

# Cultivating Institutional Courage: Changing How Baylor University Responded to Sexual Assault by Athletes

## Case

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PREVIEW

## Abstract

In 2014, women students attending Baylor University began coming forward to report instances of sexual assault committed by Baylor athletes, specifically football athletes. These incidents sent Baylor University into the national spotlight over discussions about the role of athletics on a college campus. Baylor University's case became nationally known shortly after Pennsylvania State University's child sexual abuse case and just before Michigan State University's case of sexual assault, both originating in athletic departments. The prevalence of similar instances of sexual harassment and abuse have become even more widely known in all areas of American life including the movie industry, television news, and government, with the #MeToo movement becoming more mainstream in 2017. Here, we examine Baylor University and its response to campus sexual assault and violence as a case of institutional betrayal, that is, the actions, and inactions, of Baylor University that exacerbated the traumatic experiences of their students.

In particular, this case highlights the incidents of sexual abuse on a college campus, how those in authority take deliberate actions or inaction that contribute to institutional betrayal, and how those who might otherwise speak up are silenced, further perpetuating trauma and potential for future assaults. Therefore, this case study seeks to help readers identify the correct course of action, that is, institutional courage, in responding to sexual assault.

## Case Learning Outcomes

By examining Baylor University, students will learn to understand how institutions should prevent and respond to sexual assault. They will also learn how mishandling of sexual assault threatens the values of all of higher education. By the end of this case study, students should be able to:

- identify the common signs and long-term impact of sexual and relationship violence among students and employees;
- explain institutional betrayal and institutional courage and describe these phenomena on college campuses and in athletic programs;
- understand and apply the 10 principles of institutional courage;
- apply the NCAA's Sexual Violence Prevention: An Athletics Tool Kit for a Healthy and Safe Culture (2016), to prevention, reporting and response sexual assault on campus by athletes;
- locate and identify the campus Title IX coordinator and resources for Title IX reporting of sexual assault, dating violence, harassment, and stalking;
- identify strategies for Title IX coordinators to lead for institutional courage.

In summary, this case illustrates the ways in which individual ethics and organizational dynamics may be in tension and contribute to institutional betrayal and the leadership strategies that are required for the Title IX coordinator to navigate challenges at both levels. For the context needed to fully understand this case's complex dynamics, information about how the Title IX legal framework and how it relates to sexual assault on college campuses, athletics, and Title IX coordinator's role are presented first.

## The Role of Title IX Policy in Campus Sexual Assault and Violence

Since 2011, U.S. legislation has increasingly acknowledged the ways in which sexual violence, including sexual assault, stalking, dating, and domestic violence, impacts individuals, relationships, and productivity in the education and workplace context. Advocacy efforts and empirical research have helped raise awareness about the personal and systemic impact of the sexual violence. This heightened social consciousness has prompted such changes, such as change in mental wellness, threats of school or workplace safety,

absenteeism, and decreased morale and productivity. A clear example of such legislation is Title IX of the Education Amendments or “Title IX.” Title IX is federal legislation and regulations that prohibit institutions of higher education that receive federal funding from discriminating on the basis of sex (20 U.S.C. Ch. 38 § 1681 et seq; Department of Justice [DOJ], 2015; Federal Register, 1997). This requirement applies to all aspects of the college’s education programs and activities, including athletics. Title IX was widely credited in its first 40 years for increasing women’s and girls’ access to sports in education settings. The law and its regulations maintain a sport compliance aspect (Office for Civil Rights [OCR], n.d.) to ensure opportunity and resources for women’s sports in educational institutions. However, due to a series of federal guidance and regulations between 2011 and 2020, Title IX has expanded to also prohibit sexual harassment and other misconduct, such as sexual assault, dating/domestic violence, and stalking in U.S. colleges and universities (NASPA, n.d.; OCR, 2020). To comply with Title IX, campuses must name and publicize the contact information for the Title IX coordinator; establish and make known sex discrimination complaint procedures; promptly and impartially investigate and resolve any complaints; take steps to reduce the likelihood of recurrence of issues found to have occurred; and create, maintain, and distribute anti-discrimination policy and grievance procedures (DOJ, 2015). Title IX requirements also mandate that a school meet specific notice requirements and provide supportive measures to the parties involved (OCR, 2017).

