

POLICY PAPER

Sexual Violence Prevention and Response

Fall 2016

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ABOUT OUSA

OUSA represents the interests of over 140,000 professional and undergraduate, full-time and part-time university students at eight student associations across Ontario. Our vision is for an accessible, affordable, accountable, and high quality post-secondary education in Ontario. To achieve this vision we've come together to develop solutions to challenges facing higher education, build broad consensus for our policy options, and lobby government to implement them.

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Suggested citation:

Brieva, Antonio, Megan Hsu, Sarah Wiley, and Danielle Pierre. *Policy Paper: Sexual Violence Prevention and Response*. (Toronto: Ontario Undergraduate Student Alliance, 2016).

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IMPORTANT DEFINITIONS

Climate Survey – The Ministry of Advanced Education and Skills Development envisions their provincial campus climate survey to measure the prevalence of sexual violence, perceptions of campus climate, and student knowledge of institutional sexual violence policies and resources.¹ This tool will be used to inform public reporting of information related to the prevalence and incidence of sexual violence on Ontario post-secondary campuses.²

Consent – In the context of sexual assault, this is a voluntary agreement to engage in sexual activity, which must be given actively and willingly. Consent is never assumed or implied; it is not silence (or the absence of “no”); cannot be given while impaired by drugs or alcohol; cannot be obtained through threatening or coercive behaviour nor by abusing a position of trust, power, or authority; and can be revoked at any time.³

Criminal investigation – The gathering of evidence by police for the purpose of prosecution under the Criminal Code of Canada.

Disclosure – Sometimes referred to as informal reporting; the disclosure of sexual violence refers to the revelation to any individual other than the police or judicial officials of an experience of sexual violence. Often, a survivor decides to tell their story for self-care and in order to access accommodations and support services. Disclosure of sexual violence is not necessarily motivated by a desire to make a formal complaint.⁴

Gendered Violence – Gendered violence refers to any practice or behaviour that establishes, exploits, and reinforces gendered power inequities resulting in physical, sexual, emotional, economic, or mental harm. Gendered violence includes sexism, gender discrimination, gender harassment, biphobia, transphobia, homophobia and heterosexism, sexual assault, sexual harassment, stalking, and intimate partner violence.⁵

Interim Measures – Immediate (and sometimes temporary) remedial steps that can be taken upon a report of sexual violence to protect survivors.⁶

Intersectionality – Kimberle Williams Crenshaw coined this term to acknowledge the ways that different aspects of individuals’ identities aggravate and intensify their experiences of privilege and/or oppression.⁷

Rape Myths – False attitudes and beliefs about rape (and sexual violence more broadly) that are widely and pervasively held, and serve to deny, justify, and minimize male sexual aggression.⁸

Reporting – Formal reporting of sexual violence refers specifically to the revelation of an incident of sexual violence to authorities, such as the police, campus security, or a university’s disciplinary body. In this instance, a survivor discloses with the intention of pursuing an investigation and wants to exercise recourse mechanisms available to them, within the scope of university policy and/or the Criminal Code of Canada. Formal reports and the associated information are forwarded to the government and may be made public.⁹

Respondent – The respondent is the party responding to a report or allegation. For this context we will use respondent to refer to any individual who has been accused of committing sexually violent crimes.

¹ Postsecondary Accountability Branch, *Sexual Violence Reporting Advisory Committee Terms of Reference* (Toronto: Ontario Ministry of Advanced Education and Skills Development, February 23, 2016).

² Ibid.

³ Ontario Women’s Directorate, *Developing a Response to Sexual Violence: A Resource Guide for Ontario’s Colleges and Universities* (Toronto: Queen’s Printer for Ontario, 2013), 4.

⁴ Jay Harrison and Ginette Lafreniere, *University Campuses Ending Gendered Violence Final Report & Recommendations: Submitted to Wilfrid Laurier University* (Waterloo: The Change Project, 2015).

⁵ Ibid.

⁶ Elizabeth Sheehy and Daphne Gilbert, *Responding to Sexual Assault on Campus: What Can Canadian Universities Learn from US Law and Policy?* (Ottawa: University of Ottawa Faculty of Law, 2015), 16.

⁷ Kimberle Crenshaw, "Mapping the margins: Intersectionality, identity politics, and violence against women of color," *Stanford law review* (1991): 1241-1299.

⁸ Kimberly A. Lonsway and Louise F. Fitzgerald, "Rape Myths: In Review," *Psychology of Women Quarterly* 18, no. 2 (1994): 133.

⁹ Ibid.

Sexual Violence – any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work.¹⁰ Different forms of sexual violence exist on a continuum not a hierarchy, and the trauma experienced by one person who has experienced sexual violence cannot be compared to that of another.

Sexual Assault – refers to coerced sex through threats, intimidation, or physical force, forcing unwanted sexual acts, or forcing sex with others.¹¹

Sexual Harassment – refers to an expression of perceived power or superiority over another person and includes any unwelcome sexual advance, statement, or request for sexual favours, and other verbal or physical conduct of a sexual nature that is known (or ought reasonably to be known) to be unwelcome.¹²

Survivor – This refers to any person who has experienced of sexual violence. This term will be used in the context of this policy to refer to any person who has reported or disclosed sexual violence.¹³ In doing so we also acknowledge and respect that *survivor* is a very personal term and that there are many other terms a person who has experienced sexual violence may choose to identify with. Although the term survivor is used throughout this paper to refer to individuals who have experienced sexual violence, it is important to give these individuals the agency to name and label their experience independently. While this may not be a term that everyone chooses to identify with it is one we feel works to de-stigmatize experiences of sexual violence and reduce victim blaming.

Survivor-centric – An approach to sexual violence prevention and response that prioritizes the rights, needs, and wishes of those who have experienced sexual violence first and foremost. Survivor-centric approaches aim to create environments where survivors are treated with dignity and respect, free of discrimination, given comprehensive information, empowered to make their own decisions, and have their privacy and confidentiality maintained.¹⁴

University investigation – The gathering of evidence and presentation of findings to the appropriate adjudicative body within a university; this can be in response to a formal or informal complaint of sexual violence.

¹⁰ “Lesbian, Gay, Bisexual, Trans & Queer Identified People and Mental Health,” Canadian Mental Health Association Ontario, accessed October 20, 2016, <http://ontario.cmha.ca/mental-health/lesbian-gay-bisexual-trans-people-and-mental-health/>.

¹¹ Harrison and Lafreniere, *Ending Gendered Violence*, 130.

¹² Ibid.

¹³ Ibid.

¹⁴ UN Women, “Survivor-centred approach,” Endvawnow.org, accessed November 2, 2016, <http://www.endvawnow.org/en/articles/652-survivor-centred-approach.html>.

EXECUTIVE SUMMARY

Everyone must play a role in creating a world free of sexual violence. If we do not, we are accepting its existence as an inevitable part of our society. All survivors—regardless of gender, sexual orientation, ability, or heritage—should be supported in ways that allow them to seek justice in meaningful ways and safely pursue their education. Student unions have played a critical role on campus, providing programming, training, and peer support and offer these recommendations as a blueprint for success.

THE PROBLEM

Ineffective and Unproven Prevention

Prevention programs are implemented inconsistently across the province, lack empirical research of their effects, and can be costly. Ineffective programs can reinforce problematic attitudes and beliefs, and in the worst cases, increase rates of sexual violence. Thus far, the government seems to lack the human resources to provide better stewardship over these concerns.

Students are coming to university with inconsistent and inadequate knowledge of consent, bystander intervention, and sexual violence. Students worry that optional programs face selection bias and these concerns are elevated by higher risks for sexual violence among first year students.

Emphasis on universal training programs may be too broad for employees working in situations associated with higher incidence of sexual violence and existing campus infrastructure does not support a safe physical environment for all students. Women students, LGBTQ+ identifying students, and students with disabilities tend to feel less safe in and around campus, compared to their peers.

Non-Survivor-Centric Responses

Under their lawful or contractual responsibilities, universities sometimes decide for students whether or not to press charges. This is extremely problematic because pursuing an investigation can re-traumatize survivors and prohibit their healing.

Now that universities are required to develop policies for procedural fairness, they are looking to the government for guidance. Unfortunately, examples of fair, survivor-centric practices have not been provided nor have guidelines regarding consequences for perpetrating sexual violence. As a start, students are looking for practices that do not allow the rights of the respondent to overshadow the safety of the survivor. Under other resolution practices, students wish to remove barriers put up by collective and contractual agreements, and process of appeal.

There is also concern that students who access the Ontario Student Assistance Program (OSAP) may lose full-time status as a result of dropping a course to abide by interim measures, thereby limited their access to education and financial assistance. Health benefits are also difficult to manage. Survivors who require long-term support face significant financial barriers if their Ontario Health Insurance Plan (OHIP) or University Health Insurance Plan (UHIP) do not cover the necessary care, or if they do not have access to private insurance plans.

Unsupervised Compliance

In attempts to be compliant with new laws, some universities have left aspects that are important to students out of their policies. It is unclear where students can go to contest this. Students also worry that universities' concerns about their reputations or the misinterpretation of data will limit its dissemination. Already the number of survivors who choose to bring forward experiences of sexual violence to their institutions is low because of concerns around confidentiality, anonymity, stigmatization, and trust that their disclosure or formal report with

be handled fairly. Easing these concerns is made more difficult without qualitative or quantitative data to gauge attitudes and behaviours related to sexual assault and harassment in Ontario's university communities.

RECOMMENDATIONS

Establish a Sexual Violence Prevention Unit

Sexual violence education, prevention, and response should be evidence-based and held to a high standard. A new Sexual Violence Prevention Unit within the Ministry of Advanced Education and Skills Development could achieve these goals by:

- Interpreting climate survey findings;
- Making recommendations regarding prevention practices;
- Investigating and eliminating barriers to disclosure, reporting, and paths to healing;
- Identifying procedures that prevent survivors from pursuing justice; and
- Developing guidelines and best practices for handling appeals.

Invest in Prevention & Education

The *Sexual Violence and Harassment Action Plan* should remain a priority province-wide. Adapting the terms and conditions of the *Women's Campus Safety Grant* to broaden its application would enable institutions to prioritize sexual violence education, bystander intervention training, and program evaluation. The provincial government should support universities in these efforts by:

- Investing in early outreach programs for high school and elementary school students;
- Mandating that all students receive ongoing evidence-based, survivor-centric education and training, with a focus on the transition from high school;
- Amending the *Occupational Health and Safety Act* to ensure that employees with student-facing roles receive role-specific training and that campus security, specifically, is trained to implement safer, more supportive reporting practices; and
- Mandating that Smart Serve certification be expanded to include bar-specific, sexual violence prevention training and that on-campus bars include mandatory in-person bystander intervention training.

Prevent Crime Using Environmental Design

Universities are responsible for ensuring all students feel welcome and safe from sexual violence. Campus infrastructure could be designed with this focus if:

- The Council of Ontario Universities developed minimum safety standards related to sexual violence prevention,
- The provincial government mandated all universities to perform regular safety audits to ensure the standards are being met, and
- The provincial government made capital project funds available to build and maintain safer campuses.

Improve Disclosure & Reporting

The choice to disclose, report, and/or pursue a criminal investigation should wholly be that of the survivor. Their anonymity and confidentiality should always be safe guarded. In keeping survivors at the centre of responses and encouraging them to pursue the most beneficial supports, the provincial government should:

- Communicate the intent and purpose of data collection;
- Mandate that survivors be notified in advance of universities' duties to report to the police and obligations under collective agreements;
- Eliminate contractual agreements between campus and regional police that take away survivors' agency;
- Mandate the inclusion of external supports and service referrals in university policies;
- Provide funding for intersectional supports on or around university campuses; and

- Mandate the implementation of response teams to advocate on behalf of survivors.

Guide Resolution

Investigations and appeals into incidents of sexual violence should be prompt, thorough, impartial and emphasize the safety of the university community. While the rights of the respondent should never be infringed upon, the interests, privileges, and safety of survivors should be a priority. The provincial government should:

- Provide examples of procedurally fair, survivor-centric investigations and decision-making processes, and appropriate consequences for perpetration; and
- Ensure there is a requirement for the written notification of the outcomes of appeals.

Implement Provincial Accommodations

Survivors' safety concerns should guide establishment of interim measures. Accommodations pertaining to their mental and physical health must be available beyond the incident, regardless of financial background. This could be achieved if:

- The province gave clear direction on implementing interim measures,
- OHIP and UHIP were extended to cover incidents of sexual violence,
- A new Ontario Drug Support Program specifically for sexual assault survivors were developed,
- OSAP ensured survivors and respondents were not penalized for losing full-time study status, and
- Universities were mandated to develop better academic reporting procedures.

Use Legislation & Regulation Effectively

The provincial government should lead universities through their sexual violence policy implementation and compliance by:

- Amending Ontario Regulation 131/16 to include essential aspects of survivor-centric policies identified in existing literature, and
- Making clear which government agency is responsible for ensuring compliance.

Collect Accurate Data

Accurate and standardized data collection should be considered a top priority, but be survivor-centric. All reports should be easy to access. The provincial government should legislate a neutral organization to aggregate and report information regarding sexual violence in a centralized manner (along with other post-secondary data) while the Ministry of Advanced Education and Skills Development:

- Collects and disseminates *Sexual Violence Action Plan* report-backs that include rates of disclosure, criminal and institutional reporting, use of on campus resources, and demographic information; and
- Uses the climate survey to address: students' experiences of sexual violence on- or off-campus; their knowledge of provincial law, services, and prevention efforts; perceptions of campus safety and responses to sexual assault; and confidence in leadership.

INTRODUCTION

Since the mid-1980's, student unions across Canada and within the United States have been advocating to governments and universities alike for effective prevention and survivor-centric responses regarding sexual violence. As university students are at a high risk for experiencing sexual violence, student unions have played a critical role in the efforts to bring an end to this horrible crime.¹⁵ We continue to be at the forefront of programming and processes around staff training to combat sexual and gendered violence, bystander intervention, and health and protective services. We also offer important peer-to-peer and survivor services, and work to create a culture of consent on campus.

