



Training in Restorative Justice for Campus Sexual Harm

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Campus PRISM

Promoting Restorative Initiatives for Sexual Misconduct on Campus

21 || A SURVIVOR AND HER PERPETRATOR FIND JUSTICE

12/3/2018



Reckonings
#21 || A survivor and her perpetrator find justice

Cookie policy

Campus Sexual Misconduct: Restorative Justice Approaches to Enhance Compliance With Title IX Guidance

TRAUMA, VIOLENCE, & ABUSE
2014, Vol. 15(3) 242-257
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TRAINING

Training in Restorative Conferencing for Cases of Campus Sexual Harm
March 29-30, 2019
Rutgers University - New Brunswick

THE CHRONICLE
of Higher Education

STUDENTS

Why More Colleges Are Trying Restorative Justice in Sex-Assault Cases

By Katherine Mangan | SEPTEMBER 17, 2018

The New York Times

Sexual Harassment Charges Roil Elite University Department

By Vivian Wang

Sept. 15, 2017



NASPA Student Affairs Administrators in Higher Education Online Learning Community

BROWSE COURSES

HOME / CATALOG / SEXUAL AND RELATIONSHIP VIOLENCE EDUCATION

Using a Restorative Justice Approach to Sexual Harm and Misconduct

with David Karp, Jesmyn Elise Story, Jordan Draper

JOURNAL OF SEXUAL AGGRESSION
<https://doi.org/10.1080/13552600.2018.1507488>

Addressing individual and community needs in the aftermath of campus sexual misconduct: restorative justice as a way forward in the re-entry process

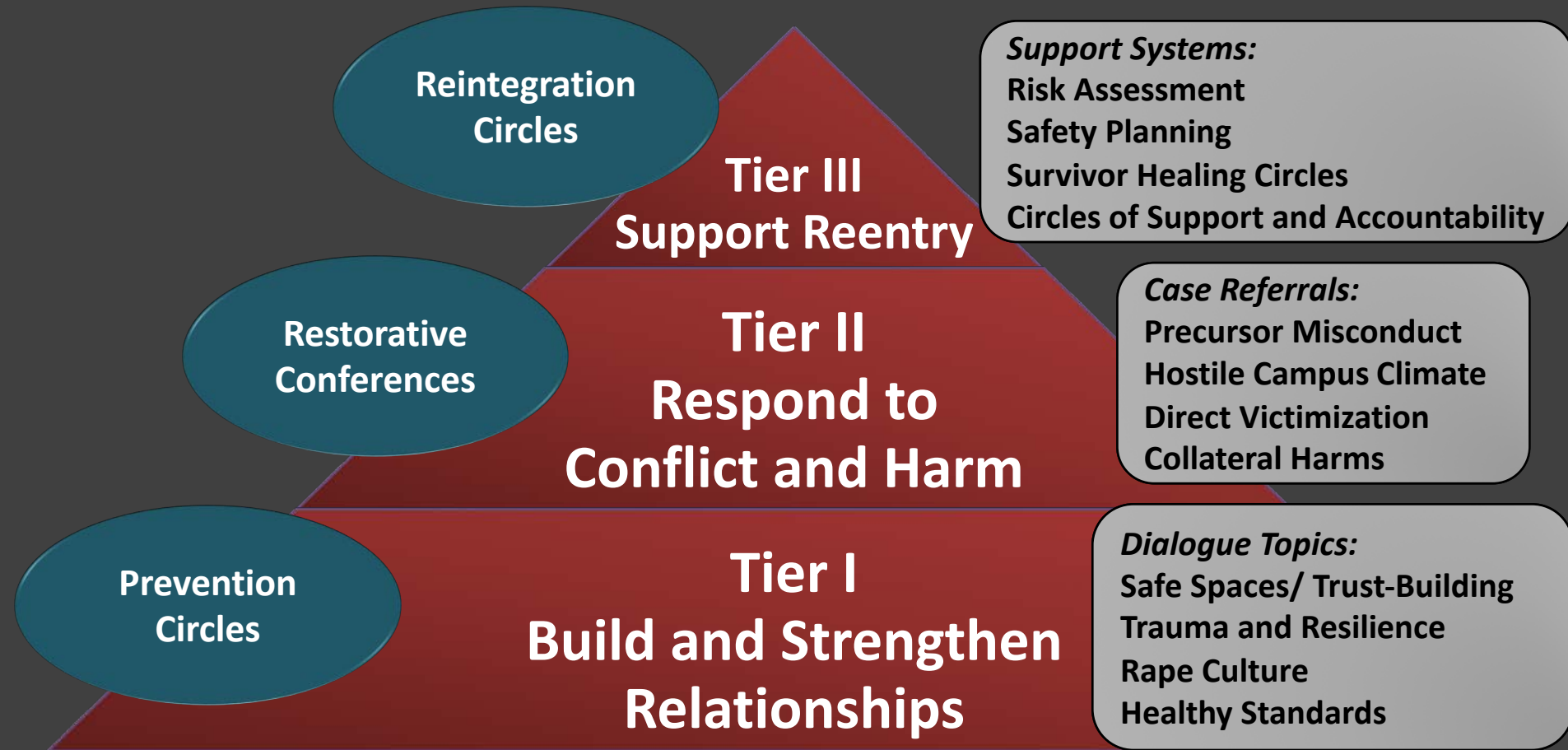
Sheila M. McMahon^a, David R. Karp^b and Hayley Mulhern^c

