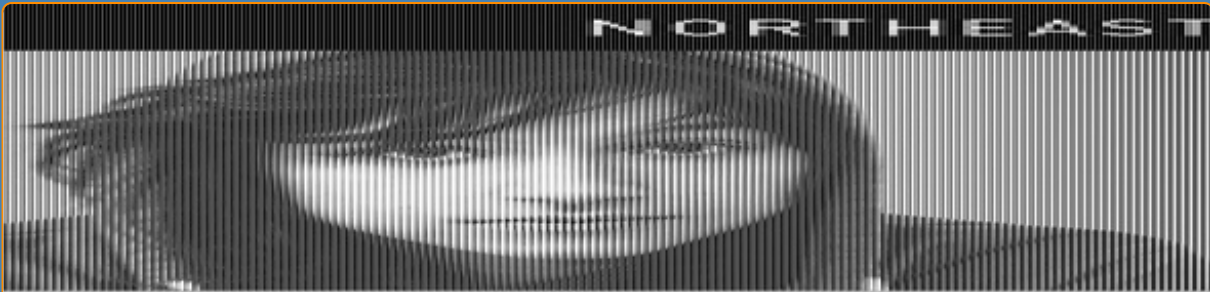


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Dear Colleague:

For this month, the NEARI Press newsletter article looks at the possibility of integrating restorative justice into a comprehensive approach to sexual assault on college campuses. The article first outlines at least 42 different types of sexual behaviors considered either sexual violence or sexual misconduct. The authors then suggest that if there is such a large range of behaviors, a “one size fits all” response through a quasi-criminal justice system may not be enough either to end and/or ultimately to help prevent further harm.

We appreciate the level of discussion currently focused on this topic and hope you will find the article both thought provoking and helpful to expanding the current discourse. Finally, we hope that this may inspire some of our readers to get more involved in their community and make the resources of our field available for those who are seeking help.

As always, if you have any other questions or suggestions for future newsletter topics, please don't hesitate to contact us.

Sincerely, Joan Tabachnick and Steven Bengis

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

by Steven Bengis, David S. Prescott, and Joan Tabachnick

The Question

Is there a Role for Restorative Justice Practices on College Campuses?

The Research

Mary Koss, Jay Wilgus and Kaaren Williamsen offer a strong argument and excellent overview describing the possible use of restorative justice practices on college campuses. In response to the US Department of Education's Office for Civil Rights "Dear Colleague Letter" (DCL), which established guidelines for responding to sexual assault and harassment on campuses, Koss and her colleagues argue that institutions of higher education are responsible for addressing at least 42 types of sexual behavior with the goals of eliminating misconduct, preventing its recurrence and remedying its effects. A straightforward compliance approach to the DCL fosters a quasi-criminal justice approach that may not be suited to all sexual misconduct situations. Therefore, the current one-size-fits all response may be too narrow for the scope of sexual misconduct and the desired outcomes. Koss and her colleagues suggest that the DCL guidance does allow for the use of a restorative justice approach in at least four ways: as a resolution process, as a victim

impact process, as a sanctioning process, and as a reintegration process. The options they outline would be in addition to the current criminal justice option (off campus) and the quasi-criminal justice, investigative and judicial responses to sexual misconduct offered on campus.

Koss, Wilgus, and Williamsen's article is helpful in articulating the range of sexual misconduct that campuses are required to address. These are described in charts that outline behaviorally specific descriptions of sexual violence (e.g., contact, rape and attempted rape) and a second chart describing sexual harassment (e.g., gender harassment, unwanted sexual attention and sexual coercion).

For those that may not be familiar with restorative justice (RJ), the conceptual framework is that harm has been done and someone is responsible for repairing that harm. Furthermore, there is an understanding that the harm has a direct impact on the person who has been victimized but also an indirect impact on that person's friends and family, the friends and family of the responsible person, and the larger campus community as well. This approach is not for everyone or for every situation. For example, two key requirements for any RJ process are: the person who has been victimized wants to utilize this process and the responsible person accepts full responsibility for the harm as a precondition for participation.

There is no standard RJ sexual misconduct program to replicate, but there is a body of research which shows the safe and successful use of RJ on sexual misconduct in community settings. As mentioned earlier, the RJ process can be used in many ways, offering a chance to formalize reparations, counseling, and campus community service. It can also involve the victim's input to add in additional requirements such as avoiding similar class schedules, mandatory supervision, and if any of the agreed upon sanctions are violated, the responsible party can still be referred to traditional sanctioning.