In May of 2014, the provincial government put out a call to stakeholders to present to the select committee on sexual violence and harassment throughout the province. Since then, the Ontario Undergraduate Student Alliance (OUSA) and its member associations have been heavily involved in the legislation and regulation development process. The *Sexual Violence and Harassment Action Plan Act (Supporting Survivors and Challenging Sexual Violence and Harassment)*, 2016 set out a schedule of legislation that amended the *Ministry of Training, Colleges and Universities Act*.

The amendments require universities to develop standalone policies and protocols for addressing sexual violence and harassment on their campuses. They must ensure these policies and protocols are defined in ways that are clear and easy to understand. They are required to provide training to all senior level administration on the policy and protocol once it is developed. Finally, they must also report instances of sexual assault and harassment as well as the rates of access to on-campus support services to the Ministry of Advanced Education and Skills Development.

Universities must have their policies in place by January 1, 2017. In developing these policies, universities are finding it most appropriate to create universal policies and protocols that protect all members of the campus community—including students, faculty, staff, and visitors.¹⁶ Acknowledging their efforts, the following policy is also meant to inclusively protect the entire campus community.

In making these recommendations it is important that we acknowledge that crimes of sexual violence do not exist in a vacuum, but rather in a web of societal and historical privileges and oppressions. We know that sexual violence is a gendered crime, in which women are far more likely to be victimized.¹⁷ Men also experience sexual violence, but face a different set of circumstances that are due to societal ideas about masculinity and the stigmatization of males who have experienced sexual violence.¹⁸ Furthermore, marginalized groups such as Indigenous peoples are at a higher risk of experiencing these crimes, as are women with disabilities and individuals in LGBTQ+ communities.¹⁹ We also recognize that the social locations of those who have experienced sexual violence also influence their experiences and healing; one form of justice will not be appropriate for all students.

¹⁵ Canadian Centre for Justice Statistics, *Measuring violence against women: Statistical trends*, ed. Maire Sinha, (Ottawa: Minister of Industry, 2013).

¹⁶ "Section 17 Sexual Violence," *Ministry of Training, Colleges and Universities Act, R.S.O. 1990, c. 2, Sched 3*.
<https://www.ontario.ca/laws/statute/90m19>.

¹⁷ Sexual Assault Centre Hamilton, "Statistics," SACHA, accessed October 20, 2016, <http://sacha.ca/resources/statistics>.

¹⁸ Department of Justice Canada, *Male Survivors of Sexual Abuse and Assault: Their Experiences* (Ottawa: Her Majesty the Queen in Right of Canada, 2013).

¹⁹ "The Facts about Sexual Assault and Harassment," Canadian Women's Foundation, accessed October 20, 2016, <http://www.canadianwomen.org/facts-sexual-assault-sexual-harassment>. CMHA, "Lesbian, Gay, Bisexual, Trans & Queer Identified People and Mental Health."

OUSA offers the following policy statements and explanations as a vision of undergraduate students' preferred outcomes under new legislation. All recommendations are aimed at provincial actors, mainly the provincial government, representing students' interpretation of their role in preventing and responding to sexual violence on university campuses. This paper will move through its policy options beginning with prevention strategies. We explain the need for increased human resource capacity on this file within the Ministry of Advanced Education and Skills Development. A new Sexual Violence Prevention Unit would be better able to lead universities in their efforts to implement and evaluate educational and training programs for students and university employees. The government must also seek advice on investing in prevention through training programs as well as environmental design.

Following the discussion on prevention, this paper anticipates challenges with recent changes to the *Ministry of Training, Colleges and Universities Act*. Students ask for more clear articulation of the contents of standalone sexual violence policies and the government body responsible for monitoring compliance. Universities and students alike are apprehensive of the government's request for data and information about incidents of sexual violence, the use of on-campus support services, and progress towards the Premier's *Sexual Violence and Harassment Action Plan*. This policy outlines students concerns, and recommendations for alleviating those concerns, surrounding the accuracy of this information, the implementation of the provincial climate survey, and the problem of under-reporting.

Finally, we have taken the time to explain our position on responding to sexual violence amongst university communities. Students are asking for safer, more supportive reporting and disclosure processes. These processes should be just as much of a priority as prevention and support. The meaningfulness and survivor-centrism of the resolution process set out in university policies remains to be seen. As things stand however, students ask that the government provide stronger guidance for fair investigation and appeal practices as well as appropriate consequences for perpetration. Once complaints are resolved, student survivors expect full academic and medical accommodations.

Everyone must play a role in creating a world free of sexual violence. We must also ensure that survivors of sexual violence have access to all of the supports and services required for them to safely pursue an education. If we do not actively work to effectively prevent and respond to incidences of sexual violence, we are accepting the existence of sexual violence as an inevitable part of our society.

STAFF, FACULTY, AND STUDENT TRAINING

SEXUAL VIOLENCE PREVENTION UNIT

Principle: Sexual violence education, prevention, and response procedures for university campuses should be held to a high standard across the province.

Principle: Sexual violence education and prevention programs should be based on sound evidence.

Concern: Policy and procedural decisions regarding sexual violence prevention are not always based in evidence of best practices.

Concern: There is currently little incentive to ensure that universities are offering quality evidence-based programs to prevent sexual violence.

Concern: Some universities use programs and methods of preventing sexual violence that are proven not to work, or, in some cases, increase rates of sexual violence.

Recommendation: The provincial government should establish a unit within the Ministry of Advanced Education and Skills Development to make recommendations regarding the implementation of best practices based on ministerial data about sexual violence prevention at Ontario's universities.

While many universities are using the implementation of the *Sexual Violence and Harassment Action Plan* as an opportunity to foster positive change in their campus cultures, such change has not been uniform across the sector. Regardless of where a student goes to school, they should be given the confidence to know that their institution is following evidence-based best practices in preventing sexual violence. However, institutions' failure to implement evidence-based practices may not always be due to negligence. Very few primary prevention strategies have been demonstrated to have significant effects on sexually violent behaviour.²⁰ On top of this, evidence regarding changes in sexual violence perpetration behaviour is generally absent from the literature while rigorous evaluation (and implementation) of existing programming presents significant fiscal challenges.²¹ As a result, "most campuses use programs that have never been formally evaluated or have not proved to be effective in reducing the incidence of sexual assault."²²

OUSA believes that the Government of Ontario should take on a stronger leadership role by mandating the content of prevention, education, and awareness programs and how they are operationalized. Students would like to see the government create a **Sexual Violence Prevention Unit**, made up of experts in the field of sexual violence, crime prevention, and post-secondary education to work with stakeholders to develop provincial strategies for ending sexual violence. While the Ministry is currently seeking advisement from the Sexual Violence Postsecondary Reporting Advisory Committee, this committee is not a permanent unit within government and has only been struck to offer their best recommendations. The Ministry should hire faculty and other experts from across the province, with strong knowledge in the following fields:

- (a) Research methodology,

²⁰ Sarah DeGue, Linda Anne Valle, Melissa K. Holt, Greta M. Massetti, Jennifer L. Matjasko, and Andra Teten Tharp, "A systematic review of primary prevention strategies for sexual violence perpetration," *Aggression and Violent Behavior* 19 (2014): 352.

²¹ Ibid.

²² Charlene Y. Senn, Misha Eliasziw, Paula C. Barata, Wilfreda E. Thurston, Ian R. Newby-Clark, H. Lorraine Radtke, and Karen L. Hobden, "Efficacy of a Sexual Assault Resistance Program for University Women," *The New England Journal of Medicine* 372, no. 24 (2015): 2327.

- (b) Data collection and analysis,
- (c) Survey administration,
- (d) Sexual violence and gender studies, and
- (e) Program Evaluators with CE designation.

Credentialed program evaluators (with a Credentialed Evaluator (CE) designation) provide “requisite skills, knowledge, and practical experience”.²³ Their reliance on “empirical evidence and on social research methods” would prove to be invaluable to this unit.²⁴ Faculty researchers from across the province are best able to understand the problem of sexual assault on their campuses and in post-secondary environments.²⁵ The main responsibilities of the unit (which will be elaborated on throughout this paper) should include:

- (a) Identifying effective, evidence-based prevention programs;
- (b) Identify best-practice models for universities;
- (c) Forming, administering, interpreting, and reporting on Climate Survey findings; and
- (d) Identifying and eliminating barriers to individual paths to healing on campus.

It is important that the Government of Ontario and post-secondary institutions make policy and procedural decisions that are informed by evidence. Unfortunately, some prevention programs have been found to produce potentially harmful effects, for example, increasing rape myth acceptance or sexually violent behaviour.²⁶ Proven programs must be implemented to prevent such phenomenon. There is much more value in implementing programming that we know is going to be effective and will have a positive impact on the lives of students than implementing programs that have not been evaluated and could even negatively affect the lives of students.

The Sexual Violence Prevention Unit would function as a permanent unit within the Ministry of Advanced Education and Skills Development. The Sexual Violence Prevention Unit should engage with stakeholders—such as people who have experienced sexual violence, educators, students, administration, and disciplinary experts—to understand the needs of post-secondary institutions and all those who would be affected by intervention programs. As a starting point, they could focus their research on identifying existing programs—or components of programs—that are characterized by the following nine principles of prevention that are strongly associated with positive intervention effects:

- (a) Comprehensiveness;
- (b) Appropriate timing;
- (c) Use of varied teaching methods;
- (d) Delivery of sufficient dosage (i.e. ensuring the total exposure to the program is appropriate given the type of program, and the need and risk level of participants);
- (e) Administration by well-trained staff;
- (f) Opportunity for building positive relationships with family, peers, and other adult mentors;
- (g) Socio-cultural relevance;
- (h) Social-psychological and behavioural theoretical foundations; and
- (i) Inclusion of outcome evaluation.²⁷

²³ Canadian Evaluation Society, “About the CE Designation,” Evaluationcanada.ca, accessed November 4, 2016, <http://evaluationcanada.ca/ce>.

²⁴ Canadian Evaluation Society, “What is Evaluation?” Evaluationcanada.ca, accessed November 4, 2016, <http://evaluationcanada.ca/what-is-evaluation>.

²⁵ McMahon, Stepleton, Cusano, and O’Connor, *Understanding and Responding to Campus Sexual Assault*, 3.

²⁶ DeGue et al., “Systematic review of primary prevention strategies.”

²⁷ DeGue et al., “Systematic review of primary prevention strategies,” 356.

INVESTING IN PREVENTION

Principle: The *Sexual Violence and Harassment Action Plan* should remain a public policy priority.

Concern: Quality sexual violence prevention and education programs can be perceived as costly to implement and run.

Concern: There is currently not enough empirical research on individual sexual violence prevention programs for government and institutions to make informed decisions about implementing them.

Recommendation: The Provincial Government should adapt the Terms and Conditions of the Women's Campus Safety Grant in order to address the need for sexual violence education, bystander intervention training and other interventions, and program evaluation on university campuses.

Instituting sexual violence prevention programs is not simple. Not only do institutions need to find an effective program, receive support of stakeholders, and organize the program itself, they must also be able to fund such a project. Sexual violence prevention programs require staff and resource materials; sometimes there is a cost to use programs that have already been developed; and there are many other incidental fees. In 2009, violent crimes cost Canada \$13 billion, and a 2013 study estimated that sexual and intimate partner violence cost each Canadian \$334 a year.²⁸ Our province would not only benefit socially, but also economically from investing in the prevention of sexual violence. This is why it is so important that there be funding for universities to provide this type of education and training.

Universities are not the only ones doing great work to prevent sexual violence. Students have been creating grassroots organizations for social change for decades. They continue to be leaders in front-line support for people who have experienced sexual violence on campus and champions for prevention. Student run organizations like the University of Waterloo Women's Centre create programming, campaigns, and events about sexual violence prevention. These groups cannot be left behind and viewed as "less-than" because students lead them. There needs to be opportunities for student-based initiatives to receive financial support from the provincial government to ensure that these students can continue to do great work on their campuses and work towards changing campus culture.

Research into sexual violence prevention itself can be quite expensive. The provincial government recently announced funding for research into sexual violence perpetrated against Indigenous women.²⁹ This is an excellent step in the right direction for ending sexual violence. OUSA would like to see the Ontario government continue to make these types of investments, specifically relating to sexual violence prevention on post-secondary campuses. Currently, there are many programs being used to prevent sexual violence at universities, but few have been evaluated in research.³⁰ Time and resources must be invested into such programs to evaluate their efficacy and ensure survivor-centric, evidence-based programs are receiving the funding they deserve.

OUSA believes that the Provincial Government should adapt the Terms and Conditions of the Women's Campus Safety Grant in order to accomplish this goal. The Women's Campus Safety Grant, which was established under the Ministry of Training, Colleges, and Universities in 1991, is available to fund initiatives that address safety for

²⁸ Dean Beeby, "Violent crimes in Canada cost nearly \$13 billion in one year," *Toronto Star*, March 2, 2014, https://www.thestar.com/news/canada/2014/03/02/violent_crimes_in_canada_cost_nearly_13_billion_in_one_year.html. Kate McInturff, *The Gap in the Gender Gap: Violence Against Women in Canada* (Toronto: Canadian Centre for Policy Alternatives, 2013).

²⁹ Ministry of Community Safety and Correctional Services, "News Release: Ontario Funding Research on Sexual Violence Against Indigenous Women," Government of Ontario, April 18, 2016, <https://news.ontario.ca/mcses/en/2016/04/ontario-funding-research-on-sexual-violence-against-indigenous-women-1.html>.

³⁰ Jeannie Adair, "The Efficacy of Sexual Violence Prevention Programs: Implications for Schools," *Journal of School Violence* 5, no. 2 (2006): 87-97.

women and trans folk on post-secondary campuses using an anti-oppressive framework.³¹ Under the current grant conditions, salary costs are not eligible for funding.³² Adapting the current funding conditions to include the costs of instruction will better enable universities to host bystander intervention training on their campuses.

EDUCATION FOR ALL STUDENTS

Principle: Regardless of where a student goes to school, all students should receive high-quality, evidence-based education about sexual violence and consent.

Principle: All students at post-secondary institutions should receive education and training in sexual violence prevention and response.

Principle: Universities should work to prevent sexual violence from occurring.

Concern: Optional programs face selection bias where those who are not interested, and likely not adequately informed, do not participate in preventative programs.

Concern: Not all existing education programs are effective or survivor-centric.

Concern: There are higher risks for sexual violence at the beginning of the fall term.

Recommendation: The provincial government should mandate that all students attending post-secondary institutions receive evidence-based and survivor-centric education and training in preventing and responding to incidents of sexual violence.