Supporting Professionals in Sexual Assault Response Taylor & Francis Group

Check for updates



Campus PRISM: Whole Campus Approach



Core RJ Practices and Origins

- Youth Justice
- New Zealand Maori Justice and 1989 Act
- Australia Community Policing



- Indigenous Rights
- First Nations/ Native American Justice
- Native Law Center 1975



Conference

Circle



Victim
Offender
Dialogue

Truth
Commission



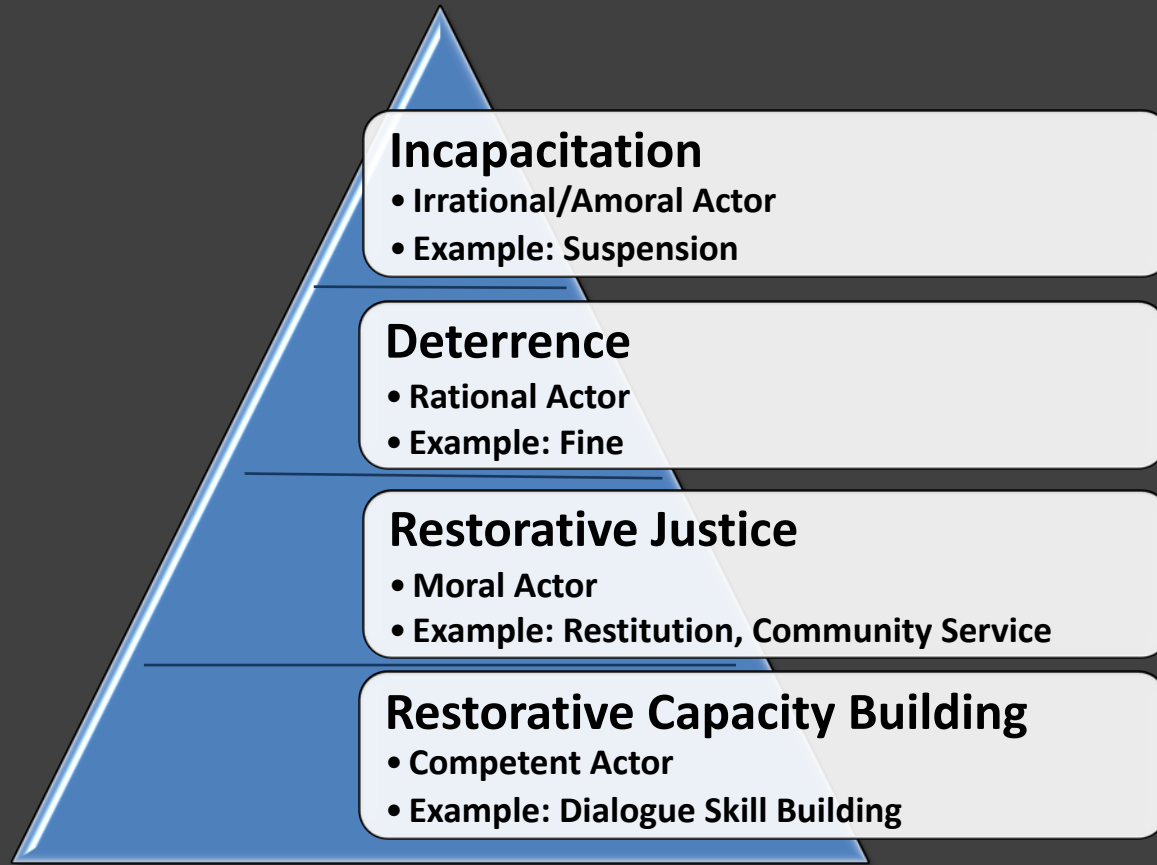
- Criminal Justice
- Alternative Dispute Resolution
- VORP 1978, Indiana



