

Sexual violence isn't just a college problem. It happens in K-12 schools, too.

By [Emma Brown](#) January 17 at 9:48 PM



Dea Goodman, photographed with her daughter at their home in Sterling Heights, Mich., says her 15-year-old daughter was wrongly expelled after reporting that she was sexually assaulted in a car in her high school parking lot in May 2015. (Salwan Georges/For The Washington Post)

Her eighth-grade classmate kept asking her to have sex in the bathroom. Tired of the badgering, she asked a teacher's aide for help, and the aide outlined a plan: Lure the boy. Meet him in the bathroom. Catch him in the act.

The 14-year-old girl agreed, but the impromptu sting operation went horribly wrong. Inside a bathroom stall at their Alabama middle school, the boy forced himself on her before anyone showed up to stop him. When nurses treated her, they found the kind of injuries caused by rape.

The attack was an extreme example of sexual violence in the nation's K-12 schools and the alleged failure of educators to protect a girl in their care, something that activists and federal officials say is happening too often across the country.

Sexual assault has become a dominant topic on the nation's college campuses in recent years, as student activists have spoken out and the Obama administration has pushed for institutional change. But it has largely remained a hidden issue in elementary, middle and high schools, where parents assume their children are supervised and safe.

[\[Is your school district subject to a Title IX sexual assault investigation? See all current K-12 investigations.\]](#)

Now there are signs that the problem is receiving more attention, including a sharp rise in the number of federal civil rights complaints alleging that K-12 schools have mishandled reports of sexual violence.

Young people have alleged rape by their classmates not only in school bathrooms, as in the Alabama case, but also in hallways and stairwells and cars parked on school property. Children have reported being assaulted during overnight field trips and at school dances and athletic events.

"We should not have blinders on about how early sexual violence can take place," said Catherine E. Lhamon, assistant secretary for civil rights at the U.S. Education Department. The problem in K-12 schools is similar in many ways to the problem on college campuses, she said, but there are also

important differences, including the inexperience of young children and the power dynamics between adults and students.

“It has its own tinge of ugliness that is its own beast that we need to address,” she said.

Twenty-one percent of middle school students reported that they experienced unwanted physical touching on school grounds, [according to a 2014 study](#) by researchers at the University of Illinois at Urbana-Champaign.

Among high school students, 4 percent of boys and 10 percent of girls say they have been forced to have sexual intercourse against their will, according to a [2013 survey by the Centers for Disease Control and Prevention](#).

The Obama administration has taken an [aggressive approach](#) to enforcing the anti-discrimination law known as Title IX, which requires K-12 schools and colleges to guard against sexual harassment and sexual violence.

[\[One in five college women say they were violated\]](#)

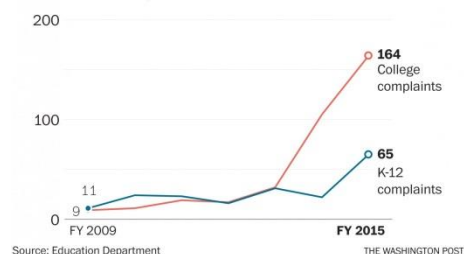
Besides promptly investigating reports of sexual misconduct, schools also must take steps to prevent sexual violence and to remedy the damage done when sexual violence occurs. The law is based on the idea that children should be protected from hostile environments that make it impossible for them to fully participate in school.

The Education Department in fiscal 2015 received 65 civil rights complaints related to K-12 school districts’ handling of sexual violence — triple the number the agency had received the year before.

The agency is investigating 74 cases in 68 school districts, more than double the number of open investigations it reported 14 months ago.

Sexual violence complaints have spiked not just at colleges but also in K-12 schools

The problem of college sexual assault has been widely publicized and debated in recent years. But sexual violence is also a problem in K-12 school districts, and in 2015, the Education Department’s Office of Civil Rights noted a sharp increase in the number of complaints filed against K-12 schools for mishandling reports of sexual violence.



“Colleges are now really starting to feel enough pressure that they know they have obligations,” said Cari Simon, a lawyer who has represented sexual assault victims across the nation. “In the K-12 cases, I have seen a lot of complete incompetence, a complete lack of even knowing they have responsibilities.”

Francisco Negrón, general counsel for the National School Boards Association, challenged that characterization. “Most schools do know what Title IX is and have internal complaint procedures to address Title IX harassment complaints,” he said.