Recommendation: The provincial government should invest in early outreach programs for secondary school and elementary school students regarding sexual violence education.

Recommendation: The provincial government should mandate ongoing education and training with a focus on the transition period between secondary school and university.

As universities across Ontario create standalone sexual violence policies, it is important that this not be the end of the conversation and, rather, the beginning. It is paramount that universities and the Ontario government work to prevent such crimes from ever occurring in the first place. It is not enough to respond to incidences of sexual violence as they occur without addressing the root causes of sexual violence and actively educating people about prevention. Currently there are few programs that are proving to be effective tools for preventing sexual violence. However, *Bringing in the Bystander*, a program developed at the University of New Hampshire, has shown promising results and has now been adopted by schools in both the United States and Canada.³³ This program and other bystander intervention programs like *Upstander* at Western University teach participants about how to intervene in situations where they see risk of sexual violence and also often aim to dispel rape myths and build empathy with individuals who have experienced sexual violence.³⁴ It is important to note that while these programs are proving to be helpful, many incidents of sexual violence do not occur in the presence of others and therefore bystander intervention training cannot help prevent all incidents of sexual assault and harassment.

³¹ Women's Campus Safety Grant Committee, *Terms of Reference* (Windsor: University of Windsor, 2015).

³² Women and Trans People Safety Committee, *2016-17 Women's Campus Safety Grant Application* (Toronto: York University, 2016).

³³ MM Moynihan, VL Banyard, AC Cares, SJ Potter, LM Williams, and JG Stapleton, "Encouraging responses in sexual relationship violence prevention: what program effects remain 1 year later?" *Journal of Interpersonal Violence* 30, no. 1 (2015): 110-132.

³⁴ Patrick Alain, Chris Alleyne, Jennifer Ashenden, Caleb Butler, Mitch Campbell, Carrie Charters, Sonia Mardinly, and Angela Treglia, *See Something Do Something – Upstander Training Program: Facilitator's Guide* (London: Western University).

There are other sexual violence prevention programs that are proving to be promising in research such as the *Enhanced Assess, Acknowledge, Act Sexual Assault Resistance* program developed at the University of Windsor.³⁵ This program teaches participants how to assess the level of risk in a situation, use self-defence techniques, and about consent and healthy relationships. A main focus of the program is to teach women to unlearn the gendered expectations of being polite and passive, which have been imposed on them since birth. While this program focuses on teaching women how to protect themselves, it asserts that those who perpetrate such crimes are the cause of sexual violence and survivors are never at fault. This program can be classified as a secondary intervention—one that is designed to decrease risks for those most likely to fall victim to sexual violence.³⁶ So while this program is proving to be effective, it does not address underlying causes of sexual violence or those who commit crimes of sexual violence as a primary intervention would.³⁷

Another flaw that exists with current sexual violence prevention programs at post-secondary institutions is selection bias. Although the research is not definitive, “the extent to which prevention messages have different impacts on men and women remains unclear, with some studies discussing the importance of developing programs for all-male groups.”³⁸ This is of particular concern since men have been found more likely to display unintended negative effects after participating in prevention education—namely, increases in rape myth acceptance or increased likelihood of engaging in sexual coercion.³⁹ Men have also been found to be less likely than women to know where to get information about sexual assault or to attend prevention programming.⁴⁰ Most prevention programming also tends to focus on sexual violence perpetration in heterosexual circumstances, inadvertently excluding those who identify as LGBTQ+.⁴¹ Since these programs are offered optionally, the students who attend are not necessarily the students who would benefit the most from the information. This leaves large groups of university community members out of the conversation about preventing sexual violence.

Differing tendencies of engaging with education and support services make it difficult to ensure that all students have the information required to foster a safe campus. This is why it is critical to ending sexual violence that the Ontario government mandate that all students receive evidence-based, survivor-centric education on preventing sexual violence. Students believe that education about sexual violence should be ongoing throughout students’ university careers, but with a particular focus on their transition into university life, acknowledging that incidents of sexual violence tend to increase during this time. Studies show that the risk of experiencing sexual violence is increased at mass gatherings (for example, welcome/orientation week events) and for first and second year students.⁴²

A model of mandatory education in consent and sexual violence prevention is not unheard of; recently, the University of Oxford has announced that they will be making such courses mandatory for all students.⁴³ The Education Advisory Board (EAB) recommends multi-modal forms of training that build on existing knowledge

³⁵ Senn et al., “Efficacy of a Sexual Assault Resistance Program.”

³⁶ Cam Tu Tran, “Preventing Campus Sexual Assault: Evaluating Studies of Male Offender Prevention Program and Determining Best Practices,” *Portland State University Honors Theses*, Paper 229 (2016), 5.

³⁷ Ibid.

³⁸ Victoria L. Banyard, S. Ward, E.S. Cohn, E.G. Plante, C. Moorhead, and W. Walsh, “Unwanted Sexual Contact on Campus: A Comparison of Women’s and Men’s Experiences,” *Violence and Victims* 22, no. 1 (2007): 57.

³⁹ Ibid.

⁴⁰ Ibid, 65.

⁴¹ Tran, “Preventing Campus Sexual Assault,” 41.

⁴² Kari Samsel, Justin Godout, Tara Leach, Monica Taljaard, and Lisa Calder, “Characteristics associated with sexual assaults at mass gatherings,” *Emergency Medical Journal* (2015): 1 – 5. William F. Flack, Marcia L. Caron, Sarah J Leinen, Katherine G. Breitenbach, Ann M. Barber, Elaine N. Brown, Caitlian T. Gilbert, Taylor F. Harchak, Melissa M. Hendricks, Catherine E. Rector, Heather T. Schatten, and Heather C. Stien, ““The Red Zone”: Temporal Risk for Unwanted Sex Among College Students,” *Journal of Interpersonal Violence* 23 (2008): 1177-1196. Matthew Kimble, Andrada D. Neacsiu, William F. Flack Jr., Jessica Horner, “Risk of Unwanted Sex for College Women: Evidence for a Red Zone,” *Journal of American College Health* 57, no. 3 (2008): 331-337.

⁴³ Claire Lampen, “University of Oxford makes consent classes mandatory for incoming freshman,” *News.Mic*, October 4, 2016, <https://mic.com/articles/155708/university-of-oxford-makes-consent-classes-mandatory-for-incoming-freshman#.e34KB8vim>.

and skills over time as crucial to transforming campus climates.⁴⁴ They offer the University of Michigan’s 5-Dose First Year Program as an example of best practice: the program begins prior to classes with campus tours and facilitated dialogue with orientation leaders, it continues with online follow-up training within the first six weeks, followed by peer-led workshops in the first two months, bystander intervention workshops later in the fall semester, and ends with high-impact training for special student populations in the winter semester.⁴⁵

Prevention programs should not be limited to current post-secondary students; in creating safe campus spaces, it is important that we consider the education of the students entering post-secondary education. Educating children about these issues in elementary and high school equips them to have healthy relationships and reject negative constructions of masculinity and femininity, as they become adults. There have been great improvements made to Ontario’s Health and Physical Education Curriculum with the addition of content about consent and sexuality that will have a positive impact on the futures of the children taking these courses.⁴⁶ As with all subjects though, there is always opportunity to expand learning in a variety of creative ways. Organizations like White Ribbon do sexual violence prevention outreach programs with high school and elementary school students to help start conversations about gendered violence at age appropriate levels.⁴⁷ Organizations like White Ribbon and the work that they do with young people is crucial to changing the way our society views sexual violence and those who have experienced it.

It is important that, regardless of what program is used to prevent sexual violence, the education and training must actually achieve the primary goal of preventing sexual violence. Studies generally have not assessed sexual assault rates after prevention training.⁴⁸ It is critical that publicly supported programs be evidence-based to ensure the effectiveness of the education. Such programs must also be survivor-centric, focusing on the needs of the survivor and their experiences. Overall, the goals of sexual violence education and training programs should be to reduce the rates of sexual violence, reduce stigma regarding experiences of sexual violence, end rape culture on university campuses, and improve awareness of support resources, as well as increased and better bystander behaviour.

STAFF AND FACULTY TRAINING

Principle: All staff, student staff, and faculty at universities should be equipped to respond to sexual violence in an effective and survivor-centric manner.

Principle: Sexual violence prevention training should be tailored to the unique needs and responsibilities of the various roles in a university community.

Concern: Bar environments tend to be high-risk areas for sexual violence and bar staff tend not to receive extensive training on how to respond to instances of sexual violence.

Concern: Not all staff and faculty at universities receive education and training in responding to and preventing sexual violence specific to their professions.

Concern: Emphasis on universal training programs may be too broad for employees working in situations associated with higher incidence of sexual violence.

⁴⁴ Education Advisory Board, “Crafting University Responses to Sexual Violence: Policies, Practices, and Supports” (presentation, Taking Action: Sexual Violence on Campus, York University, Toronto, ON, February 20, 2015) 18-19.

⁴⁵ Ibid, 20.

⁴⁶ “Sex Education in Ontario” Government of Ontario, last modified September 7, 2016, <https://www.ontario.ca/page/sex-education-ontario>.

⁴⁷ “What We Do” White Ribbon, accessed October 20, 2016, <http://www.whiteribbon.ca/what-we-do/>.

⁴⁸ Senn et al., “Efficacy of a Sexual Assault Resistance Program,” 2327.

Recommendation: The Provincial Government should mandate that the Smart Serve certification be expanded to include bar-specific, sexual violence prevention training.

Recommendation: The Provincial Government should mandate that on-campus bars expand their training to include mandatory in-person bystander intervention training.

Recommendation: The *Occupational Health and Safety Act* should be updated to ensure that all staff and faculty with student-facing roles must be trained in how to respond to disclosures and/or prevention of sexual violence.

Recommendation: Campus security at post-secondary institutions must be trained in survivor-centric response to disclosures and the prevention of sexual violence to create safer, more supporting reporting structures.

Recommendation: Campus security and local police should be trained in referrals to different forms of support.

It is not enough to take principled stances against sexual violence in policy: all members of a campus community must play active roles in preventing sexual violence. Training and education to prevent sexual violence should not just be limited to students, but should rather be extended to include staff and faculty at post-secondary institutions. Staff and faculty should be role-models and leaders on university campuses, actively condemning sexual violence and being part of the movement to end it. This training should be targeted towards positions that interact the most with students, like professors and teaching assistants for example.

Campus security should also be addressed in this training as students who have experienced sexual violence may reach out to campus security as the first form of response in cases where they wish to pursue a criminal investigation. There are significant barriers to those who choose to report, especially among marginalized groups. For example racialized women are hesitant to report due to fear of not being believed, racism, and a history of negative experiences with security.⁴⁹ As a result, OUSA believes that it is essential that campus security training include survivor-centric approaches to receiving disclosures.

Coming forward about an experience of sexual violence can be terrifying. This is made even worse in situations where the person hearing the disclosure does not respond in a productive manner. Many survivors experience embarrassment and shame, as our society teaches people that those who experience sexual violence are to blame for what has happened to them.⁵⁰ As a result, they do not report incidences of sexual violence because they fear the recipient will not believe them, think their experiences are invalid, fear the respondent, do not have a support system, or because they have had previous bad experiences.⁵¹ This creates a pattern of re-traumatization in which survivors' feelings of guilt and shame are perpetuated. With so many barriers to disclosing and reporting crimes of sexual violence, it is so important that all students have safe spaces to disclose their experiences without fear.

Training in preventing and responding to incidences of sexual violence needs to be geared to the role a person plays in the university community. Information needed by one staff member, may not be the same for another staff member working in a different department. As sexual violence is a complex and nuanced issue, training programs aim to provide tools for trainees rather than be all encompassing courses. Training programs should not encourage trainees to consider themselves experts upon completion of the program.⁵² Training should give staff

⁴⁹ Victoria Catherine Olive. "Sexual assault against women of color." *Journal of Student Research* 1, no. 1 (2012): 1-9.

⁵⁰ Criminal Justice Division, *Best Practices For Investigating and Prosecuting Sexual Assault* (Edmonton: Government of Alberta, 2013), 113-116.

⁵¹ Melissa Lindsay, *A Survey of Survivors of Sexual Violence in Three Canadian Cities* (Ottawa: Her Majesty the Queen in Right of Canada, Minister of Justice and Attorney General of Canada, 2014).

⁵² Barb Lotan (Sexual Violence Response and Prevention Coordinator, Queen's University) and Ann Tierney (Dean of Student Affairs, Queen's University) in discussion with author, October 6, 2016.

and faculty the tools to effectively address sexual violence in tangible ways that make the most sense for their position.

Campus-wide staff and faculty training focused on receiving disclosures should be first priority.⁵³ This could be accomplished through a simple amendment to the *Occupational Health and Safety Act* or adding a regulation to this act requiring this type of training for all university employees. Of course, this training would need to be facilitated by experts: either delivered through existing programs, proven to work or a new program, similar in effect and administration to the Workplace Hazardous Materials Information System (WHMIS), developed by the aforementioned Sexual Violence Prevention Unit.

In addition to broad-based training on receiving disclosures, position-specific training must be delivered to employees working in high-risk situations. This is why OUSA is asking that bar-specific sexual violence prevention training be included in Smart Serve certification programs. Research shows that alcohol increases the likelihood of sexual assault perpetration in men who are already predisposed to committing sexual violence.⁵⁴ It is important that bar staff have the tools to intervene in such high-risk situations and be empowered to intervene if they witness predatory behaviour. The implementation of online sexual violence prevention training in Smart Serve certification programs is effective as a tool to mandate a minimum level of training at all bars, specifically those located off-campus.

As campus bars are exceptionally high-risk areas that significantly impact student life, OUSA believes that campus bar staff require more attention in the training they receive. The fact that Smart Serve certification can be received online and (if our recommendation is adopted) could contain educational information about preventing sexual violence should not deter campus bars and pubs from offering in-person bystander intervention training. Face-to-face trainings offer the best opportunity to approach sensitive topics and practice the skills learned.⁵⁵ They also have higher completion rates than online trainings.⁵⁶ While blended learning models take advantage of the benefits of both approaches to training, it may not be feasible to re-envision and re-structure a program delivered on the same scale as Smart Serve in this way. Blended learning models implement in-person interactions that are complementary in nature and develop in online modules. In this sense, the online and face-to-face aspects of blended learning are meant to complement each other and should not be completed independently of the other.⁵⁷ For this reason, we recommend that the provincial government add unique face-to-face aspects to training for bar-staff in addition to our suggested amendments to the Smart Serve certification program.