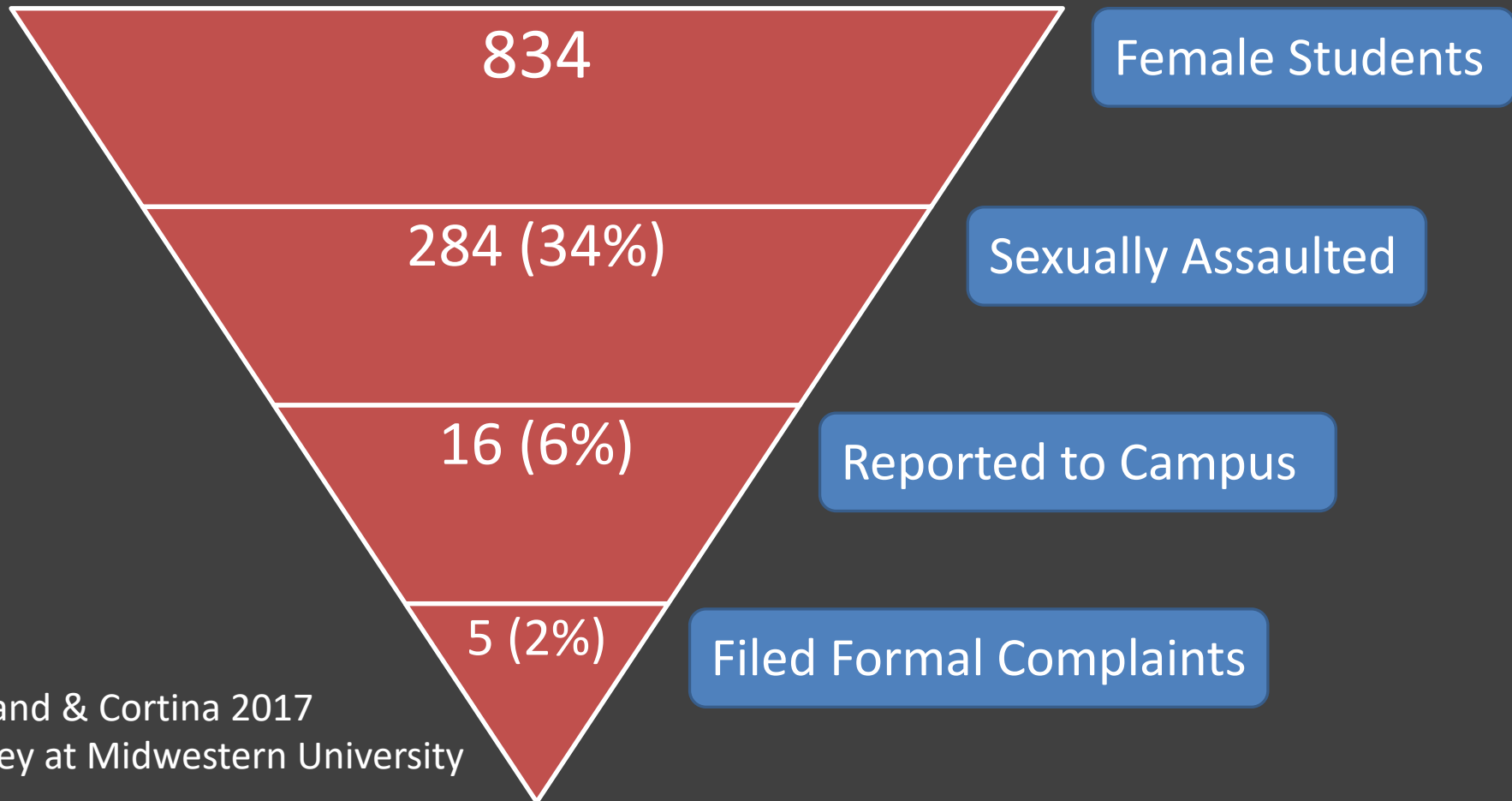
- Human Rights
- Peacebuilding
- South Africa TRC 1995
- Uganda 1974



Braithwaite's Sanctioning Pyramid



Reporting and Adjudication



Holland & Cortina 2017
Survey at Midwestern University

How do we create
the conditions
for someone
who has caused sexual harm
to acknowledge
and
take responsibility?

