

## Jane and Darrian Scenario

You are a member of the Incident Response Team (IRT) at XYZ College. On Monday morning you attend the weekly IRT meeting. The campus Chief of Security (the on-campus, non-deputized security force) reports that an 18-year-old XYZ Freshman male student, Darrian, was arrested for assault over the weekend by the local police. The victim, a female named Jane, is a member of the community, not a student at your school or any other school. Jane is 20 years of age. The campus security chief states that this appears to be an incident of dating violence and provides details from the police report:

*The police report taken by the city police states that Jane and Darrian had been on two previous dates. On their third date, they had dinner at a local restaurant on Saturday night and then went back to Jane's apartment in town. Jane and Darrian began kissing on the couch. Darrian started to fondle Jane's breasts and she asked him to stop and "take it slower." She just wanted to kiss. Darrian became agitated and proceeded to grab Jane's breasts in a "violent manner." When she tried to get up from the couch, he shoved her back down and got on top of her. He held her down with one hand while he used his other hand to undo his pants. Jane tried to get away but Darrian, who was able to physically overpower Jane, grabbed her and shoved her up against the kitchen counter. He then attempted to bend her over the counter and remove her underwear from under her dress. Jane was able to get away from Darrian and run out of the apartment. Darrian followed her and caught up with Jane as she ran out of the building and down the sidewalk. He grabbed her and hit her in the stomach. She fell to the ground. Darrian then proceeded to flee the scene. A neighbor saw a commotion and called the police: the neighbor did not see Darrian hit Jane. Jane was treated for minor injuries by the ambulance that was called to the scene. When found and questioned by police, Darrian did not deny the incident. And in fact, Darrian admitted that he hit Jane in the stomach. Darrian was arrested and charged with sexual battery and other crimes. Now, Jane does not wish to press charges and wants the case dropped. The prosecutor intends on dropping the case. Darrian will be released from jail on Monday morning prior to your meeting.*

[The Chief of Security was aware of the arrest on Saturday night and informed the Title IX Coordinator of the incident on Monday morning, about 15 minutes prior to this IRT meeting.]

The Title IX Coordinator indicates to the IRT that a Title IX investigation should be opened under XYZ College's Title IX policy, which is separate from the discipline code. Some other members of the IRT state that this should be handled by student discipline only, since the victim is not a student at your school.

The Title IX Coordinator proceeds and assigns an investigator to the case. The investigator contacts Jane, who says she is unwilling to talk. The investigator sends Darrian a letter informing him that a Title IX investigation will be opened and he will need to come in to be interviewed. The next day, Darrian's parents, who are both employees at your school, show up at your office and ask why their son is being investigated under Title IX. You explain to them that you aren't willing to talk about this specific case without a FERPA release from Darrian. Darrian's parents leave your office in a huff. Later that afternoon, you receive a call from a lawyer and distinguished alumni (who is known to be friends of Darrian's parents), asking about

“jurisdiction” of your campus Title IX policies “in general.” It’s obvious the alumni is attempting to dissuade you from proceeding with a Title IX investigation.

Darrian, under the advice of his parents, refuses to participate in the Title IX investigation process.

Questions:

1. Is the Title IX system the appropriate place for this situation? Why or why not? If not, what other campus response system or office might be appropriate?
2. Is a full investigation under the Title IX system the right response? If yes, why? If no, what is another alternative?
3. What could be the consequences, if any, for not opening up a Title IX investigation?
4. What should be the consequence for Darrian’s failure to participate?
5. Does this scenario intersect with the Clery Act? If so, how?
6. If you were the general counsel for XYZ College, what are your top three concerns with this situation?