All training programs—universal or position-specific—should always be based in the previously mentioned nine principles of prevention. In some cases—for example in the case of Smart Serve certification—this will require updates to both program content and delivery methods. It must also be acknowledged that one-time trainings are not enough; university employees must renew their training on a regular basis.

⁵³ Ibid.

⁵⁴ Antonia Abbey, "Alcohol's Role in Sexual Violence Perpetration: Theoretical Explanations, Existing Evidence, and Future Directions," *Drug and Alcohol Review* 30, no. 5 (2011): 481-489.

⁵⁵ Nicole A. Etherington and Linda L. Baker, *Gender-Based Violence Training Programs: Online, Face-to-Face and Blended Formats* (London: Centre for Research & Education on Violence Against Women & Children, 2016).

⁵⁶ Ibid.

⁵⁷ Faria Sana, Barbara Fenesi, and Joseph A. Kim. "A case study of the introductory psychology blended learning model at McMaster University." *The Canadian Journal for the Scholarship of Teaching and Learning* 2, no. 1 (2011): 6

PREVENTION THROUGH ENVIRONMENTAL DESIGN

Principle: Universities are responsible for ensuring all students feel safe and welcome on their university campuses.

Principle: Campus infrastructure should be designed with a focus on student safety with regard to sexual violence prevention.

Concern: Current campus infrastructure does not support a safe environment for students that is conducive to the prevention of sexual violence.

Concern: Deferred maintenance on university campuses puts students at risk of sexual assault or violence.

Recommendation: The Council of Ontario Universities should develop a set of mandatory, minimum safety standards for sexual violence prevention at all university campuses.

Recommendation: The provincial government should mandate all universities to perform regular campus safety audits to identify safety concerns and ensure that the mandatory safety standards are being met.

Recommendation: The provincial government should make capital project funds available to universities to allow them to enable, implement, and maintain safer campuses for students.

A recent survey of students at Wilfrid Laurier University found that women were less likely to access certain physical spaces like libraries, parking lots and student centres after dark.⁵⁸ While many Laurier students reported feeling less safe at night on campus and in the community, this effect was stronger for women students.⁵⁹ There is no place for violence, or the threat of violence, in an academic environment.

While the threat of sexual violence may be a greater concern to women, all students deserve to feel safe and secure regardless of their social identities. Sexual minority students consistently felt less safe than their heterosexual peers at night.⁶⁰ OUSA's own survey of its membership confirmed that men were statistically more likely to report feeling safe in the neighbourhood they lived in at all hours of the day and night than women students or students of other genders.⁶¹ Similarly, students without disabilities were statistically more likely to report feeling safer than their peers with disabilities.⁶² These feelings limited these students' mobility in and around campus, presumably also limiting their access to education and services, as well as the quality of their experience.⁶³

Relying on surveys and studies that gauge students' perceptions of campus safety should be enough evidence to demonstrate the need for improvements to campus infrastructure, safety, and accessibility. Part of the premise here is recognizing that certain groups disproportionately experience sexual violence. Minimizing or claiming that this type of data is 'not enough', simply shows a lack of empathy by invalidating evidence that illustrates the lived experience of these groups.

Simple improvements to current campus infrastructure then—like lighting, fencing, improved surveillance and accessibility—could make great progress towards positive change to students' perceptions of safety on campus. Improved infrastructure, such as formal surveillance or the perception of surveillance, can reduce the likelihood of

⁵⁸ Harrison and Lafreniere, *Ending Gendered Violence*, 37.

⁵⁹ *Ibid*, 38.

⁶⁰ *Ibid*, 41.

⁶¹ Unpublished survey results from the 2015 Ontario Postsecondary Student Survey, conducted by the Ontario Undergraduate Student Alliance, administered by CCI Research Inc., November 2015.

⁶² *Ibid*.

⁶³ Harrison and Lafreniere, *Ending Gendered Violence*, 37.

sexual violence.⁶⁴ In contrast, lack of surveillance and desolation contribute to the creation of “dead spaces,” which in turn create barriers to students’ mobility.⁶⁵ Systematic approaches to safety monitoring and evaluation help “ensure that policies, protocols, and practices are up-to-date and responsive to evolving campus needs.”⁶⁶ Regular safety audits allow institutions to proactively identify and mitigate risks in the physical campus environment by assessing the adequacy of lighting, sight lines, and accessibility for students with disabilities.⁶⁷ Monitoring physical campus safety can help determine where capital funding for infrastructure projects should be directed. The University of British Columbia (UBC) presents a good example for how safety monitoring and evaluation can inform infrastructural investment. Following their safety working group’s recommendations, in response to a series of sexual assaults in 2013, UBC invested in lighting and landscaping enhancements, its student association’s Safewalk program, and the exploration of the feasibility and effectiveness of CCTV options in their campus environment.⁶⁸ The provincial government should provide special purpose capital project funds to enable Ontario’s universities to execute similar improvements.

The Council of Ontario Universities should also create a set of minimum safety standards for their members to measure themselves against. Such a set of standards would prioritize the maintenance of lighting on paths across campus and neighbouring areas, security cameras, emergency reporting poles, snow removal, and alternate accessible routes, while informing the context of safety audits and safety monitoring.⁶⁹

It is important to recognize that the safety of physical space is only one aspect of preventing and responding to sexual violence overall. Incidents of sexual violence are most likely to occur in private spaces and homes; places where the physical safety of campus has little influence. On top of this, research suggests that those who commit sexual violence are likely to do so more than once.⁷⁰ This stresses the need to address underlying causes of sexual violence: gender inequality, problematic constructions of masculinity, and power and patriarchy.⁷¹

⁶⁴ Cozens, Paul Michael, Greg Saville, and David Hillier. "Crime prevention through environmental design (CPTED): a review and modern bibliography." *Property management* 23, no. 5 (2005): 328-356.

⁶⁵ Ibid.

⁶⁶ Ontario Women’s Directorate, *Developing a Response to Sexual Violence*, 22.

⁶⁷ Ibid.

⁶⁸ “Media Release: Vancouver campus safety enhanced,” *University of British Columbia*, August 13, 2014, <http://news.ubc.ca/2014/08/13/vancouver-campus-safety-enhanced-further-improvements-planned/>.

⁶⁹ Springtide Resources, *Violence and Accessibility: Increasing Safety for Women with Disabilities On Campus*, ed. Alison Kooistra (Toronto: Springtide Resources Inc., 2014).

⁷⁰ David Lisak and Paul M. Miller, “Repeat Rape and Multiple Offending Among Undetected Rapists,” *Violence and Victims* 17, no. 1 (2002).

⁷¹ Lori Haskell, *Key Best Practices for Effective Sexual Violence Public Education Campaigns: A Summary* (Toronto: Queen’s Printer for Ontario, 2011). Todd Minerson, Humberto Carolo, Tuval Dinner, and Clay Jones, *Issue Brief: Engaging Men and Boys to Reduce and Prevent Gender-Based Violence* (Ottawa: Status of Women Canada, 2011).

LEGISLATIVE & REGULATORY COMPLIANCE

Principle: The desire to protect all students and support all people who have experienced sexual violence should be at the centre of university sexual violence policy development processes.

Principle: The provincial government should lead universities through their sexual violence policy and protocol implementation and compliance.

Concern: In attempts to be compliant with new laws, some university sexual violence policies leave out aspects that are important to students and survivors.

Concern: It is currently unclear where students can go to contest their institutions' implementation and adherence to new sexual violence policies and protocols.

Recommendation: Ontario Regulation 131/16 should be amended to include all essential aspects of survivor-centric sexual violence policies, as identified in existing literature.

Recommendation: The province should make clear which government agency is responsible for ensuring regulatory compliance when it comes to enforcing section 17 of the *Ministry of Training, Colleges, and Universities Act* and its associated regulation.

Several researchers have taken the time to study older policies that apply to sexual violence in a Canadian context as well as current policies and associated challenges in an American context.⁷² These reports offer comprehensive lists of beneficial components to include in college and university sexual violence policies. Using these reports as a source for best practices, OUSA Research and Policy Analysts surveyed OUSA's eight members' sexual violence policies and protocols for the inclusion of the following essential items:

1. Inclusion of comprehensive definitions of sexual assault and sexual violence;
2. Recognition and reconciliation of conflicts of interest;
3. Stipulations for maintaining privacy and confidentiality;
4. Explanations of complainants' rights;
5. Outline of potential interim measures;
6. Stipulations for sexual violence-specific training for investigators;
7. Explanation of complainants' and respondents' rights to representation, support persons, or advocates;
8. Statement that complainants' lesser violations of school policies will be excused (e.g. alcohol policies);
9. Statement that complainants' sexual history will be excluded from investigations and hearings;
10. Commitment to resolve complaints in a timely fashion;
11. Inclusion of expectations surrounding the burden of proof;
12. Explanation of rules governing adjudicative processes and hearings;
13. Inclusions of examples of potential sanctions against respondents; and a
14. Statement of complaint and respondents' rights to appeal adjudicative decisions.

The survey revealed that most policies are leaving out important components identified in these sources. Table 1 below lays out the results.

⁷² Gunraj, *Sexual Assault Policies on Campus*. Sheehy and Gilbert, *Responding to Sexual Assault on Campus*.

Table 1: Results of OUSA survey of all member institutions' (eight) sexual violence policies and protocols.⁷³

	Included in Policy	Included in Protocol	Institutions Represented
Appeals	3	1	4
Burden of Proof	1	2	3
Complainants Rights	5	4	8
Conflicts of Interest	1	1	2
Definition of Sexual Violence	6	2	8
Interim Measures	3	2	5
Privacy & Confidentiality	5	3	7
Representation	2	2	4
Rules for hearings and proceedings	2	0	2
Exclusion of lesser violations	0	0	0
Exclusion of Sexual History of Complainant	1	0	1
Sanctions	5	3	6
Timelines or Timeliness	5	1	5
Training	3	2	4

Every institution included definitions of sexual violence, as well as other related definitions, explanations of complainants' rights, and all but one institution included statements committing them selves to honouring students' rights to privacy and confidentiality (some in both their policy and protocol). While most institutions also indicated the premises for sanctions, the expectation that consequences for committing acts of sexual violence are equivalent to other serious non-academic offences is unacceptable. Few institutions lay out explicit examples of sanctions and those that do draw on existing codes of conduct (save Laurentian). Sexual violence is unlike ordinary non-academic infractions since, for people who have experienced sexual violence, the incident represents a symbolic and material experience of discrimination, and, for respondents, the accusation of sexual violence is more stigmatizing than other offences.⁷⁴ For these reasons, universities should anticipate considerable difficulty attempting to absorb sexually violent offences into existing disciplinary processes.

The continued inclusion of lesser offences and complainants' sexual history is perhaps most concerning. People who have experienced sexual violence are less likely to bring their concerns forward if they fear consequence for lesser policy violations that may have been committed during the incident or the inappropriate use of their sexual history to question their credibility.⁷⁵ These exclusions fail to help alleviate barriers to formally reporting sexual assault and harassment.

While the lack of appropriate sanctions, clarity on the use of sexual histories, or the potential for compounding offenses may be concerns that students and their advocates bring forward to university administrations, the desire to be strictly compliant with the new law is eclipsing students' concerns. The provincial government has laid out

⁷³ Brock University, *Brock University Sexual Assault Response Protocol* (St. Catherine's: Brock University, December 2014). Sexual Violence Response Coordinator, *Sexual Violence Response Protocol: Responding to Disclosures of Sexual, Intimate and Family Violence* (Hamilton: McMaster University, 2015). University Secretariat and Legal Counsel, *Sexual Violence Policy* (Kingston: Queen's University. Trent University, *Policy: Sexual Violence Prevention and Response* (Peterborough: Trent University, January, 2016). University of Waterloo, *Policy 42 Prevention and Response to Sexual Violence* (Waterloo: University of Waterloo, October 2016). Western University, *Manual of Administrative Policies and Procedures: 1.52 Policy on Sexual Violence* (London: Western University, September 2014). Western University, *Procedure for Policy 1.52 – Responding to Sexual Violence* (London: Western University, September 2014). Wilfrid Laurier University, *Gendered & Sexual Violence Policy* (Waterloo: Wilfrid Laurier University, August 2016).

⁷⁴ Sheehy and Gilbert, *Responding to Sexual Assault on Campus*, 20.

⁷⁵ Gunraj, *Sexual Assault Policies on Campus*, 11. Sheehy and Gilbert, *Responding to Sexual Assault on Campus*, 26.

what it expects institutions to include in their policies in Ontario Regulation 131/16, associated with section 17 of the *Ministry of Training, Colleges and Universities Act*, presumably as the bare minimum requirements.⁷⁶ Just six of the above items (numbers 3, 5, 7, 12, 13, and 14) are explicitly included in this regulation.⁷⁷ It is perhaps for this reason that some of our institutions struggle to incorporate survivor-centric and student proposed practices and stipulations into their policies. The province must embrace its role as steward through the process of developing standalone sexual violence policies and offering more leadership to post-secondary institutions. To start, Ontario Regulation 131/16 should be amended to expand the list of items that need to be included in these policies. In this way, the province can offer more comprehensive guidance, rooted in evidence and best practices, to those developing sexual violence policies at universities. The need for overarching guidance regarding sexual violence policy development and implementation is not new. Similar to the Ontario Premier's mandate letters to her Ministers, the United States Department of Education's Office for Civil Rights issues "Dear Colleague" letters to institutions offering guidance for interpreting statutes, like Title IX.