RESTORE

“The RESTORE Program of Restorative Justice for Sex Crimes”

- Mary Koss 2014 *Journal of Interpersonal Violence*
- 2003-2007
- 22 cases, 109 participants
- 50% of cases, participants were acquaintances
- 46% of cases, offender was drinking before offense

Demographics

- Survivor/Victims
 - 73% female
 - 36% aged 18-25
 - 88% white
- Offenders
 - 100% male
 - 50% aged 18-25
 - 77% white
 - 14% college students
 - No offenders with prior history of sex offenses, IPV, or other violence

RESTORE: Adapting RJ

Adaptations of conferencing model for sex offending:

- Psychosexual forensic evaluation to assess offender readiness to participate
- Trauma-informed preconference process for survivor/victims
- Safety protocols for conference
- *Redress Plan* (e.g., apology, restitution, service, treatment, safety planning)
- Post conference supervision of offender (12 months)
- *Community Accountability and Reintegration Board* (survivor/victim may attend and/or kept updated)
- *Final Reflection and Clarification Letter* by offender

RESTORE:

Motivations to Participate

Survivor/Victims

- Consent Rate
 - 63% felonies
 - 70% misdemeanors
- Making offender accountable
- Understand what happened
- Say how I was affected
- Hear an apology
- Prevent reoffending
- Put this behind me
- Take back my power

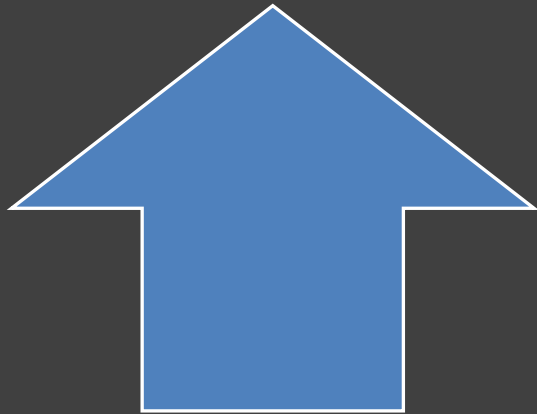
Offenders

- Consent Rate (after survivor/victim consent; must have accepted responsibility)
 - 90% felonies
 - 100% misdemeanors
- Taking responsibility to make things right
- Explain my side
- Apologize
- Participate in an alternative to court

RESTORE: Conference Experience

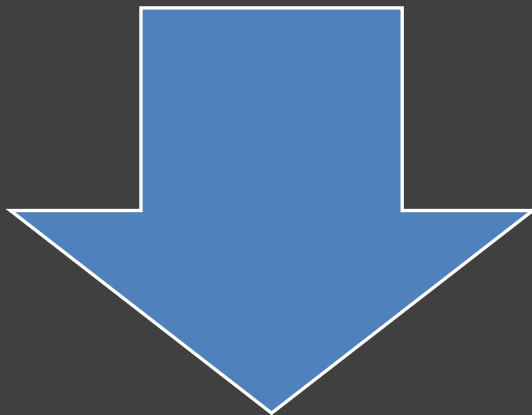
Agree/Strongly Agree	Survivor/ Victims	Offenders
Felt safe	100%	95%
Felt listened to	100%	100%
Felt like I was (NOT) blamed	100%	79%
Was treated with respect	100%	100%
Satisfied with redress plan	100%	100%
The conference was a success	100%	100%
Felt justice was done	83%	94%
Would recommend RESTORE	100%	100%

RESTORE: Post Conference Outcomes



Redress Plan Completion

- 66% felony cases
- 91% misdemeanor cases



Comparison Group

- 75% closed without any consequences
- (13% of reported rape cases lead to court convictions in the U.S.)