But K-12 schools often face the difficult job of trying to address complaints that pit the word of one student against another, Negron said. And districts say that the Obama administration has overreached in its interpretation of Title IX, significantly expanding situations in which schools are required to take action.

[\[U.S. senator: Obama administration overstepped authority on Title IX\]](#)

“I think school districts are struggling as they understand the law to make sure kids are safe and respond appropriately,” Negron said.

From classroom to courtroom

To many activists, the botched sting operation in Alabama in 2010, and the alleged rape that resulted, seemed to be a case study in a violation of Title IX: Sparkman Middle School had not only failed to protect the girl from sexual violence, but it had allegedly set her up for assault. The ramifications continue six years later.

In the 18 months before the alleged rape, the boy had been disciplined five times for sexual misconduct and four times for violent or threatening behavior, according to court documents. On the day of the alleged rape, he was cleaning a hallway without adult supervision as part of his in-school suspension for inappropriately touching another girl.

The Washington Post is not identifying the boy because he was a minor at the time and was never charged with a crime. The Post generally does not identify victims of sexual assault.

The victim sued the Madison County School District and several of its employees, but the case never went to trial. Even assuming the allegations were true, a U.S. District judge ruled, the girl’s federal civil rights claims were without merit. Although she had been subjected to “tragic and horrific harm,” [U.S. Magistrate Judge T. Michael Putnam wrote](#), the school district and its employees had not been “deliberately indifferent” to her plight.

The school board had never adopted “catch in the act” as its official policy, Putnam wrote. And the sting operation, he said, was at its heart a wrongheaded attempt to help the girl.

“The scheme was intended — however misguided — to put a stop to the harassment,” Putnam wrote, adding that no one ever wanted for the girl to “submit to” the boy.

Putnam’s 2013 decision to side with the school board was an unwelcome shock to activists who did not want to see his legal analysis stand. The National Women’s Law Center, which has brought several landmark Title IX cases, agreed to help represent the girl on appeal.

“To get the sort of decision that we did in the lower court is so, so worrisome,” said the NWLC’s Fatima Goss Graves, adding that the ruling was a sign that bringing a sexual violence lawsuit is a riskier endeavor than it should be, given that Title IX has been defined by case law spanning four decades.

The girl declined to be interviewed through her representatives at the NWLC. Efforts to reach the boy and his mother were unsuccessful. A spokesman for the Madison County School District declined to comment on the case.

The Alabama case drew the notice of the federal government, which submitted a brief urging the 11th Circuit Court of Appeals to overturn the lower court. “We had to step in,” said Lhamon, who heads the Education Department’s civil rights enforcement arm. “We can do better than that, as a country. Period.”

Lhamon said that while the Alabama case is extreme in some respects, it is unremarkable in others.

For example, Madison County was keeping vague, miscoded and often incomplete records of sexual harassment reports, according to court documents, making it impossible to see patterns in student behavior that might suggest a need for attention or help. Federal investigations have repeatedly found problems with recordkeeping at other school districts, Lhamon said.

Other concerns that Lhamon said have turned up repeatedly: A failure to notify students of their Title IX rights, including how to report an assault, and a tendency to disbelieve the victim and punish him or her for engaging in sexual activity.

“I wish it were unbelievable, but we keep seeing it,” Lhamon said.

When an investigation turns up shortcomings in a school district, school officials usually sign a resolution agreement detailing what they will do to improve. The Education Department could withhold federal funds from districts that refuse to come into compliance, but the agency has never taken that step.



Joel Levin and his wife, Esther Warkov, work at their home in Portland, Ore. They say their daughter was raped in 2012 during an overnight field trip with her Seattle high school. The couple are raising funds to create online materials and trainings for families and schools. (Natalie Behring/For the Washington Post)



Esther Warkov and Joel Levin are serving as a sort of information clearinghouse for parents of children who have been sexually assaulted at school. Warkov and Levin tell other parents what Title IX requires and how to file federal civil rights complaints if they see violations. (Natalie Behring/For the Washington Post)

Esther Warkov and Joel Levin, whose daughter was allegedly raped in 2012 during an overnight field trip with her Seattle high school, believe that addressing the problem will take a massive movement of students and families who know what their Title IX rights are and demand that schools meet them.

