of OSAC’s efforts towards reforming Oxy’s policy by working *with* the administration, please see the [OSAC Efforts Timeline](#).

## GLOSSARY

### **Title IX**

Title IX of the Educational Amendments of 1972 is a piece of federal legislation which bans sex discrimination in school education programs or activities. The law states that, “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 . . .” The law was amended in 1987 to include any operation of an institution receiving federal funding. The Office of Civil Rights is responsible for enforcing Title IX and has released regulations for institutions to follow in compliance with Title IX. Title IX violations include withholding or providing different benefits or services, upholding different regulations or treatment, assisting a discriminating organization, and restricting any opportunity, right, privilege, or advantage. In order to prevent or remedy these violations, educational institutions are required to issue notices of nondiscrimination and designate an employee responsible for coordinating Title IX compliance.

A link to the Department of Justice website for more information about Title IX  
<http://www.justice.gov/crt/about/cor/coord/titleix.php>

### **Dear Colleague Letter**

The Dear Colleague Letter (DCL) is an updated guideline of appropriate institutional conduct regarding sexual violence under Title IX of the Higher Education Act of 1972. The letter was issued on April 4, 2011 by the U.S. Department of Education, Office for Civil Rights Assistant Secretary for Civil Rights, Russlyn Ali. The letter obligates learning institutions to provide safe and fair access to a school’s education program and activities and lays out specific policies and actions to prevent or eliminate the hostile environment created by sexual violence. These obligations include 1) a formal internal grievance system in which sexual violence can be reported, processed, and met with “prompt and equitable resolution,” 2) a designated, trained Title IX coordinator to ensure compliance with the terms of the letter, 3) cooperation between the institution’s law enforcement unit and the Title IX coordinator, 4) proactive measures of education and prevention, 4) counseling and training for broader student population and specified staff, and 5) periodic internal investigation to assess environment and effectiveness of efforts.

A link to the Dear Colleague Letter:  
[http://www.whitehouse.gov/sites/default/files/dear\\_colleague\\_sexual\\_violence.pdf](http://www.whitehouse.gov/sites/default/files/dear_colleague_sexual_violence.pdf)

### **Office of Civil Rights, Department of Education**

The Office for Civil Rights (OCR) is in the United States Department of Education (ED). OCR is responsible for enforcing Title IX in institutions that receive ED funds. They carry out this responsibility through compliance enforcement. The principal enforcement activity is the investigation and resolution of complaints filed by people alleging sex discrimination. Also, through

agency-initiated reviews of selected recipients, OCR is able to identify and remedy sex discrimination that may not be addressed through complaint investigations.

For more detailed information about the Office of Civil Rights, Department of Education, please click following link: [http://www2.ed.gov/about/offices/list/ocr/docs/tix\\_dis.html](http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html)

## **Clery Act**

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (known as the Clery Act) is a federal law requiring United States colleges and universities to disclose information about crime on and around their campuses. The Act is enforced by the United States Department of Education. The Clery Act requires colleges and universities to do the following with regards to sexual assault reports: 1) Publish an Annual Security Report (ASR), 2) Disclose crime statistics for incidents that occur on campus, in unobstructed public areas immediately adjacent to or running through the campus and at certain non-campus facilities, 3) Issue timely warnings about Clery Act crimes which pose a serious or ongoing threat to students and employees, 4) Devise an emergency response, notification, and testing policy.

For more detailed information about the Clery act, please click the following link: <http://www.securityoncampus.org/summary-jeanne-clery-act>