Six Major Concerns

RJ is not formal or severe enough to send a strong message.

RJ is susceptible to power imbalances, particularly in IPV cases

RJ increases risk of revictimization

RJ may exacerbate disparities in access to justice

RJ will pressure victims into participation

RJ puts accused students at risk for criminal prosecution

Voluntary and Confidential

People worry that RJ will be required or coerced.

Voluntary participation is a core to RJ.

People worry that RJ will be used to gather evidence for conduct hearing or criminal prosecution.

The process needs to be safeguarded and confidential/private.

Beyond Face-to-Face: Still Meeting Needs

Video
Conference

Video
Exchange

Writing
Exchange

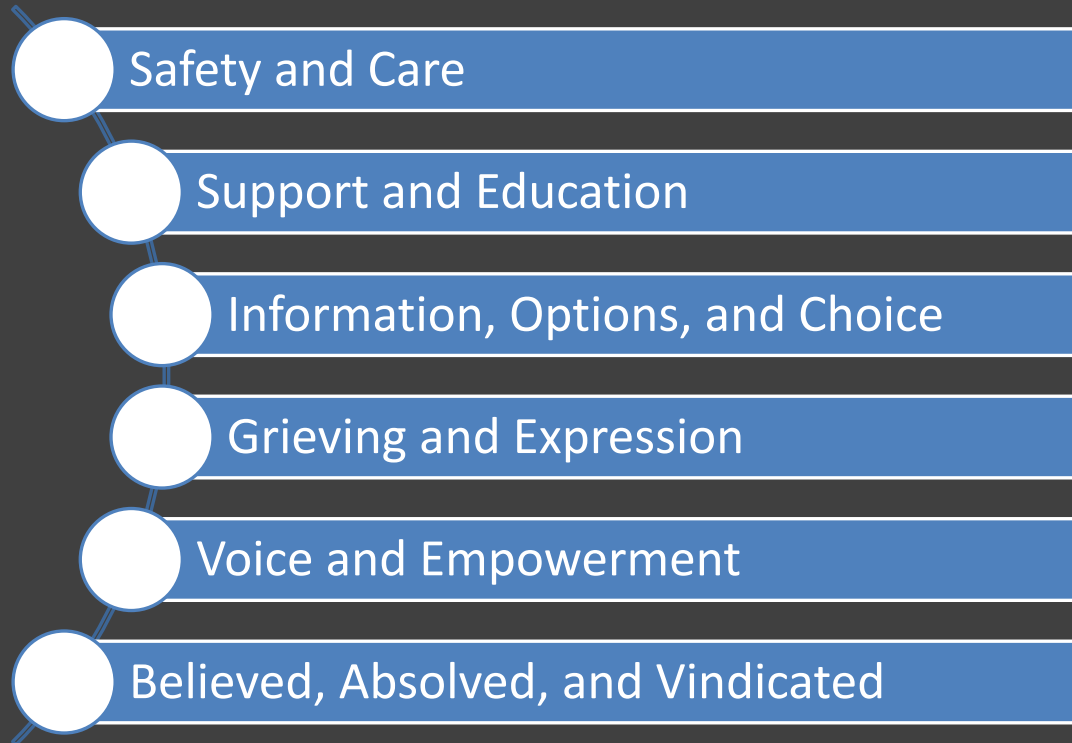
Victim Impact
Statement

Surrogate
Participation

Victim
Support
Circles

Meeting Victims' Needs

“Harms create needs. Justice is meeting needs. True justice is healing.”
Judah Oudshoorn



JUSTICE NEEDS

According to SVs
[survivor/victims], satisfying
their justice needs rests on
the extent to which they:

Koss, 2010

(1) Contribute input into key decisions and remain informed about their case

(2) Receive response with minimal delay,

(3) Tell their story without interruption by adversarial and sometimes hostile questioning,

(4) Receive validation,

(5) Shape a resolution that meets their material and emotional needs

(6) Feel safe.