Although Ontario's universities are currently committed to adopting survivor-centric policies and procedures, there must be an external body for students to turn to in "worst-case scenarios." At this time, it is unclear which public-body is responsible for ensuring universities are complying with new legislation and regulations. Right now, there is no funding associated with compliance and typical disciplinary procedures can take months or years to complete. For example, universities are liable under Ontario human rights laws to ensure their policies do not perpetuate sex discrimination, so students can file procedural complaints with the Human Rights Tribunal. They might also turn to their universities' or the provincial ombudsman, however it is unlikely that they are familiar with these services. Research at Queen's University shows that just 12 percent of their undergraduate students are aware of the fact that they can contact their university's ombudsman for impartial and confidential advice on complaint, discipline, and appeal policies and procedures.⁷⁸ Provincially, the Ombudsman Office has only had jurisdiction over universities since January 1, 2016.⁷⁹

While viable recourse mechanisms, human rights tribunals and complaints to the university or provincial ombudsman require considerable self-advocacy on the part of survivors. On top of this, the province has yet to clearly signal to students which of these three bodies is the most appropriate. This problem could easily be resolved if the province made clear which government agency is responsible for ensuring compliance when it comes to enforcing section 17 of the *Ministry of Training, Colleges, and Universities Act* and its associated regulation. This body should be identified ahead of the January 1st, 2017 deadline for universities to adopt standalone sexual violence policies. This body could then determine when it would be appropriate to apply consequences for failing to meet this deadline. Potential consequences include: public acknowledgement of the institutions' failure to adopt a policy compliant with the new legislation, a monetary fine, or the requirement for strict government oversight during the development of a compliant policy.

⁷⁶ Standing Committee on Social Policy, *SP-38 Official Report of Debates (Hansard) Monday 29 February 2016* (Toronto: Legislative Assembly of Ontario, 2016).

⁷⁷ *OReg 131/16*.

⁷⁸ Shaibah, *Sexual Assault Prevention and Response*, 33.

⁷⁹ Ombudsman Ontario, "The Push for MUSH," Ombudsman Ontario, accessed October 20, 2016, <https://www.ombudsman.on.ca/about-us/who-we-oversee/mush-sector.aspx>.

PUBLIC & MINISTERIAL DATA

ACCURACY

Principle: Accurate and standardized reporting to public stakeholders should be considered a top priority.

Principle: Reporting of data should be survivor-centric, where the needs of the survivor are prioritized over data collection.

Principle: Sexual violence data collected and reports written by the Ministry should be centralized and easily accessible to the public.

Concern: Universities' concerns about their reputations and/or the misinterpretation of information could limit the dissemination of sexual violence data and statistics.

Recommendation: The Ministry of Advanced Education and Skills Development should collect *Sexual Violence Action Plan* report-backs and define the scope of the data collected including: disclosure, criminal and institutional reports, and track access rates to resources and services on campuses. The Ministry should publicly disseminate this information in the *Sexual Violence Action Plan* report-backs.

Recommendation: The Ministry of Advanced Education and Skills Development should also collect the following demographic data: year of study, faculty of program, age, gender-identification, sexual orientation — if they agree to disclose — and racialized people.

Recommendation: The Government should pass legislation requiring a neutral organization to collect and publicly report data and information regarding sexual violence in a centralized manner with other post-secondary data and information.

Inconsistencies and discrepancies in publicly available sexual violence statistics show the need for accurate and standardized collection of public and ministerial data about sexual violence on campuses—often in Ontario's post-secondary sector, this is referred to as public and/or ministerial reporting (depending on which party is receiving the data, statistics, and information). Surveys conducted in Canada and the United States estimate that about 15 to 25 percent of women in college and university are victims of sexual violence.⁸⁰ Another number reported by the community-based, not-for-profit organization the Metropolitan Action Committee on Violence Against Women and Children (METRAC), cites that four in five female undergraduate students at Canadian universities are victims of dating violence — including physical, sexual, and/or psychological assault by a partner.⁸¹ Out of those four in five, 29 percent report being sexually assaulted.⁸² In addition, University of Ottawa— led by the Task Force on Respect and Equality — developed a survey to “explore attitudes and behaviour among the University of Ottawa student population in relation to sexualized violence.”⁸³ The report found that 44 percent of women surveyed reported experiencing some form of sexual violence or “unwanted touching, hugging or kissing,” which the report says “qualifies as potential sexual assault under the criminal code of Canada.”⁸⁴ The large range in numbers, from these three reputable sources, illustrates the need to standardize reporting. Accurate data eliminates difficulty to accurately gauge the extent of how many people are affected by sexual violence and attitudes regarding sexual violence on campuses.

⁸⁰ Lauren F. Lichy, Rebecca Campbell, and Jayne Schuiteman, "Developing a university-wide institutional response to sexual assault and relationship violence." *Journal of Prevention & Intervention in the Community* 36, no. 1-2 (2008): 6.

⁸¹ Andrea Gunraj, *Sexual Assault Policies on Campus: A Discussion Paper*, (Toronto: METRAC, 2014): 5.

⁸² Ibid.

⁸³ Task Force on Respect and Equality, *Ending Sexual Violence at the University of Ottawa* (Ottawa: University of Ottawa, 2015): 8.

⁸⁴ Ibid, 12.

There is very little consistency in how Canadian post-secondary institutions collect and report sexual violence data.⁸⁵ Ryerson, who reported 57 cases of sexual assault between 2009 and 2013, provided CBC News with a statement that illustrates the extent of the problem:

“[At Ryerson] we also collect data that includes non-community members reporting incidents that have happened within our precinct, which extends over a large area of downtown Toronto. In light of these inconsistencies in data collection and reporting across Ontario, universities are working together to develop common definition and data. We believe it’s important to have clear, consistent, comparable information to better address this very important issue.”⁸⁶

The inconsistency of how Canadian university institutions collect and report sexual violence data, and define the scope of their policies is illustrated in universities’ drafting and implementation of their standalone sexual violence policies. For instance, Ryerson clearly states that the policy scope “applies to all members of the Ryerson community” and does not limit its scope to sexual violence that occurs on campus or at university sanctioned events.⁸⁷ In contrast, the University of Waterloo’s draft *Policy 42, Prevention and Response to Sexual violence*, does limit the scope of their policy stating, “it applies while taking part in any activity on University Property or while not on University property but under the auspices of the University.”⁸⁸ These inconsistencies in defining the scope, will lead to inconsistencies in recordkeeping, which will in turn, make it difficult to accurately compare data and information regarding sexual violence between campuses across the province.

In addition, limiting the scope to only campus and institutional sanctioned events will discourage people who have experienced sexual violence in university communities from coming forward and reporting incidents of sexual assault, thus, contributing to the problem of underreporting (discussed in more detail below). This is why OUSA is asking the Ministry of Advanced Education and Skills Development to standardize and define the scope of the data and information institutions collect and send back to them. However, the Ministry should recognize that the information a survivor discloses in a formal investigation is enough, and that no additional information should be required. By defining the scope, the Ministry will ensure the number of people who have experienced sexual violence that disclose or report to their institutions is not inadvertently suppressed.

While we could never offer an exhaustive list, OUSA believes that the Ministry should not only require every university’s access rates to resources and services on campus dealing with sexual violence, but also monitor and track information about use, quality, and effectiveness. The need to monitor and track this data and information — in order to strive for more survivor-centric services, disclosure, and reporting procedures — is evident in uOttawa’s campus climate survey. The survey found that only six percent of students who experienced sexual harassment and nine percent of those who were sexually assaulted used any of the campus services they were asked about (for example, Student Academic Success Service, Health Services, the Human Rights Office, the Women’s Centre, or the Pride Centre).⁸⁹ Although around 60 to 75 percent of those who sought help said they were satisfied with the help they got, those who said they “were not adequately supported,” said “the unsatisfactory result was primarily because the person or service consulted was unable to bring action against the harasser or abuser, didn’t have the skills needed to provide effective assistance or told the student he or she was overreacting or exaggerating.”⁹⁰

⁸⁵ Task Force on Respect and Equality, *Ending Sexual Violence*, 12. Timothy Sawa and Lori Ward, “Sex assault reporting on Canadian campuses worryingly low, say experts,” *CBC NEWS*, February 6, 2015, <http://www.cbc.ca/news/canada/sex-assault-reporting-on-canadian-campuses-worryingly-low-say-experts-1.2948321>.

⁸⁶ Task Force on Respect and Equality, *Ending Sexual Violence*, 12. Sawa and Ward, “Sex assault reporting.”

⁸⁷ Ryerson University, *Sexual Violence Policy* (Toronto: Ryerson University, June 2015).

⁸⁸ University of Waterloo, *Policy 42 Prevention and Response to Sexual Violence* (Waterloo: University of Waterloo, May 2016).

⁸⁹ Task Force on Respect and Equality, *Ending Sexual Violence*, 15.

⁹⁰ *Ibid*, 16.

The Ministry should also collect demographic data that captures the age, year of study, faculty or program, gender-identification, race and/or ethnicity, and sexual orientation — if they agree to disclose — of students who experience sexual violence. Collecting this demographic data is important in identifying groups and identities, or an intersection of groups and identities that are more likely to experience sexual violence. For example, according to Stats Canada, “besides being targeted solely for being a woman, women can also be targeted because of their racial, or ethnic background, religion, sexual orientation or other characteristic”⁹¹.

The information reported back to the ministry should be publicly disseminated in a centralized manner. Therefore, OUSA is asking the government to pass legislation requiring a neutral organization to collect and publicly report data and information regarding sexual violence at post-secondary institutions in a centralized manner. Etobicoke Centre MPP Yvan Baker introduced a private member’s bill, the *Pathways to Postsecondary Excellence Act*, in the First Session of the 41st Parliament with this intent. MPP Baker intended to create legislation that would look to “support more informed choices regarding post-secondary options by centralizing data relevant to the decision making process in the areas of admission, student experience, and outcomes for recent graduates,” and would provide a centralized platform to publish relevant, institutionally-specific data regarding students’ experiences with sexual violence, support services, resources, and policies on campuses.⁹² These data and information reported back to the Ministry, and then publicly disseminated, are essential for keeping institutions accountable to their main stakeholders—the public and their students—in how they are progressing in dealing with sexual violence on campuses. This information is also a crucial tool that can be used by institutions, the government, and advocates to address factors that normalize behaviours of sexual violence.

UNDER-REPORTING

Principle: The anonymity and confidentiality of survivors should be prioritized at every stage by institutions and the government, including information released to the public.

Concern: The number of survivors who choose to disclose and/or formally report experiences of sexual violence to their institutions is low because of concerns around confidentiality, anonymity, trust, and stigmatization.

Recommendation: The Ministry of Advanced Education and Skills Development should more clearly communicate to students and survivors the intent and purpose of collecting data and information related to the incidence of sexual violence on university campuses.

Recommendation: The Ministry of Advanced Education and Skills Development should collect data on the number of survivors who formally report their experiences and the number who simply disclose it.

Beyond observed discrepancies in the numbers above, challenges with accuracy also reveal the extent to which incidents of sexual violence are underreported on university campuses. For example, although 44 percent of women reported experiencing some sort of sexual violence in the uOttawa survey, a CBC News investigative report found only 10 students reported being sexually assaulted at uOttawa between 2009 and 2013.⁹³ According to the United States Justice Department, one of the main reasons why a majority of people who have experienced sexual violence tend not to disclose or report these incidents to law enforcement, institutional officials, or on-campus support is because maintaining their confidentiality is of top concern. One in five individuals who have experienced sexual violence and did not disclose or report their experience cite concerns that their report will not be kept confidential.⁹⁴ More needs to be done to ensure students who have experienced sexual violence know the

⁹¹ StatsCan, *Measuring Violence Against Women*, 13

⁹² “Section 17 Sexual Violence,” *Ministry of Training, Colleges and Universities Act*.

⁹³ Sawa and Ward, “Sex assault reporting.”

⁹⁴ *Ibid.*

process, their options, and that their anonymity and confidentiality will be of primary concern in both institutional and ministerial reporting.⁹⁵ For lack of equivalent Canadian data, the potential for barriers is made evident by a U.S. Bureau of Justice Statistics campus survey of over 23,000 students. The survey found: “Consistent with other studies, and Clery Act reports, very few sexual assaults were reported to any official — just 4 percent of rapes were reported to law enforcement and a mere 7 percent were reported to any school official.”⁹⁶

People who have experienced sexual violence must be reassured that their experiences will not simply become statistics. Their trauma must be respected and their disclosure should be theirs alone. The Ministry needs to more clearly convey their intentions behind collecting data and information related to experiences of sexual violence and support services on university campuses as well as how this will be accomplished. In this messaging, they should also reiterate the laws surrounding privacy and confidentiality in relation to public reporting. Under section 17 of the *Ministry of Training, Colleges and Universities Act*, the Ministry should collect data on the number of survivors who choose to disclose versus the number who chose to make formal criminal or institutional reports. Keeping track of which route students choose to pursue allows the Ministry, in conjunction with an examination of the climate survey, to observe any trends that might indicate physical, cultural, or social barriers at institutional and criminal justice levels.

CLIMATE SURVEY

Principle: University communities should have the information and tools to identify factors that normalize behaviours of sexual violence on campuses.

Concern: There is no qualitative or quantitative data available to accurately gauge the climate of attitudes and behaviours related to sexual assault and harassment in Ontario’s university communities or to frame public policy decisions.

Recommendation: In the provincial climate survey, the ministry should address: how many students have experienced sexual violence on- or off-campus; their knowledge of provincial law, services, and sexual violence prevention education available to them; perceptions of campus safety and responses to sexual assault; and their confidence in student and institutional leadership for addressing sexual violence.

Recommendation: Our proposed Sexual Violence Prevention Unit should interpret climate survey findings and make policy recommendations to the Ministry of Advanced Education and Skills Development that work towards fulfilling the *Sexual Violence Action Plan*.

The sector-wide climate survey required by the *Ministry of Training, Colleges and Universities Act* provides the government with an opportunity to collect accurate and standardized data about student experiences with institutional responses to sexual violence. Data collected in the climate survey provides the Ministry with a consistent and central dataset upon which they can base public reports and policy decisions. In the standardized provincial climate survey, the Ministry should address the following:

- Number of students that experience incidents of sexual violence,
- Perceptions of campus safety and responses to sexual assault,
- Trust in provincial law and institutional policy dealing with sexual violence,
- Knowledge of supportive resources available,
- Extent and quality of sexual violence prevention education and training, and

⁹⁵ Sawa and Ward, “Sex assault reporting.” Christopher Krebs, Christine Lindquist, Marcus Berzofsky, Bonnie Shook-Sa, and Kimberly Peterson, *Campus Climate Survey Validation Study: Final Technical Report* (Washington, DC: Bureau of Justice Statistics, 2016).

⁹⁶ Krebs et al., *Campus Climate Survey Validation*.