Campus officials are trained to identify the signs of sexual violence to determine which supportive measures are best suited to address and mitigate the immediate and long-term impacts of sexual violence. Some examples of these signs include trauma responses (flight, fight, freeze, or fawn), change in mental wellness, self-blame, apathy, or other changes in mood or behavior, such as shifts from an outgoing baseline to withdrawn (such as repeated absences or hypervigilance), quiet to obnoxious, or peaceful to aggressive. This includes other forms of distraction or avoidance, such as overscheduling or hyper-focus. Relatedly, signs of an unhealthy relationship between individuals may occur as well, including the relationship moving too swiftly, possessiveness, manipulation, isolation, sabotage, belittling, guilt, volatility, deflecting responsibility, and betrayal. While campus officials in close contact with students are well suited to perceive these signs, classmates, roommates, and close friends of students experiencing the abuse are most likely to be the early detectors of such behaviors.

## The Case of Baylor University

Patty Crawford, the Title IX coordinator at Baylor from November 2014 to October 2016, was hired to coordinate the institution’s Title IX compliance when this case took place (Baylor University, n.d.). Like all Title IX coordinators, Crawford’s role was a comprehensive administrative role that bears the responsibility of ensuring that campuses prevent and respond to gender discrimination, including sexual misconduct. This role spans duties related to grievance process management, victim assistance, organization management, and climate management (Lake, 2017). In addition to managing the institution’s compliance, Title IX coordinators also craft comprehensive training and awareness strategies to ensure students, employees, and other campus stakeholders are aware of how to identify and report sexual misconduct and what resources are available to students regardless of whether they choose to proceed with the grievance process. Crawford alleged that she was “set up to fail” and voiced to multiple media outlets that the harder she worked to address a culture of normalized sexual assault, the more resistance she experienced from her employer (Baylor University, n.d.; KWTX, 2016; Lavigne & Schlabach, 2016).

## Case Background

Today, Baylor University is a private Baptist university located in Waco, Texas, with an enrollment of just over 17,000 students and an annual endowment of USD 1.3 billion (U.S. News, 2020). Baylor spends roughly USD 100 million annually on athletics (U.S. Department of Education, 2020), which includes 17 (seven men’s and 10 women’s) National Collegiate Athletic Association (NCAA) Division I teams that play in the Big 12 Conference (Baylor University Athletics, 2020). In 1996, Baylor joined Texas, Texas Tech, and Texas A&M, along with Big 8 conference schools, to form the Big 12 Conference (ESPN, 2010). Baylor’s first decade in the conference was unsuccessful, but then Baylor hired Art Briles as the head football coach before the 2008 season and he turned the team around. During the 2013 football season, Baylor claimed its first Big 12 Championship finishing with an 11–1 (8–1 in conference) record and earning a bid to the Fiesta Bowl (Baylor University, 2013). For the 2014 season, the Bears clinched a share of the Big 12 Championship (with

Texas Christian University [TCU]), but after many weeks of heated debate, Baylor was left out of the first-ever College Football Playoff (Dufresne, 2014).

Leading up to and after the 2014 season, a number of women accused Baylor college athletes of sexual assault, resulting in indictments or convictions. The following section will lay out the events that unfolded at Baylor in chronological order.

## Trigger Warning

The content in the next section can be triggering and may not be suitable for all readers. The Events section contains a description of sexual violence. Readers may elect to skip the Events section that follows and begin with the Official Responses by Baylor University section of this case.

## Events

### 2011

An anonymous athlete, believed to be a former Baylor volleyball player, alleged that she was gang raped by five Baylor football players in 2011 (Johnson, 2016). She immediately reported the rape to her head coach, who then reported the incident to Head Football Coach Art Briles and Athletic Director Ian McCaw. According to the June 24, 2016 affidavit by the victim's head coach, no one reported the rape to the police, judicial affairs, or the vice president of human resources, or the acting Title IX coordinator in 2011 (Johnson, 2016).

### 2012

Jasmin Hernandez was raped by Baylor football star Tevin Elliot in 2012. Immediately following the off-campus rape, Hernandez reported her assault to the Waco Police Department and to Baylor officials (Lavigne & Olson, 2016). Hernandez was never offered counseling or academic services, both of which are required by Title IX (Lavigne & Olson, 2016). Before Hernandez, six individuals filed complaints against Elliot (Martin, 2016). In 2012, reports were also made about an alleged gang rape of female student-athlete by five football players. The athlete told her head coach, who told the athletic director and head football coach, but the incident was never reported to the vice president of human resources (the 2012 Title IX coordinator), police, student judicial affairs, or the acting Title IX coordinator (Johnson, 2016).