SURVIVOR GOALS FOR THE CAMPUS RESPONSE PROCESS: JUSTICE

Meaningful engagement

- To tell their story and hear respondent take responsibility
- Communicate with other party or to gain clarity about the situation

Healing

- Closure: “If I come forward and go through this process and that person’s held accountable, everything will be better.” (*Jodie, student conduct administrator*)
- Regaining a sense of control and a way to address ongoing pain, fear, and anxiety

Respondent accountability and behavior change

- Desire to prevent future misconduct: “They just want the person to realize that this is not acceptable behavior and so they feel like if they go through this process then that will kind of compel the other person to take their behavior seriously.” (*Eva, advocate/advisor*)

Meeting Victims' Needs





Campus Example - TCNJ

Option Two: Alternative Resolution for Cases involving Student Respondent

Alternative resolution is a voluntary process within The College of New Jersey's Title IX Policy that allows a Respondent in a Title IX investigation process to accept responsibility for their behavior and/or potential Harm. By fully participating in this process the Respondent will not be charged with a violation of College Policy. The alternative resolution process is designed to eliminate the Prohibited Conduct, prevent its recurrence, and remedy its effects in a manner that meets the needs of the Reporter while still maintaining the safety of the overall campus community.

<https://policies.tcnj.edu/wp-content/uploads/sites/247/2018/02/Title-IX-Policy-Interim.pdf>

TCNJ

Restorative Processes is a philosophical approach that embraces the reparation of Harm, healing of trauma, reconciliation of interpersonal conflict, and reintegration of people who have been marginalized through participatory learning and improved decision making skills. Rather than focusing on what policies have been violated, Restorative Processes instead identify who has been Harmed and what actions are necessary to repair the Harm.

<https://policies.tcnj.edu/wp-content/uploads/sites/247/2018/02/Title-IX-Policy-Interim.pdf>

TCNJ

Options include in person circle or conference or:

Informal Restorative Statements- This may include structured voluntary apology letters, affective questions towards the Respondent including; who was affected, how were they affected, and what was the Harm caused, etc. This could be done either in-person with the Respondent or via written statements. All information discussed in this meeting will be shared with the Reporter.


<https://policies.tcnj.edu/wp-content/uploads/sites/247/2018/02/Title-IX-Policy-Interim.pdf>

TCNJ

Additional options:

- Consent Workshop (Curriculum built for 3 sessions)
- Healthy Relationships Workshop (Curriculum built for 3 sessions)
- Counseling Sessions
- Alcohol Education Classes
- Bi-weekly or Monthly check in meetings with the Title IX Coordinator
- Permanent extension of a No Contact Directive with the College
- Restriction from participation in specific clubs and/or organization
- Restriction from participation in particular events (ie. Senior Week)
- Completion of a master education plan with regular meetings with the Director of Student Conduct & Dispute Resolutions
- Community Service

Administrative Hearing Tasks	Time (Hrs)	Alternative Resolution Tasks	Time (Hrs)
Initial Meeting with Reporter (resources, accommodations, options)	1	Initial Meeting with Reporter (resources, accommodations, options)	1
Initial Meeting with Respondent (resources, accommodations, complaint, options)	1	Review of AR process and options with Reporter	1.5
Contacting co-investigator and updating on incident	1.5	Drafting AR contract and final approval with Reporter	2
Interview with Reporter	2	Initial Meeting with Respondent (resources, accommodations, complaint, options)	1
Interview with Respondent	2	Review of AR contract with Respondent	1.5
Cleaning up statements and adding documentation for both parties	3	Signing of AR contract with Respondent	1
Interview with witnesses (average of 4)	6	Follow-up with Reporter about AR agreement and timeline	1
Cleaning up statements for witnesses	2	Meetings with Respondent per contract (depends on contract)	4
Follow-up interview(s) as necessary	4	Final meeting with Reporter to discuss completion of contract	1.5
Compiling investigation report	5	Email and communications throughout entire process with Reporter	5
Review of investigation report by Reporter	2.5	Email and communications throughout entire process with Respondent	5
Review of investigation report by Respondent	2.5		
Final changes to investigation report	1.5		
Scheduling and notifying of hearing	1		
Preparing hearing documents	2.5		
Hearing	4		
Appeal preparation (if utilized)	1		
Email and communications throughout entire process with Reporter	15		
Email and communications throughout entire process with Respondent	15		
Email and communication with witness(es)	4		
TOTAL TIME:	76.5 hours	TOTAL TIME:	24.5 hours



Experience of
Reporters through
the Alternative
Resolution Process

“...I am now ready to have a conversation with you. I am not out to ruin your life, rather I hope you learn from this experience because no other person should have to experience what you put me through”

Spoke with two news reporters and shared: “I wanted a different way to hold someone accountable that didn’t result in suspension or expulsion from the College that’s why I choose it”



Experience of **Respondents** through the Alternative Resolution Process

"It was a very positive experience, and the two main workers of Title IX always made me feel comfortable at every meeting, and made it clear that they were not picking sides, and just wanted a clear picture. I was confused when it happened, but now I feel frustration when the situation is brought up or when I have to explain what happened to someone. And it was very important to me that I grew and learned my lesson, so I can make better decisions in the future."