- Attitudes about being helpful bystanders.

These recommendations are inspired by Barack Obama’s Not Alone initiative — looking to raise the issue of sexual violence on campus and find policy solutions. After Obama established the White House Task Force to Protect Students From Sexual Assault, the federal Justice Department in partnership, with Rutgers University’s Research Institute on Violence Against Women, piloted and evaluated the climate survey already cited above.⁹⁷ This climate survey highlighted best practices when determining what to incorporate into a survey of this nature, noting the importance of a “standardized approach.” Such an approach allows researchers “to learn more about why estimates vary across schools and how estimates relate to student demographics, student activities, school policy and procedures, and other factors,” and “how estimates change over time and the factors potentially associated with change.”⁹⁸

In addition, the document stresses the importance of an “incident-based approach” where it asks respondents to separate their experiences of sexual violence into different occurrences and categories, and answer behaviourally specific questions, in order to identify gaps in education and preventative programs. An incident-based approach can be placed in opposition to more broad, non-specific lines of questioning. “The incident-based approach allows for the identification of the characteristics and outcomes of specific incidents to be dated and placed within the reference period and allows for the identification of the characteristics and outcomes of specific types of incidents.”⁹⁹ If constructed this way the climate survey can provide the information the province and institutions need to evaluate and alter their efforts to ensure students have the necessary services at their disposal, and are receiving accurate, useful information “while at the same time not creating policies that place barriers to survivors.”¹⁰⁰

It is also critical that we consider who is committing the act of sexual violence. More often than not, survivors are victimized by someone they know. More specifically, 17 percent of sexual assaults are committed by an intimate partner. The climate survey must not leave intimate partner violence out as this is an important aspect of ending gendered violence; it is impossible to have a conversation about sexual violence while not considering its impact.¹⁰¹

Finally, our proposed Sexual Violence Prevention Unit should collect, interpret, and make recommendations based on the results of the climate survey. The Postsecondary Accountability Branch is currently barring the bulk to the work associated with the climate survey and is already at their maximum capacity. It is essential that a permanent team of experts be assembled to manage the administration, and maintain the integrity, of the climate survey going forward.

⁹⁷ White House Task Force to Protect Students From Sexual Assault, *Not Alone: The First Report of the White House Task Force to Protect Students From Sexual Assault* (Washington, DC: United States Government, 2014).

⁹⁸ Krebs et al., *Campus Climate Survey Validation*, 8.

⁹⁹ *Ibid*, 4

¹⁰⁰ Sarah McMahon, Kate Stepleton, Julia Cusano, and Julia O’Connor, *Understanding and Responding to Campus Sexual Assault: A Guide to Climate Assessment for Colleges and Universities* (New Brunswick: Rutgers, the State University of New Jersey, 2014).

¹⁰¹ Ontario Women’s Directorate, “Statistics: Sexual Violence,” Women.gov.on.ca, last modified March 4, 2015, http://www.women.gov.on.ca/owd/english/ending-violence/sexual_violence.shtml.

DISCLOSURE & REPORTING

Principle: The choice to pursue a criminal investigation should wholly be that of the survivor.

Principle: Perceived imbalances of power within university communities should not act as a barrier to an individual's path to healing.

Principle: Survivors have the choice on whether they would like to disclose or formally report their experience, but should understand from the outset the processes and outcomes of each action.

Principle: Survivors must remain at the centre of the response that universities make in regards to allegations of sexual violence, considering their needs and choices first, and believing the survivor up to the point of taking disciplinary action against the respondent.

Concern: Traditionally enacted hierarchies, that give institutions power over their students, can make it difficult for survivors to feel comfortable disclosing and/or reporting their experiences.

Concern: The boundaries of institutional confidentiality policies foster a negative environment for disclosures or formal reports of sexual violence, which can prohibit the healing process for survivors.

Concern: In their lawful or contractual responsibilities and duties to report, universities sometimes decide for survivors whether or not to press charges against a respondent.

Recommendation: Our proposed Sexual Violence Prevention Unit should investigate and eliminate barriers to disclosure and reporting.

Recommendation: The provincial government should mandate that survivors must be notified in advance of universities' duties to report to the police and obligations of collective agreements.

Recommendation: The provincial government should take measures to eliminate contractual agreements between campus and regional police services that take away a survivor's agency and forces them to pursue a criminal investigation.

It has been well established that reporting rates of sexual violence are extremely low, far lower than other crimes. Statistics Canada has reported that fewer than 10 percent of incidences of sexual violence are ever reported, while others estimate even lower.¹⁰² There are many reasons why an individual may choose to not report an experience of sexual violence. People are often assaulted by someone that they know, which may lead them to not want to cause problems for that person.¹⁰³ People who have experienced sexual violence also experience a lot of guilt, shame, and embarrassment over what has happened to them.¹⁰⁴ Those who respond to a report or disclosure with negativity only make these feelings worse; those who do disclose or report incidences of sexual violence often face reactions of victim blaming and disbelief.¹⁰⁵ Once a crime of sexual violence has been reported, there is still a very low likelihood of a respondent being convicted. According to a report by Statistics Canada, less than one percent of

¹⁰² Statistics Canada, "Trends in sexual offences," Statistics Canada, last modified February 12, 2013, <http://www.statcan.gc.ca/pub/85f0033m/2008019/findings-resultats/trends-tendances-eng.htm>.

¹⁰³ Canadian Centre for Justice Statistics, *Measuring violence against women*.

¹⁰⁴ Kitchener-Waterloo Sexual Assault Support Centre, *If Someone You Love is Sexually Assaulted* (Kitchener: Kitchener-Waterloo Sexual Assault Support Centre, n.d.).

¹⁰⁵ *Canadian Women's Foundation Blog*; "Stop the victim-blaming," blog entry by Anuradha Dugal, September 5, 2013, <http://www.canadianwomen.org/blog/stop-victim-blaming>.

sexual assaults result in a conviction.¹⁰⁶ Individuals who wish to pursue criminal charges may also face disbelief from law enforcement, having to repeat their story over and over, as well as painful cross-examination. All of these things create barriers to reporting or disclosing experiences of sexual violence.

Another example of a barrier to reporting is policies and procedures around false allegations of sexual violence. Contracts between campus and regional police may have policies and procedures around vexatious claims that take away survivors' agency in choosing which disclosure or reporting pathway to pursue. This is the case at the University of Waterloo where Campus Police and Waterloo Regional Police have an agreement stating that allegations of sexual violence that are believed to be vexatious must be sent to the Waterloo Regional Police.¹⁰⁷ Policies like this feed into a culture of doubting and stigmatizing those who report incidences of sexual violence, leaving them without support and removing their autonomy. The reality is that about two to eight percent of reports are false, which is found to be the same or similar for other types of crimes.¹⁰⁸ If students are not informed of policies regarding vexatious claims this, and other barriers, may re-victimize them. All barriers to disclosure and healing should be removed such that survivors may share their stories however, wherever, and whenever they choose.

Not only must people who have experienced sexual violence know that they can safely report an incident of sexual violence, but they must also be able to disclose an incident without experiencing pressure to formally report. The decision to report an incident of sexual violence should solely be that of the survivor. It is also critical that university administration assure students of their options to disclose or report as well as the implications of either decision. When they first disclose to a member of the university staff or faculty students should be informed about the process going forward if they choose to formally report. This helps them to make an informed decision about the path to healing that is best for them.

When reports are made, survivors should be informed of the progress of their investigation throughout the process. Regardless of the result, all parties involved should receive a formal written notification of the outcome. As a guide for best practices for all institutions, the provincial government should task the proposed Sexual Violence Prevention Unit with developing guidelines for **centralized response teams** at universities. The Education Advisory Board reports that there are few well-trained staff and volunteers and scarce resources to coordinate responses to reports of sexual violence.¹⁰⁹ The most significant barrier to seeking help by reporting an incident is, potentially, the lack of knowledge of how to make a report; as one among many survey participants at Wilfrid Laurier University expressed, "I am not sure where I would go for help."¹¹⁰ Similarly, a survey at McMaster University found 78 percent of first year participants said they would not know where to go for help if a friend disclosed a sexually violent experience.¹¹¹

Granting survivors greater control over their disclosures and reports will assist with breaking down any sense of paternal authority universities may hold (intentionally or not) over their students. Creating a primary point of contact for survivors and respondents—of course, keeping the points of contact separate for each case—would provide a centralized resource for students looking for information regarding reporting avenues and procedures. In this way, this resource helps to eliminate barriers to reporting. The aforementioned Sexual Violence Prevention

¹⁰⁶ Craig Desson, "What happens when someone is sexually assaulted? Statistics Canada says few convictions," *Toronto Star*, December 5, 2014, https://www.thestar.com/news/canada/2014/12/05/conviction_rate_for_sexual_assault_very_very_low_researcher.html.

¹⁰⁷ Dave Gerencser (Director of Police Services, University of Waterloo) in communication with Chris Lolas (President, Federation of Students), October 13, 2016.

¹⁰⁸ Kimberly A. Lonsway, Joanne Archambault, and David Lisak, "False Reports: Moving Beyond the Issue to Successfully Investigate and Prosecute Non-Stranger Sexual Assault," *The Voice* 3, no. 1 (2009).

¹⁰⁹ Education Advisory Board, "Crafting University Responses to Sexual Violence," 8.

¹¹⁰ Harrison and Lafreniere, *Ending Gendered Violence*, 88.

¹¹¹ Unpublished results from the *Welcome Week 2016 Orientation Student Feedback Survey* administered by the McMaster Welcome Week Advisory Committee.

Unit should work to identify and eliminate all barriers to resolving complaints of sexual violence at universities—investigating the potential of centralized response teams is only a first step.

SUPPORTS & SERVICES

Principle: Survivors should be encouraged to pursue any and all avenues of support that they choose.

Principle: Universities must be equipped to provide support to survivors who have experienced sexual violence both on- and off-campus.

Concern: Survivors are not always made aware of all avenues of healing available to them.

Concern: When survivors choose to pursue multiple forms of healing, the support services they desire are not easily accessible.

Recommendation: The provincial government should mandate that universities include external supports and service referrals in their policy.

Recommendation: The provincial government should provide funding to ensure that there are substantial and intersectional supports (including religious, spiritual, and cultural) available to survivors on or around university campuses.

Recommendation: Our proposed Sexual Violence Prevention Unit should investigate and eliminate barriers to individual paths to healing.

Recommendation: The provincial government should mandate that centralized response teams are implemented and empowered to advocate on behalf of survivors on university campuses.

As it has been well established that the criminal justice system may not be the best path to healing for all people who have experienced sexual violence, we must ensure that we support alternative paths to healing. Often, people who have experienced sexual violence will choose forms of healing including but not limited to religious, spiritual, cultural, alternative language, or professional support. This is specifically true of Indigenous women, who often experience violence more severely in comparison to non-Indigenous women. Indigenous women and women with disabilities are at higher risk of being sexually assaulted and they should receive particular attention in the design of support systems.¹¹²

The Obama Task Force has advised universities and colleges to develop clear and accessible online information.¹¹³ On a similar note, the Education Advisory Board has also recommended that information regarding reporting and education should be placed online in a clear way so that students, faculty, and staff are able to choose to learn at home and make informed decisions.¹¹⁴ While online availability is important, it is not the only avenue for universities to ensure that they are providing transparent and accessible supports and services. The process of learning about reporting procedures and implementing interim measures should not place further burdens on students. After the incident, a person who has experienced sexual violence may not be in a position, and should not be placed in a position, where they need to vigorously assert their rights or bear responsibility to avoid the respondent.¹¹⁵ Prior to reporting, there are many questions that prevent students who have experienced sexual violence from proceeding such as details of the process, estimated timelines, information about their rights as a

¹¹² Ontario Women's Directorate, *Developing a Response to Sexual Violence*, 7. Minerson, Carolo, Dinner, and Jones, *Issue Brief*, 12.

¹¹³ Sheehy and Gilbert, *Responding to Sexual Assault on Campus*, 14.

¹¹⁴ Education Advisory Board, "Crafting University Responses to Sexual Violence," 13.

¹¹⁵ Sheehy and Gilbert, *Responding to Sexual Assault on Campus*, 15.

complainant or as a respondent, potential interim measures and potential consequences for respondents. The answers to all of these questions should be made clear and accessible prior to students making the decision to report.¹¹⁶

In addition to providing resources and referrals, the centralized response team should play an integral role in advocating for the needs of the survivor and assisting in the navigation of resolution processes. The Sexual Violence Support Advocate at Wilfrid Laurier University provides advocacy services for survivors and represents their needs to the university and the respondent upon request.¹¹⁷ Examples of services that are challenging to navigate include access to: health services, legal services, social services, community agencies, criminal reporting services, and academic and residential accommodations.¹¹⁸ This list is not meant to be exhaustive and OUSA recognizes that the needs of survivors vary from case to case and, as such, should be addressed on an individual basis. Due to the demand for advocate services, OUSA believes that there is a need for a team of advocates on each university campus in order to ensure that the needs of survivors are met in a timely manner.

Restorative justice is another path that people who have experienced sexual violence may wish to explore. These programs seek to rehabilitate the respondent and heal the survivor through reconciliation. To work effectively, this type of justice must be survivor focused and led. Participants must be committed to reconciliation and must be willing to put effort into the process. There may be concerns about power imbalances in the relationship between a respondent and survivor that must be addressed during restorative justice processes. Overall though, these programs are proving to be effective alternatives to the criminal justice system for those affected by sexual violence.¹¹⁹

Universities should also consider ways that they can work with local community services to support people who have experienced sexual violence on their campuses. Wilfrid Laurier University has developed a partnership with the Sexual Assault Support Centre of Waterloo Region and the Sexual Assault Centre of Brant. This program involves having sexual violence counsellors on Laurier's campuses two days a week as well as public education workshops, all provided by these community sexual violence centres.¹²⁰ This is an excellent way to bring resources to students and bring awareness to such community services. It is also a great example of an institution using existing expert resources available in the community. Other universities should work to foster similar relationships with sexual violence centres in their regions.

Regardless of the form of resolution that student survivors choose, they should be encouraged and empowered to pursue any and all avenues of support— including religious, spiritual, and cultural supports. However, many university campuses are not equipped with these various forms of support. Therefore, the provincial government should provide funding to ensure that there are meaningful support centres for survivors to access on or around university campuses. Furthermore, these supports should receive mandatory sexual violence response training that is specific to their identified area of intersectional support.