### 2013

On April 18, 2013, Tre'von Armstead and Myke Chatman, Baylor football players at the time, were named in a report for an assault, but Baylor did not investigate the alleged assault until 2015. In May, Sam Ukwuachu transferred to Baylor from Boise State University, where he was released from the football team for violation of team rules, later reported to be an altercation with his girlfriend (Ubben, 2016). In July, Shawn Oakman, an all-American defensive end, was charged with physically assaulting a female student. In October, junior Cailin Ballard was sexually assaulted on campus. In a later affidavit, Ballard said she felt blamed by the university's police department when she reported the assault (Ericksen, 2016a). In October of 2013, Ukwuachu sexually assaulted a Baylor women's soccer player, but was found innocent by the Baylor University Title IX investigation a few months later (Waco Tribune, 2017).

### 2014

In January of 2014, Tevin Elliot was finally convicted after four women, along with Hernandez, came forward with sexual assault allegations. One of the women stated that Elliot pushed her into the mud, raped her, and then allowed her to get up. She reported that Elliot then shoved her, face first, into a metal fence and raped her again (Lavigne & Olson, 2016). On January 23, 2014, Elliot was sentenced to two decades in a detention facility and fined USD 10,000 (Grosbard, 2016). In June of 2014, Ukwuachu was indicted for sexually assaulting a Baylor women's soccer player and was immediately suspended from the team (Waco Tribune, 2017).

In November 2014, Baylor University responded to public knowledge of alleged sexual assaults by hiring the institution's first full-time Title IX coordinator, Patty Crawford (Grosbard, 2016). This hiring decision came three years after the U.S. Department of Education released the 2011 Dear Colleague Letter that specifically outlined university responsibilities for addressing sexual misconduct under Title IX. A later lawsuit summarized the magnitude of the situation at Baylor University, alleging that between 2011 and 2014—the period before the university hired a full-time Title IX coordinator—there were 52 acts of sexual assault by 31 different football players (Mervosh, 2017).

## 2015

On September 2, 2015, Baylor University hired Gina Smith and Leslie Gomez of Pepper Hamilton LLP to conduct an external independent investigation into how the university handles alleged sexual assault cases (Witherspoon, 2015). Later that month, Baylor also opened an investigation into the alleged 2013 sexual assault involving Armstead. The athletics department dismissed Armstead from the team for an “unspecified team rules violation” on September 18, 2015. Then on September 30, 2015, the university's Title IX office issued a no-contact order for Baylor offensive lineman Rami Hammad after a student accused him of stalking and sexually assaulting them in his apartment earlier in the month (Hoppa, 2016), but no other punishment was implemented and he played in all 13 games that season (Waco Tribune, 2017).

## 2016

Five months later in February of 2016, Baylor expelled former All-Big 12 tight end Tre'Von Armstead and denied his appeal to the expulsion (Ericksen, 2017). Stefanie Mundhenk, a 2015 Baylor graduate also released a statement that university officials, including Ken Starr, the president of Baylor at the time, failed to take action after reporting a rape (Ericksen, 2016b). On May 26, 2016, Baylor released the Pepper Hamilton report, which included more than 100 policy and procedure recommendations to improve Baylor's response to Title IX complaints. On the same day the report was released, Baylor suspended head football coach Art Briles with the intent to fire (Waco Tribune, 2017). On May 30, 2016, Athletic Director Ian McCaw resigned, and on June 1, 2016, Baylor president Starr resigned as well (Payne & Bieler, 2016).

On April 13, 2016, Oakman was arrested for sexual assault of a Baylor student (Waco Tribune, 2017). Also in April 2016, Jeremy Faulk, a junior defensive lineman set to transfer to Baylor, was accused of sexual assault and was questioned about a similar allegation at his former university. Even so, the transfer went through, and on June 3, 2016, Faulk was temporarily suspended from the football team for “violating team rules,” but without any involvement from executive administrators or the Title IX office (Schlabach, 2016). Faulk requested an investigation and involvement from the Title IX office so that he could clear his name. On August 1, 2016, offensive lineman Rami Hammad was arrested for stalking his ex-girlfriend and immediately suspended from the football team (Waco Tribune, 2017).