"The hardest thing to read was her using the word 'rape' – I think she chose that word because of the impact it had on her life"

"It's a lot to process... I was never out there to hurt anyone and I feel like I hurt her a lot"



Working With Respondents Restoratively

5 tips to promote success when working with students accused of sexual misconduct in a restorative process.

By Carrie Landrum,
University of Michigan

1. Approach respondents as fallible, growing humans who need guidance and support to make things right.
2. Be patient while respondents act reactively; give them time to accept responsibility. Allow respondents space to go through their stages of grief and loss, knowing that this can ultimately culminate in acceptance
3. Spend time getting to know a respondent first and take time to listen to what they have to say.
4. Practice rolling with resistance and balancing equitable amounts of support and accountability.
5. Practice multi-partiality, plant seeds of empathy and perspective-shifting, and water those seeds!



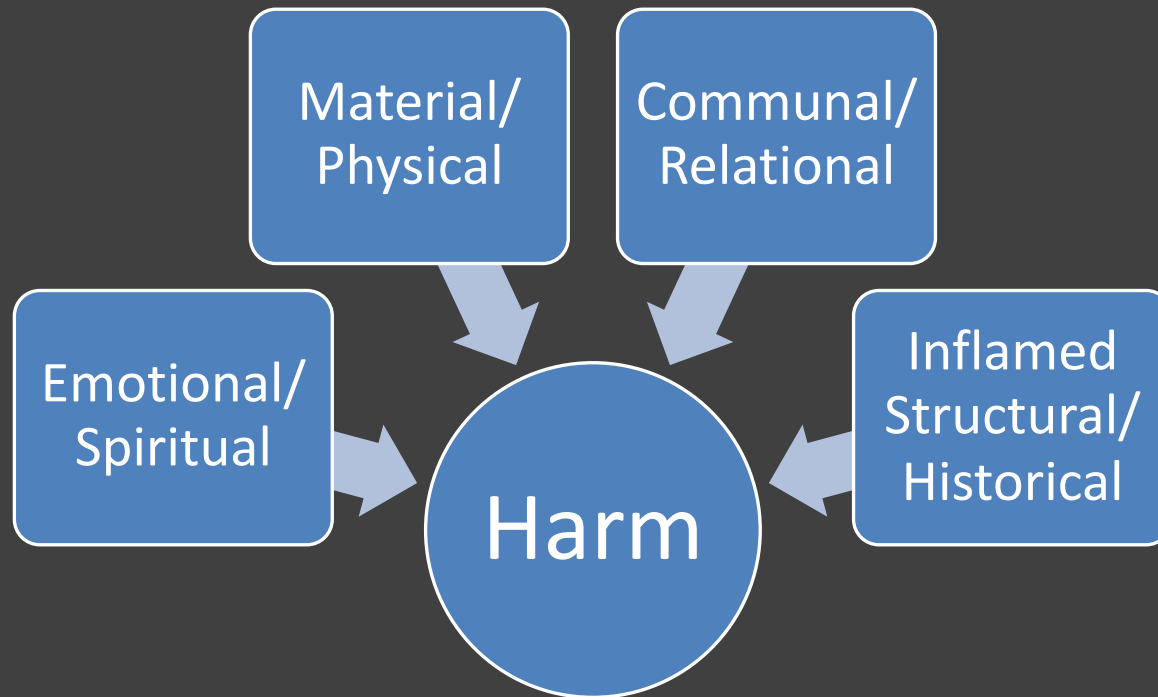
A Circle About Rape Culture

Elements of campus rape culture at Saint Mary's University (Can) 2013:

- Chant led by 80 student leaders, including student president
- Indoctrination of 400 new students during orientation
- Sanctioned space
- School tradition



Types of Harm



Rebuilding Trust

What can be done to rebuild trust?