“It’s fine to have a few people filing OCR complaints, but it doesn’t address the magnitude of the problem,” Warkov said. She and her husband are raising funds to create online materials and trainings that reach thousands of families and schools through the nonprofit organization they founded last year, [Stop Sexual Assault in Schools](#).

At the moment, they’re serving as a sort of information clearinghouse for parents of children who have been sexually assaulted at school.

Warkov and Levin tell other parents what Title IX requires and how to file federal civil rights complaints if they see violations. They say they want to save other families the heartache and upheaval that they endured as they tried to help their daughter recover — and go back to school — after her rape.

Six months passed before they found out about Title IX and the protections it affords. “We demanded an investigation, but by then it was way too late,” Warkov said. Too emotionally distraught to return to her school, their daughter went into residential treatment. “Her whole life spiraled downward,” Warkov said.

They eventually settled with Seattle Public Schools for \$700,000.

Seattle Public Schools declined a request for an interview. A [2014 news release notes](#) that the district did not admit liability for the alleged rape but did consider the settlement a fair deal “that allows the district to focus its efforts on improving our processes to prevent and respond to incidents of sexual harassment.”



Dea Goodman, 36, with her daughter at their home on Jan. 14 in Sterling Heights, Mich. Goodman's 15-year-old daughter, who reported to her school that she was assaulted by another student, was expelled. (Salwan Georges/For The Washington Post)

Dea Goodman has been trying to help her daughter. Goodman's 15-year-old daughter, who is now being home-schooled., said she feels “like I’m in prison. I just want this all to be over with. I just want to be a normal kid doing normal things.”

Among the parents that Warkov and Levin have helped is Dea Goodman of Sterling Heights, Mich. She’s the mother of a 15-year-old girl who was suspended and ultimately expelled from school after reporting in May 2015 that a 17-year-old senior had assaulted her in a car in the school parking lot. The boy, who claimed that the encounter was consensual, also was suspended, but he was allowed to graduate.

[\[Reporting a school sexual assault can increase a victim’s risk of punishment\]](#)

Joseph Konal, the district’s chief academic officer, said that both students were treated fairly and according to the district’s discipline policy. Goodman filed a Title IX complaint against the district,

Warren Consolidated Schools, and in October, the Education Department announced that it had opened an investigation.

Meanwhile, Goodman's daughter is being home-schooled.

"I feel like I'm in a prison," she said by telephone. "I just want this all to be over with. I just want to be a normal kid doing normal things."

Ongoing ramifications

Six years after the alleged rape that started it, the Alabama case is dragging on. The 14-year-old girl is now 20.

Sparkman Middle School never offered counseling after she was assaulted, and she soon withdrew and moved to North Carolina, where she received mental health counseling and was treated for depression, according to court records. She quit playing basketball and her grades ranged from As and Bs, sometimes, to Fs. She said she did not "trust being at school anymore."

After the alleged rape, the boy was suspended for five days for "inappropriate touching." Then he was sent to an alternative school, according to court records, and three weeks later, he was suspended for watching pornography on a school computer.

June Ann Simpson, the teacher's aide who suggested the sting operation, declined to be interviewed. She resigned shortly after the alleged rape, according to news reports. But Sparkman Principal Ronnie Blair — who proclaimed that kids could only be disciplined for sexual harassment if they were caught in the act, Simpson said, according to court records — remains in his job, according to the school district's website.

In August 2015, the 11th Circuit Court of Appeals overturned key parts of the lower court's decision, reinstating the girl's claims under Title IX. The case has returned to the lower court for a jury trial.

"Patently odious" was the term that 11th Circuit Judge Susan H. Black chose for the school district's behavior, highlighting its alleged catch-in-the-act policy, its use of a child as bait in an ill-conceived sting operation and its failure to help the girl "in any way."

The Madison County School District argues that it never required students to be caught in the act in order to be punished. The district has changed none of its policies related to sexual harassment, according to court records, save one: It discontinued a one-day sexual harassment training that it had been offering to school administrators.

According to the 11th Circuit's decision, Blair said that there was no need to change any policies, because "we did as good a job as I think you could do under the circumstances."

Wrote Black: "A reasonable jury could disagree."

Mgda Jean-Louis and Jennifer Jenkins contributed to this report.