

Campus review cited lack of evidence in Vandy rape case



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(Photo: John Partipilo / The Tennessean)

Two former Vanderbilt football players were convicted in a Nashville courtroom last week on multiple counts of sexual assault, but a separate on-campus investigation last year came to a very different conclusion.

Brandon Vandenburg, 21, and Cory Batey, 21, could face decades in prison after being convicted Tuesday of seven counts of aggravated rape and battery. Vandenburg was also convicted of unlawful photography and tampering with evidence.

But shortly after the June 23, 2013, rape of an unconscious female student in a dorm, Vanderbilt's Equal Opportunity, Affirmative Action and Disability Services Department found there wasn't sufficient evidence to prove Vandenburg had "nonconsensual sexual intercourse" with the woman. The report, reviewed by The

Tennessean, concluded instead that Vandenburg was an "accomplice" and had violated the woman's privacy.

The different findings by the campus disciplinary department and the criminal court about Vandenburg's responsibility for the crime highlights a growing national concern about how campus officials handle allegations of sexual assault.

Often conducted in secret by campus administrators lacking professional law enforcement training, with no requirements to make their investigations public, university disciplinary bodies nevertheless are the primary judges and juries for the majority of reports of sexual assaults on campus.

Advocates have called on campuses to get better training, work more closely with police, become more transparent — or even abandon the role of adjudicating such serious crimes as sexual assault.

Vanderbilt university officials declined last week to disclose how many students have been accused of sexual misconduct or been subject to campus disciplinary proceedings. Likewise, the university refuses to disclose how many students accused of sexual assault have been suspended, expelled or otherwise sanctioned.

"We do not publicly disclose the information you are seeking," said Elizabeth Latt, assistant vice chancellor.

The university is currently under investigation by the U.S. Department of Education's Office of Civil Rights for its handling of sexual violence allegations.

Last week officials from the department came to the campus to conduct focus groups with students.

"We continue to cooperate with their review," Latt said. "Vanderbilt is committed to complying with Title IX [federal regulations regarding campus sexual violence] and protecting the safety and well-being of all of our students."



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Lawmakers act

Lawmakers in some states are proposing mandatory reporting of sexual assaults to police by campus officials in an effort to shed more light on the breadth of the problem as well as hold perpetrators accountable.

In Tennessee, some advocates are taking a more direct role in trying to influence how campuses handle such investigations.

"I think something we need to look closely at is the ability of campuses to do these investigations," said Kathy Walsh, CEO and executive director of the Tennessee Coalition to End Domestic Violence and Sexual Assault. The group in recent months visited campuses around Middle Tennessee to work with administrators on strengthening their policies and to educate students. "We will be looking carefully at this as we try to assist campuses and communities in improving their response."

Campus discipline

At Vanderbilt University, the Equal Opportunity, Affirmative Action and Disability Services Department, or EAD, investigates all sexual misconduct claims involving students. A separate division, Vanderbilt's Office of Student Accountability, decides what charges to bring. Then EAD officials decide whether the accused violated the university's sexual misconduct policy, and the Office of Student Accountability imposes sanctions. The most severe sanction is expulsion.

Unlike the criminal system, the standards are much lower to find a student has violated the university's sexual misconduct policy — staff must determine only that it was more likely than unlikely the incident occurred.

Vandenburg and Batey were ultimately determined to have violated Vanderbilt's sexual misconduct policy and were expelled from the university in June 2013, as were two other football players, Jaborian McKenzie and Brandon Banks, who are awaiting trial on sexual assault charges.



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[Alleged Vanderbilt rape victim: 'That's me' in video](#)

<http://www.tennessean.com/story/news/2015/01/22/alleged-vanderbilt-rape-victim-takes-stand-thats-me/22167013/?from=global&sessionKey=&autologin=>

That the university acted so quickly to remove the players was a result of surveillance video discovered shortly after the incident showing Vanderbilt football players carrying an unconscious woman through a dorm room hallway and laughing as they took pictures of her in various stages of undress.

Other campus sexual assault cases can move more slowly. At the University of Tennessee Knoxville, football players A.J. Johnson and Michael Williams remain suspects in the Nov. 16 sexual assault of a female student at a post-game party. Johnson has since graduated. Williams remains enrolled as a student. The university has declined to comment on the status of any ongoing campus disciplinary proceeding involving either player.

Vanderbilt officials have also declined to release publicly their specific findings from the university investigation — reports that would reveal whether the on-campus investigation determined if any of the players had raped the female student or committed lesser offenses. Latt, the Vanderbilt spokeswoman, said the federal Family Education Rights and Privacy Act precludes the university from revealing more.

New laws proposed

The lack of transparency about how universities nationwide investigate sexual assaults have prompted action by lawmakers in other states.

In Virginia, lawmakers are proposing mandatory reporting by faculty or administrators of sexual assaults and other violent felonies to police, imposing a fine for failure to do so.

In New York, Gov. Andrew Cuomo proposed a bill that would require colleges to inform victims of sexual assault they have the option of making a report to local law enforcement.

A proposed bill in Rhode Island would mandate the immediate reporting of sexual assault to police by all colleges.



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[Guilty verdicts don't mean end to Vandy rape case](#)

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Metro police say they have a memorandum of understanding with Vanderbilt police to receive reports of all sexual assaults and other violent crimes reported to campus police. But the understanding does not extend to the university's EAD.

Advocates caution that any efforts to reform campus approaches to sexual assault have to take the wishes of the victim into account. In some cases, victims do not want to pursue criminal charges but do want their universities to protect them and investigate.

"It should be the victim's choice," said Sharon Travis, community engagement and prevention specialist with The Sexual Assault Center.

"My hope is that the universities will kind of take this (case) as an opportunity to step back and look at this from the survivors standpoint, and whatever they do, make sure they are serving her needs first."

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