On October 12, 2016, Baylor graduate Dolores Lazano filed a Title IX lawsuit against Baylor. Lazano claimed that she was physically assaulted on three different occasions in 2014 by her then boyfriend, Baylor running back Danny Chafin (Lavigne & Olson, 2016). Lazano had reported the assaults to a Baylor football assistant coach and Briles at the time, but neither followed up with her or contacted the Title IX office. Lazano had then reported the final assault to her supervisor, LaPrise Harris-Williams, who had advised her to report to the Waco police. Harris-Williams, who then began advocating the Baylor administration to improve assault investigations, was forced to resign after voicing discontent with administrators (Lavigne, 2017). Ten more women filed a Jane Doe petition against Baylor claiming Title IX violations, one alleging that she was assaulted by a current football player at the time (Waco Tribune, 2017). The Jane Doe suit, which now includes 15 petitioners, charges that Baylor failed to take action and to properly investigate any of the assaults (Doe vs. Baylor, 2018).

Baylor filed a motion to dismiss all current Title IX suits, but all motions were denied (Waco Tribune, 2017). To date, Baylor has faced 11 separate Title IX lawsuits related to the mishandling of sexual assault accusations made against mostly Baylor student-athletes (Ericksen, 2019). Many of the lawsuits claim that allowing the accused athletes to remain in school and on the football team created a hostile environment for female students on campus and was in direct violation of Title IX policy. For example, *Hernandez v. Baylor University*

Board of Regents, Art Briles, and Ian McCaw (2016) claimed both Briles and McCaw were in violation of Title IX by:

- “Failing to properly train and/or educate student-athlete members of the Baylor football team regarding sexual misconduct;
- Failing to appropriately monitor to ensure that student athletes are not brought on to campus without regard to the safety of other students;
- Failing to implement safeguards for female students adequate to protect them from foreseeable criminal and anti-social activities by student-athlete members of the football team;
- Failing to supervise faculty and staff to ensure proper supervision, control, restraint and monitoring of student athletes; and
- Failing to monitor or supervise Elliot, despite their knowledge that he had sexually assaulted multiple female students prior to sexually assaulting Plaintiff” (pp. 11–12).

Overall, the Baylor regents acknowledged that there were 17 female victims who described multiple sexual or domestic assaults perpetrated by 19 different Baylor football players since 2011—including four gang rapes (Reagan, 2016).

## Official Responses by Baylor University Pepper Hamilton Report

The Hamilton report found that Baylor did not give the Title IX office the resources or the infrastructure to effectively investigate Title IX complaints, which led to some cases not receiving a hearing (Baylor University, 2016a). The investigation also found that the athletic department acted above the rules in how it handled investigations and disciplinary measures within the department (Baylor University, 2016a). Specifically, in several cases, athletic staff met individually with the complainant, instead of reporting concerns to the Title IX office. The Hamilton report recommended that Baylor:

- commit sufficient infrastructure and resources for the Title IX office;
- consider independent athletics compliance oversight;
- create a culture within the football program that ensures that reporting, investigation, and disciplinary actions involving college athletes and athletics department staff are managed in the same manner as all other students and staff on campus;
- college athletes are held accountable to the same standards as all Baylor students.

## The Title IX Investigation

On October 3, 2016, just one week before the latest Title IX suit was filed, Patty Crawford filed a complaint against Baylor with the U.S. Department of Education (Waco Tribune, 2017). Although Crawford and the university were close to reaching a USD 1.5 million settlement, she resigned on October 4, 2016, after refusing to sign a separate USD 50,000 confidentiality agreement (Hays & Lauber, 2016). Crawford cited the university’s neglect to meet Title IX standards as her reason for resignation. Crawford claimed the Baylor administration made it clear that their priority was not Title IX compliance exemplified by low funding, short staff, and requests that were in clear violation of Title IX policy (Schlabach, 2016). Baylor even hired an outside attorney to oversee Crawford’s work (Lavigne & Schlabach, 2016). During Crawford’s time at Baylor, she increased Title IX reports by 700%—an increase she claimed led to more resistance from upper management (Lavigne & Schlabach, 2016). In particular, after Crawford put her concerns about the lack of compliance in writing in July 2016, administrators excluded her from meetings where they made decisions that legally only a Title IX coordinator should make (CBS News, 2016). In the last six weeks of Crawford’s tenure at Baylor, Reagan Ramsower, a vice president and CFO at Baylor, told Crawford she should take a step back in terms of the increase in the number of investigations completed by the Title IX office (Axon, 2016). In the complaint, Crawford shared that although Baylor University had publicly made steps toward implementing the Pepper Hamilton recommendations, internally not much had changed (Lavigne & Schlabach, 2016).