¹¹⁶ Sheehy and Gilbert, *Responding to Sexual Assault on Campus*, 15.

¹¹⁷ Wilfrid Laurier University, "Laurier's sexual violence support advocate a connection for survivors," Wlu.ca, accessed November 5, 2016, <https://www.wlu.ca/spotlights/summer-2016/lauriers-sexual-violence-support-advocate-a-connection-for-survivors.html>.

¹¹⁸ Guelph-Wellington Women in Crisis, "Sexual Assault Centres," G-W Women in Crisis, accessed November 5, 2016, <http://www.gwwomenincrisis.org/get-help/sac/>.

¹¹⁹ Nadia Marie Wager, "A Scoping Review Considering the Applicability of Restorative Justice to Cases of Sexual Assault," (conference paper, International Psychological Applications Conference and Trends, Madrid, Spain, April 26-28, 2013).

¹²⁰ Wilfrid Laurier University, "Laurier formalizes partnerships with sexual assault centres to enhance support on its campuses," *Wilfrid Laurier University*, September 8, 2016, <https://wlu.ca/media/news-releases/september-2016/laurier-formalizes-partnerships-with-sexual-assault-centres-to-enhance-support-on-its-campuses.html>.

RESOLUTION

Principle: Investigations into incidents of sexual violence should be prompt, thorough, impartial, and at the discretion of the survivor.

Concern: Pursuing a criminal case against the respondent can often re-traumatize survivors.

Concern: Investigations into sexual violence at universities can be lengthy, disorganized, and are not always survivor-centric.

Concern: Universities are required by law to develop policies for procedural fairness in investigations and decision-making processes, but the government has not provided any examples of fair, survivor-centric practices.

Concern: Survivors must undergo different processes based on the nature of the situation like student and student cases in contrast to faculty and student cases. These multiple pathways further contribute to power imbalances and further prevent survivors from disclosure.

Recommendation: Our proposed Sexual Violence Prevention Unit should identify procedures in the institutional investigation, which prevent survivors from pursuing the type of justice they seek, while balancing the rights of the respondent.

Recommendation: The provincial government should provide a clear outline of fair investigations and the decision-making processes that are survivor-centric to guide universities in implementing new, institutional policies.

People who have experienced sexual violence are reluctant to formally report their experiences for many reasons: they may not understand what behaviours constitute sexual violence, they may know the perpetrator, they may need time to reflect on what has happened to them, or they may fear the reactions of those they tell.¹²¹ Others, however, may fear facing stereotypes and discrimination.¹²² Negative police, prosecutorial, defence lawyer, judicial and jury responses to sexual assault allegations have become notorious for the secondary victimization of people who have experienced sexual violence.¹²³ The tone of these responses is indicative of broader societal responses, including those on university campuses. The resolution process has meaningful and lasting impacts on the physical, psychological, and academic wellbeing of people who have experienced sexual violence.¹²⁴ As such, it is worth serious attention in order to ensure that the resolution process is focused on the survivor.

In 2013, Statistics Canada reported that nine out of ten sexual assaults are never reported to the police.¹²⁵ More recently, the 2015 action plan published by the Government of Ontario reported that only 33 out of 1000 sexual assaults are reported to police. Of these 33, only 3 lead to convictions.¹²⁶ This is a concerning statistic that is indicative of the significant societal barriers to police reporting. Considering the lack of convictions and the stigmatization surrounding sexual assault, it is understandable that a large proportion of people who have experienced sexual violence choose not to pursue criminal investigations, let alone administrative investigations at their universities. The choice to move forward with a criminal investigation must be that of the survivor (notwithstanding universities' contractual or legal duties to report to the police). In the event that a university is obligated to report an incident of sexual violence to the police, the province should mandate that the student who

¹²¹ Ontario Women's Directorate, *Developing a Response to Sexual Violence*, 9.

¹²² Ibid.

¹²³ Sheehy and Gilbert, *Responding to Sexual Assault on Campus*.

¹²⁴ Ontario Women's Directorate, *Developing a Response to Sexual Violence*, 8.

¹²⁵ Canadian Centre for Justice Statistics, *Measuring violence against women*.

¹²⁶ Government of Ontario, *It's Never Okay: An Action Plan to Stop Sexual Violence and Harassment* (Toronto: Queen's Printer for Ontario, 2015), 1–40.

has filed the complaint be notified in advance with explicit mention that, under new laws, they are not required to participate.¹²⁷ As a criminal offense, judicial and institutional responses to reports of sexual violence are intimately intertwined. However, it is important to clearly separate institutional and judicial investigations and responses to sexual violence allegations in order to encourage students to come forward. As a result of the nuance involved in the making a decision between institutional reporting or criminal investigation, OUSA believes that student survivors should be given the opportunity to pursue either option autonomously of the other. In the case where both institutional and criminal investigations are pursued, the result of one should have no impact on the result of the other.

Evidence suggests that universities are struggling to appropriately resolve incidents of sexual violence involving their students. The University of British Columbia's data claims that 16 sexual assaults were reported on campus between 2009 and 2013, but RCMP data shows 70 sexual assaults for the same period.¹²⁸ Closer to home, Brock University, the University of Ottawa, Queen's University, and York University have been heavily criticized for their perceived mishandling of sexual assault cases. The University of Ottawa, for example, was heavily criticized for its decision to suspend its entire hockey team as consequence for the actions of a few players—later, those players not involved in the incident brought a class action suit against the university.¹²⁹

Because of students' close connections to their university communities—in that they often live, study, and work on campus—there is an institutional responsibility to provide emergency and interim accommodations that allow survivors to complete their education.¹³⁰ It is imperative that universities are enabled to respond promptly and impartially to sexual violence complaints in order to support students who have experienced sexual violence and protect the safety of the broader campus community. To do this, university processes should not be held hostage by the pace of criminal proceedings—these two disciplinary pathways are distinct in this way.¹³¹

Unfortunately this distinction is becoming lost in institutional and legal interpretations of the province's request that sexual violence policies describe the elements of procedural fairness in investigative and decision-making processes.¹³² Procedural fairness relies on two principles: the right to be heard and the right to be judged impartially.¹³³ For those developing policies, investigation, and hearing processes within universities the implied requirement of an oral hearing is concerning and they are struggling to create paths for institutional fairness.¹³⁴ While the Supreme Court of Canada considers the application of procedural fairness to be flexible and dependent on context, given that any breach of fairness renders a decision void, universities are proceeding with the utmost caution.¹³⁵ This caution may lead them to reproduce the procedures in the justice system that re-traumatize survivors. However, sexual assault is unique from other forms of student misconduct and as such, requires specific attention to develop disciplinary protocols that support people who have experienced sexual violence.¹³⁶

In determining appropriate consequences, it is important to note the incident cannot be paralleled with regular non-academic infractions. For the person who has experienced sexual violence, the incident is a symbolic and material form of discrimination. For respondents, the accusation of sexual violence is more stigmatized than other

¹²⁷ *Ministry of Training, Colleges and Universities Act, Ontario Regulation 131/16: Sexual Violence at Colleges and Universities*, 2016.

¹²⁸ Sheehy and Gilbert, *Responding to Sexual Assault on Campus*, 5.

¹²⁹ CTVNews.ca Staff, "University of Ottawa hockey team launches class-action lawsuit," *CTV News*, January 13, 2015, <http://www.ctvnews.ca/canada/university-of-ottawa-hockey-team-launches-class-action-lawsuit-1.2186419>.

¹³⁰ Sheehy and Gilbert, *Responding to Sexual Assault on Campus*, 5.

¹³¹ *Ibid.*, 17.

¹³² Alana Sharpe (Human Rights and Equity Advisor, Brock University) in discussion with authors, September 14, 2016. *OReg 131/16*.

¹³³ Tiffany Soucy and Paul Lomic, *Ontario Bar Association: Your First Judicial Review, Overview of the Judicial Review Process* (Toronto: Dentons Canada LLP and Gowling Lafleur Henderson LLP, 2013). Janice Payne and Jessica Fullerton, *Procedural Fairness in Ontario The Parameters of the Right to be Heard: An Overview* (Ottawa: Nelligan O'Brien Payne, n.d.).

¹³⁴ Alana Sharpe.

¹³⁵ Payne and Fullerton, *Parameters of the Right to be Heard*.

¹³⁶ Sheehy and Gilbert, *Responding to Sexual Assault on Campus*, 4.

offences. For these reasons, disciplinary processes for sexual assault and sexual violence should be unique and universities should not aim to absorb these into the general student code of conduct.¹³⁷

Across Canadian universities, it is clear that there is a wide spread of consequences suggested by disciplinary protocols, ranging from written reprimand to expulsion.¹³⁸ The provincial government and the Ministry of Advanced Education and Skills Development should consult experts in an effort to provide post-secondary institutions with concrete examples of appropriate investigation, hearing processes, and disciplinary actions that do not circumvent criminal cases, can be completed expeditiously, do not rely on oral hearings, and are procedurally fair.

Suggestions for alternative measures could include mediation between parties or the implementation of restorative justice measures. In victim-offender mediation, people who have experienced sexual violence are able to outline how the assault or violence has affected them. The person who has experienced sexual violence is also empowered to give maximum input into the sanction and enabled to fully shape the resolution agreement.¹³⁹ In restorative justice procedures, people who have experienced sexual violence are able to set the direction of the investigation and ultimately, they are given autonomy to determine appropriate consequences. An American study evaluated the effectiveness of restorative justice by Umbreit who is considered to be a pioneer of restorative justice.¹⁴⁰ This study concluded an incredibly high satisfaction rate amongst people who have experienced sexual violence, ranging from 81 to 95 percent satisfaction.¹⁴¹

In a publication on restorative justice programs by the United Nations, they indicated that: “Restorative justice programmes can be used to reduce the burden on the criminal justice system, to divert cases out of the system and to provide the system with a range of constructive sanctions.”¹⁴² Specifically, in regards to sexual violence and domestic abuse, the United Nations pays special focus to the recognition of power imbalances in order for restorative measures to be successful. On this note, the publication highlights the need for facilitators to be aware of subtle manipulation and intimidation in order to avoid re-victimization and support the needs of the complainant.¹⁴³

Often “restorative justice” is used as a catchall phrase to refer to any practice that does not look like the mainstream practices of justice and dispute resolution.¹⁴⁴ However, it is important to recognize the fundamental concern of these practices: the restoration of social relationships by establishing, or re-establish, social equality, dignity, mutual concern, and respect by looking at discrete wrongdoing as well as the context and causes for it.¹⁴⁵ It is also important to note that restorative justice practices have their roots in both Western and non-Western traditions.¹⁴⁶ In a Canadian context, the form of restorative justice recognized most widely (particularly in an international context) is rooted in traditions and practices of Indigenous peoples.¹⁴⁷ Canada’s culturally specific

¹³⁷ Sheehy and Gilbert, *Responding to Sexual Assault on Campus*, 20.

¹³⁸ *Ibid.*, 5.

¹³⁹ *Ibid.*, 18.

¹⁴⁰ BC Association of Specialized Victim Assistance and Counselling Programs, *Restorative Justice, Domestic Violence and Sexual Assault in Canada: A Summary of Critical Perspectives from BC* (Vancouver: BC Association of Specialized Victim Assistance and Counselling Programs, n.d.).

¹⁴¹ Mark S. Umbreit, William Bradshaw, and Robert B. Coates, “Victims of Severe Violence Meet the Offender: Restorative Justice Through Dialogue,” *International Review of Victimology* 6, no. 4 (1999): 321–343.

¹⁴² United Nations Office on Drugs and Crime, *Handbook on Restorative Justice Programmes: Criminal Justice Handbook Series* (New York: United Nations, 2006).

¹⁴³ *Ibid.*, 70.

¹⁴⁴ Jennifer J. Llewellyn and Robert Howse, *Restorative Justice ~ A Conceptual Framework: Prepared for the Law Commission of Canada* (1998).

¹⁴⁵ *Ibid.*

¹⁴⁶ *Ibid.*, 5.

¹⁴⁷ Llewellyn and Howse, *Restorative Justice*. Bruce P. Archibald, “Progress in Models of Justice: From Adjudication/Arbitration through Mediation to Restorative Conferencing (and Back),” (conference remarks at Doing Justice: Dispute Resolution in the Courts and Beyond, Canadian Institute for the Administration of Justice, Halifax, October 10-12, 2007): 149.

forms of restorative justice have been reinvented in criminal and youth justice programs, with particularly comprehensive programs originating in Nova Scotia.¹⁴⁸

CONSEQUENCES

Principle: The overall safety of the university campus should be prioritized when assessing the severity of allegations.

Principle: The interests, privileges, and safety of individuals who have experienced sexual violence should be prioritized when determining consequences for perpetrating sexual violence.

Principle: The rights of the respondent enshrined in the law should never be infringed upon.

Principle: The privacy and confidentiality of the respondent must be maintained when incidents of sexual violence are first disclosed.

Concern: The rights of the respondent often overshadow the safety of the survivor.

Concern: Collective agreements can be barriers to fair and survivor-centric resolution processes.

Concern: There are no best practice guidelines regarding consequences for sexual violence.

Recommendation: The provincial government should set clear guidelines and provide examples of appropriate consequences in university settings for perpetrating sexual violence.

Once a case has been investigated and a respondent has been found guilty of sexual violence, there must be clear and just consequences. Ultimately, the overall safety of students on campus should be considered with the highest degree of seriousness when determining appropriate consequences. Students who have experienced sexual violence may be reluctant to seek justice and recourse in light of recent media coverage on some of the worst examples of prosecuting sexual offenders. In 2014, Emma Sulkowicz pledged to carry around her mattress until the man who raped her in her dorm room was expelled by the university or left on his own—this pledge played out in a performance art piece she called “Carry that Weight,” and protested the leniency exercised by Columbia University in her case.¹⁴⁹ A lack of just consequences is far too common. Students push for survivor-centric and equitable approaches because disciplinary processes on campuses have primarily considered the rights and situation of the responding student for many years.¹⁵⁰ People who have experienced sexual violence need to be able to see outcomes to their formal reports that will help them on their path to healing, otherwise the rates of reporting will remain low.