Bottom Line: With at least 42 types of sexual behaviors assigned as sexual violence or sexual misconduct, a one-size-fits all response through a quasi-criminal justice is not enough to end and ultimately help to prevent further harm.

Implications for Professionals

New Federal mandates requiring college campuses to create policies and procedures to address sexual assault also provide a unique opportunity for professionals in our field who want to become involved. While knowledge of adolescents and young adults who abuse is badly needed, we may need to acknowledge first that the information we offer focuses on a smaller population of adolescents and young adults who have been successfully prosecuted. However, we suggest that the knowledge of assessment, treatment, safety plans, and other important tools will be essential information for college campuses as they expand their thinking on this topic. Furthermore, as we enter this new "arena" we must be more ready to listen than to start with expounding on our wealth of knowledge. Working with victim-advocates requires deeply respectful conversations around values, differing perspectives, and the research relevant to college populations. The attention to campus sexual assault offers is an opportunity for dialogue that we hope many of you will embrace with humility, patience, and the wisdom and knowledge that you possess that college administrators need to hear.

Implications for the Field

We cannot urge the field more strongly to embrace the challenge of working closely with college administrators and other campus staff as well as victim advocate organizations to address the complex issues associated with campus sexual assault. Our approach to accountability, consequences, safety, and victim protection in the community may be valuable information for campuses required to fulfill federal mandates. While expulsion is a direction that some campuses are taking, expulsion fails to: 1) shield the campus from liability (several high profile lawsuits

against such actions are currently pending), 2) create safety for the wider community or other colleges when those expelled re-apply to other schools, 3) honor the varied types of sexual behaviors and sexual abuse that may occur and the chilling impact mandatory expulsion may have on reporting, and 4) recognize (as this article aptly states) the opportunities for restorative justice when/if the circumstances allow for it. This is an opportune moment for the integration of the work of victim advocates, those with knowledge of abusers, and the larger campus community to work closely together to help colleges create safety and accountability. It is a moment that should not be lost.

Abstract

Campus response to sexual violence is increasingly governed by federal law and administrative guidance such as the 1972 Title IX, the 2011 Dear Colleague Letter (DCL), and the 2013 Violence Against Women Act. Educational institutions are directed to expand disciplinary responses and establish coordinated action to eliminate sexual violence and remedy its effects. Compliance fosters a quasi-criminal justice approach not suited to all sexual misconduct and inconsistent with developing practice in student conduct management. This article envisions restorative justice (RJ) enhancements to traditional student conduct processes that maintain compliance, expand options, empower victim choice, and increase responsiveness to DCL aims. The article (1) defines sexual violence and sexual harassment within the DCL scope, (2) elaborates the DCL position on permissible alternative resolutions and differentiates mediation from RJ, (3) sequences action steps from case report to finalization, including both restorative and traditional justice pathways, and (4) discusses building support for innovation beginning with existing campus response.

Citation

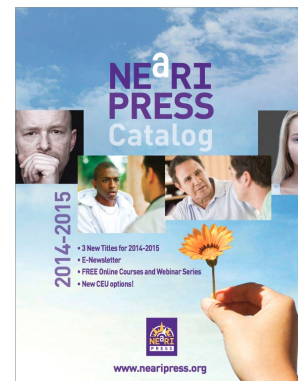
Koss, M.P., Wilgus, J.K., & Williamsen, K.M. (2014). Campus Sexual Misconduct: Restorative Justice Approaches to Enhance Compliance With Title IX Guidance. *Trauma, Violence & Abuse*. Vol. 15(3) 242-257. DOI: DOI: 10.1177/1524838014521500.

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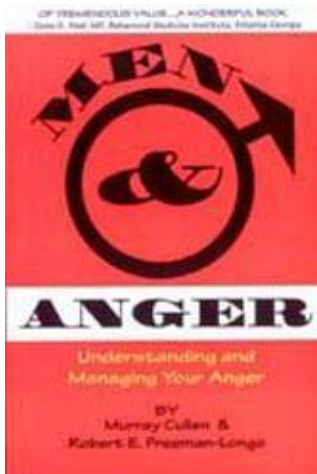
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