On October 12, 2016, the U.S. Department of Education launched an official Title IX investigation of Baylor based on Crawford’s claims that she did not have the authority, resources, or independence to do her job

appropriately (Waco Tribune, 2017). On October 28, 2016, several Baylor regents broke their silence about sexual assault allegations in an interview with Wall Street Journal reporter Brad Reagan (2016). One regent claimed that Briles helped to create a culture “that was putting winning football games above everything else, including our [Baylor] values” (Reagan, 2016, para 3). On November 10, 2016, several prominent Baylor alumni organizations released multiple statements calling for transparency from the board of regents and the university regarding the recent evidence (Waco Tribune, 2017). In response to the Wall Street Journal article, on November 11, 2016, Baylor released an official statement that read, “According to Baylor’s investigation, neither the head coach, the Athletic Director, the sports administrator or the football coach disclosed the reported sexual assault to Baylor’s Judicial Affairs or to anyone else outside of the Athletics Department” (Baylor, 2016b, para. 11).

## Conclusion: Institutional Betrayal Over Sexual Assault at Baylor University

This case demonstrates the ways that a series of individual decisions can amount to system-level failures. In some cases, it may be lack of awareness and understanding, lack of infrastructure, training, or failure to follow protocols in place. The end result illustrates well the concept of institutional betrayal that refers to contexts in which institutions fail to follow systems of protection put in place to protect its members (Smith & Freyd, 2014). Being betrayed by an institution, either through action or inaction, can exacerbate the impact of an underlying traumatic experience, such as a sexual assault, and lead to adverse health outcomes (Freyd, 2018; Smith & Freyd, 2014). The betrayal can occur in situations when a person credibly exposes abuse, and an institution prioritizes their reputation over accepting responsibility and instead denies fault, silences reporting parties, and/or seeks to cover up abuse. To avoid situations of institutional betrayal and its consequences, Freyd (2018) writes that schools can instead exercise the following 10 principles of institutional courage:

- 1. Comply with criminal laws and civil rights codes.
- 2. Respond sensitively to victim disclosures.
- 3. Bear witness, be accountable, and apologize.
- 4. Cherish the whistleblower.
- 5. Engage in a self-study.
- 6. Conduct anonymous surveys.
- 7. Make sure leadership is educated about research on sexual violence and related trauma.
- 8. Be transparent about data and policy.
- 9. Use the power of your company to address the societal problem.
- 10. Commit resources (staff, money, and time) to items 1–9 above

While the application of the principles varies, they encourage institutions to institute practices beyond ticking compliance requirements and instead create a culture that prevents abuse and enacts equity (Freyd, 2018).

## Discussion Questions

- 1. What are the ways in which students, athletes, or employees may exhibit signs that they have been impacted by sexual assault? What are the signs of healthy and unhealthy relationships? What long-term impacts can these experiences of sexual violence have in the educational and workplace context?
- 2.



- What are institutional betrayal, institutional courage, and examples of these phenomena on the Baylor campus and in its athletic program?
- 3. What are the campus characteristics of Baylor University, such as Baylor's regional profile, institutional priorities, and values, that foster institutional betrayal in this case?
  - 4. Imagine you are athletics personnel informed of the Tevin Elliot allegation for the first time. Using the resources available to you from your own campus and the NCAA Sexual Violence Prevention Tool Kit (2016, pp. 18–24), identify your reporting obligations and the steps you would take to submit a Title IX report.
  - 5. What are the challenges the Title IX coordinator faced in complying with Title IX guidelines and in cultivating institutional courage? What could the institution have done differently to enable the Title IX coordinator to be successful?
  - 6. What is Baylor's responsibility to athletes who are accused and/or convicted of sexual assault? The NCAA rules do not prohibit athletes found responsible for sexual or violent misconduct from competition or transfer (Jacoby et al., 2019). What is the university's responsibility when recruiting athletes who have a history of violence or sharing information with other institutions when athletes or employees are accused and/or convicted of sexual assault?

## Further Resources

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