Harms → Needs → Solutions

Identify Harms

- What happened?
- What impact did this have on you?
- What was the hardest thing?

Clarify Needs

- Because of this harm, do you have a need for...?
- (NVC Needs List)

Action Steps

- What can be done to meet this need?
- What else?
- Reality Check with SMART Goals

Theories of Sexual Violence

- Biological
- Feminist/Power & Control
- Social Learning
- Integrated

Loren Linscott, Director, Office for Violence Prevention & Victim Assistance, Rutgers University

Biological Theories

The focus is on: cognitive distortions, deviant sexual arousal, boundary violations, emotional dysregulation, self-regulation problems, intimacy deficits.

Explanation for use of sexual violence: Poor attachment and deprivation during development leads to impaired functioning of the social corticolimbic brain which leads to problems with emotion and motivation (e.g., difficulty recognizing fear in others, difficulty with aversive conditioning) and a dismissive attachment style, increasing one's risk of sexual offending.

Loren Linscott, Director, Office for Violence Prevention & Victim Assistance, Rutgers University

Feminist/Power & Control Theories

The focus is on: the exertion of power and control by men over women in relationships within broader social and institutional contexts of gender inequality (rooted in patriarchy).

Explanation for use of sexual violence:

- primarily associated with exerting power and not primarily motivated by sexual desire
- hold less egalitarian and more rape-supportive views compared to those who do not use sexual violence

Loren Linscott, Director, Office for Violence Prevention & Victim Assistance, Rutgers University



Social Learning

Broader conceptual understanding: Individuals learn to engage in sexually aggressive behaviors from other individuals, through experience, observation, imitation, and modeling.

Sexual Violence as predicted by social influences (i.e., peer environment, family environment, and social norms)

Example: Discussion with fraternities (“I don’t like it, but I participate in it”.)

Loren Linscott, Director, Office for Violence Prevention & Victim Assistance, Rutgers University

Room for Integrated Theories for RJ?

Sexual violence may be driven by multiple factors, including biological, social learning, social norms, hostile masculinity, and broader patriarchal belief systems

Loren Linscott, Director, Office for Violence Prevention & Victim Assistance, Rutgers University

Influential Studies

David Lisak: The hypothesis has three primary components: (1) a small number of men perpetrate the vast majority of rapes, (2) these men perpetrate rape consistently over time, and (3) most rapists have numerous victims.

The hypothesis suggests that these serial perpetrators are severely pathological men who instrumentally groom their victims prior to the assault, use alcohol to incapacitate their victims, and often perpetrate other acts of interpersonal violence as well.

Loren Linscott, Director, Office for Violence Prevention & Victim Assistance, Rutgers University

Updated Research: Two Main Points

Swartout: Although some perpetrators perpetrate repeatedly over time, new research suggests that the majority of rapists do not consistently perpetrate.

Focusing only on rape perpetrators obscures a large body of evidence which indicates that **other forms of sexual violence** are perpetrated—by the same and different men—at **much higher rates**. In addition to rape, sexual violence includes being made to penetrate someone else, sexual coercion (e.g., non-physically forced unwanted penetration), unwanted sexual contact (e.g., groping), and non-contact unwanted sexual experiences.

Loren Linscott, Director, Office for Violence Prevention & Victim Assistance, Rutgers University

UNC Resolution Agreement (June 2018)

“The University will review and, if necessary, revise its Title IX policies and grievance procedures to ensure that they include, at a minimum, the following....

c. A statement to provide a description of the informal resolution process, including a reasonably prompt timeframe, factoring in the complexity of the matter and the severity and extent of the alleged harassment, and a statement that the process is voluntary and that the parties have a right to proceed to the formal resolution process at any time.

WHAT IS TRAUMA-INFORMED CARE IN RJ?

Survivors' Needs

Safety & care

To be believed

Voice & empowerment

To express grief

Support & education

Information & options

Accountability & support

Trauma-informed Organizations

Establish safety

Transparent & trustworthy

Peer support

Collaboration & mutuality

Empowerment, Voice & choice

Attend to cultural, historical, and other structural harms

Your Institution/Process

What are you already doing well to meet the needs of survivors?

What are you already doing to increase safety, trust, and support for everyone impacted by the harm and the process?

What is one policy, process or person at your institution who would benefit from a trauma-responsive approach?