Sexual violence policies act as clear signals of the consequences for perpetrating such violent acts.¹⁵¹ Unfortunately, not all institutional policies are showing signs of making the consequences for perpetration more serious. The University of Waterloo decides penalties for academic and non-academic offenses based on *Policy 71 - Student Discipline Policy*. This policy currently has no guidelines for consequences specifically for sexual violence, and all given guidelines for other offenses are quite vague. Based on the broad guidelines provided by the

¹⁴⁸ Archibald, “Progress in Models of Justice,” 150.

¹⁴⁹ Soraya Nadia McDonald, “It’s hard to ignore a woman toting a mattress everywhere she goes, which is why Emma Sulkowicz is still doing it,” *The Washington Post*, October 29, 2014, <https://www.washingtonpost.com/news/morning-mix/wp/2014/10/29/its-hard-to-ignore-a-woman-toting-a-mattress-everywhere-she-goes-which-is-why-emma-sulkowicz-is-still-doing-it/>. Emma Sulkowicz, “My Rapist is Still on Campus,” *TIME*, May 15, 2014, <http://time.com/99780/campus-sexual-assault-emma-sulkowicz/>.

¹⁵⁰ W. Scott Lewis, Saundra K. Schuster, and Brett A. Sokolow, *Deliberately Indifferent: Crafting equitable and effective remedial processes to address campus sexual violence* (Berwyn: National Centre for Higher Education Risk Management, 2011).

¹⁵¹ Harrison and Lafreniere, *Ending Gendered Violence*, 92. Ontario Women’s Directorate, *Developing a Response to Sexual Violence*.

policy, a student could be found to have committed sexual assault and the only consequence might be writing an apology letter.¹⁵² Similarly, Brock University’s policy states sexually violent offences will be addressed in conformity with other serious offenses under their students’ Code of Conduct and Residence Community Guidelines and Trent University’s policy intends to handle disciplinary action in accordance with the Student Charter of Rights and Responsibilities.¹⁵³ While one can assume that most university administration intend to treat complaints of sexual violence seriously, it is an unsettling notion to think that such lenient disciplinary action is allowed by policy. Policies like these may deter people who have experienced sexual violence from coming forward.

Students at Queen’s University have provided feedback to their administration on the importance of clearly outlining enforceable consequences for committing sexual violence.¹⁵⁴ Students have questioned the strength of sexual violence policies that do not set strict expectations for consequences, suggesting the lack of unequivocal consequences sets a soft tone to policy.¹⁵⁵ One Queen’s University student went so far as to say that those who commit sexual assault should be expelled.¹⁵⁶ This is a position also held by experts.¹⁵⁷ Students care deeply about the consequences for those who commit sexually violent crimes and want to see the government take action. This is why it is critical that the Sexual Violence Prevention Unit that we propose gives research-based, best practice recommendations in this area.

APPEALS & RECOURSE

Principle: All appeals or complaints against universities must be handled in an accessible and timely manner.

Principle: All appeals should be kept confidential.

Concern: Appeal procedures, policies, or protocols are often not made clear to all involved parties.

Recommendation: Regardless of the outcome and varying levels of involvement, there should be a requirement for written notification to the parties of the outcome of the appeal.

Recommendation: Our proposed Sexual Violence Prevention Unit should develop guidelines and best practices for response teams to confidentially handle the appeals of decisions from respondents or survivors.

Students who have experienced sexual assault or harassment often struggle with navigating university policies and procedures after they have decided to report their incident to the institution. While investigations can be unnecessarily difficult for students, it is even more discouraging when appeals are not addressed in a timely and transparent manner. Students have the right to know all details of the case, including documentation outlining the reasons for the decision and have access to an appeal process.¹⁵⁸ When asked about the university’s complaint process, some Queen’s students agreed on the necessity for clearly outlining adjudication procedures saying, “The procedure around determining...an appeals procedure, must be clearly defined.”¹⁵⁹ It is important that the right to appeal is extended to all parties involved—complainants as well as respondents.

¹⁵² University of Waterloo, *Policy 71 – Student Discipline* (Waterloo: University of Waterloo, September 2010).

¹⁵³ Brock University, *Brock University Sexual Assault Response Protocol*. Trent University, *Policy: Sexual Violence Prevention and Response*.

¹⁵⁴ Arig al Shaibah, *Sexual Assault Prevention and Response Report and Recommendations* (Kingston: Queen’s University, 2015), 89.

¹⁵⁵ *Ibid.*, 89.

¹⁵⁶ *Ibid.*

¹⁵⁷ Sheehy and Gilbert, *Responding to Sexual Assault on Campus*.

¹⁵⁸ *Ibid.*, 22.

¹⁵⁹ Shaibah, *Sexual Assault Prevention and Response*, 89.

ACCOMMODATIONS

Principle: Safety concerns of the survivor should be given the greatest weight when determining how to accommodate for interactions between the accused and the survivor.

Principle: The respondent must be the one to make accommodations when an allegation occurs rather than the survivor.

Concern: The government has provided little guidance on managing the rights of the respondent when providing interim measures and accommodations to survivors.

Recommendation: The provincial government should give more clear direction on implementing interim measures and accommodations for survivors and their respondent such that the following are available.

Institutions must balance the competing rights, privileges, and interests of survivors and respondents when managing sexual violence complaints. While responses to sexual violence should take survivor-centric approaches, the legal rights of the respondent must never be infringed upon; this includes the respondent's right to privacy and confidentiality. However, students feel it is acceptable for survivors' privileges and interests to have primacy over those of respondents, particularly in regards to their feelings of safety.

Many institutions struggle with providing substantial interim measures that are meaningful for the students who has experienced sexual violence. Interim measures can be dramatically impactful; interim measures can be put in place immediately following a disclosure to protect survivors. "For example, universities can facilitate changes in residence room and course section assignment, and can prohibit contact between a [survivor] and [respondent] and/or his supporters."¹⁶⁰

Unfortunately, the government has yet to provide explicit guidance on appropriate interim measures. While it is not appropriate to expect universities to apply a standardized or uniform solution, it is reasonable to expect a common set of guidelines and expectations to be put forth that institutions can turn to in their efforts to help students who have experienced sexual violence feel safe on campus.¹⁶¹ Any interim measures should emphasize the importance of a survivor-centric approach and prioritize survivors' safety. At the same time, it is best practice for policies governing these measures to specify that their imposition is not indicative of a breach of student conduct or an accusation of guilt.¹⁶²

HEALTH BENEFITS

Principle: Accommodations pertaining to the mental and physical health of survivors must be available beyond the incident of sexual violence.

Principle: All students should have access to necessary health care.

Concern: Survivors who require long-term support face significant financial barriers if Ontario Health Insurance Plan (OHIP) and the University Health Insurance Plan (UHIP) do not cover the necessary care.

Concern: Survivors who use the insurance of parents or guardians face barriers to accessing necessary prescriptions if they prefer not to disclose to them.

¹⁶⁰ Sheehy and Gilbert, *Responding to Sexual Assault on Campus*, 16.

¹⁶¹ Ibid.

¹⁶² Ibid.

Recommendations: The provincial government should extend OHIP and UHIP coverage to cover medical care resulting from instances of sexual violence.

Recommendation: The provincial government should develop a new Ontario Drug Support Program, similar to the Ontario Trillium Drug Program, specifically for survivors of sexual assault to cover all associated prescriptions.

Survivors of sexual assault require a variety of health care procedures. Due to the stigmatization that exists, there are serious barriers to accessing these necessary services. As a result of sexual assault, a student may experience both immediate and long-term effects of the trauma they have experienced. Statistics Canada has indicated that 17 percent of victims of non-spousal violence get physically injured; 21 percent of these women require medical attention.¹⁶³ They also report that the risk of physical injury increases for women victimized by intimate partners.¹⁶⁴ It is essential that people who have experienced sexual violence have access to accommodations that extend beyond the incident. Examples of mental health consequences are anxiety, panic attacks, eating disorders, substance abuse, and depression.¹⁶⁵ Since the Ontario Health Insurance Plan does not cover psychotherapist or psychologist services, people who have experienced sexual violence who require long-term mental health support face steep financial barriers to accessing treatment.¹⁶⁶ The same can be said of University Health Insurance Plan users. To ensure that people who have experienced sexual violence access the support that they need, the provincial government should extend OHIP—and mandate that UHIP also be extended—to cover all necessary medical treatments as determined by a medical practitioner.

In addition, survivors of sexual assault often require access to prescription drugs, but without private health insurance these medications can be costly. If a person who has experienced sexual violence chooses not to disclose to their parents or guardians (in order to access their insurance), this wish must be respected. However, if a person who has experienced sexual violence has opted-out of their student association’s health and dental plan, they should not be forced to make the extremely difficult decision of choosing between purchasing expensive prescription medication or not complying with their doctor’s advice (and going without medication) due to the financial barrier. To enable all people who have experienced sexual violence to access prescribed medication resulting from sexual assault, the provincial government should develop a new drug support program similar to the Ontario Trillium Drug Program to ensure that people who have experienced sexual violence of sexual assault are eligible for support regardless of household income or status of private insurance plans. In the development of this program, it is essential that person who has experienced sexual violence confidentiality and privacy is respected and the application process is accessible.

EDUCATIONAL SUPPORT

Principle: All students should have access to accommodations regardless of their financial background.

Concern: Students who access the Ontario Student Assistance Program (OSAP) may lose full-time status as a result of dropping a course in which the respondent may be present resulting in a more precarious financial situation and jeopardizing their access to education.

Recommendation: The provincial government should ensure that OSAP does not penalize survivors of sexual violence who may lose full-time status.

Recommendation: The provincial government should ensure that OSAP does not penalize the respondent by revoking full-time status during the investigation.

¹⁶³ Canadian Centre for Justice Statistics, *Measuring violence against women*, 83.

¹⁶⁴ *Ibid*, 84.

¹⁶⁵ Government of Ontario, *It’s Never Okay*.

¹⁶⁶ Centre for Addiction and Mental Health, “About therapy,” CAMH.ca, accessed October 20, 2016, http://www.camh.ca/en/hospital/visiting_camh/rights_and_policies/Pages/challenges_choices_abouttherapy.aspx.

Recommendation: The provincial government should mandate that institutions provide full academic accommodations to survivors.

Recommendation: The provincial government should mandate that universities develop academic reporting procedures surrounding incidents of sexual violence that retain the confidentiality and anonymity of students.

Women who are sexually assaulted during their first semester of post-secondary education tend to have lower overall academic performance during their first year in comparison to women who did not experience sexual assault.¹⁶⁷ In addition, the severity of sexual assault victimization is negatively correlated with grade-point averages such that women who experience rape are more likely to have a GPA of 2.5 or lower (out of a total 4.0) than those who experienced other forms of sexual assault.¹⁶⁸ It is evident that educational support is a crucial piece in providing for people who have experienced sexual violence. While there is a lot that institutions can do individually to support people who have experienced sexual violence, it is essential that the provincial government provide support as well.

People who have experienced sexual violence and respondents may have to drop courses to comply with interim measures set during investigations. The government should mandate that institutions provide full academic accommodations for people who have experienced sexual violence. Namely, students believe that the courses that people who experience sexual violence may have to withdraw from after drop-and-add deadlines should not show up on their transcripts. Also, at this time students risk the loss of full-time OSAP status if they drop below 60 percent of a full course load at their institution.¹⁶⁹ This jeopardizes their current and future access to financial assistance and financial stability. This additional burden further discourages people who have experienced sexual violence from disclosing and reporting their experiences. In response, the provincial government should amend OSAP policies and protocols to ensure that both the person who has experienced sexual violence and the respondent are not financially penalized pending investigations.

¹⁶⁷ Carol E. Jordan, Jessica L. Combs, and Gregory T. Smith, "An Exploration of Sexual Victimization and Academic Performance Among College Women," *Trauma, Violence, & Abuse* 15, no. 3 (2014).

¹⁶⁸ *Ibid.*

¹⁶⁹ Student Financial Assistance Branch, *2016-2017 Eligibility, Assessment and Review Manual Part I: Eligibility and Assessment*, Ontario Ministry of Advanced Education and Skills Development (Toronto: Government of Ontario, 2016), 1.

POLICY STATEMENT

Sexual Violence Prevention and Response

Whereas: Sexual violence education, prevention, and response procedures for university campuses should be held to a high standard across the province.

Whereas: Sexual violence education and prevention programs should be based on sound evidence.

Whereas: The *Sexual Violence and Harassment Action Plan* should remain a public policy priority.

Whereas: Regardless of where a student goes to school, all students should receive high-quality, evidence based education about sexual violence and consent.

Whereas: All students at post-secondary institutions should receive education and training in sexual violence prevention and response.

Whereas: Universities should work to prevent sexual violence from occurring.

Whereas: All staff, student staff, and faculty at universities should be equipped to respond to sexual violence in an effective and survivor-centric manner.

Whereas: Sexual violence prevention training should be tailored to the unique needs and responsibilities of the various roles in a university community.

Whereas: Universities are responsible for ensuring all students feel safe and welcome on their university campuses.

Whereas: Campus infrastructure should be designed with a focus on student safety with regard to sexual violence prevention.

Whereas: The desire to protect all students and support all people who have experienced sexual violence should be at the centre of university sexual violence policy development processes.

Whereas: The provincial government should lead universities through their sexual violence policy and protocol implementation and compliance.

Whereas: Accurate and standardized reporting to public stakeholders should be considered a top priority.

Whereas: Reporting of data should be survivor-centric, where the needs of the survivor are prioritized over data collection.

Whereas: Sexual violence data collected and reports written by the Ministry should be centralized and easily accessible to the public.

Whereas: The anonymity and confidentiality of survivors should be prioritized at every stage by institutions and the government, including information released to the public.

Whereas: University communities should have the information and tools to identify factors that normalize behaviours of sexual violence on campuses.

Whereas: The choice to pursue a criminal investigation should wholly be that of the survivor.

Whereas: Perceived imbalances of power within university communities should not act as a barrier to an individual's path to healing.

Whereas: Survivors have the choice on whether they would like to disclose or formally report their experience, but should understand from the outset the processes and outcomes of each action.

Whereas: Survivors must remain at the centre of the response that universities make in regards to allegations of sexual violence, considering their needs and choices first, and believing the survivor up to the point of taking disciplinary action against the respondent.

Whereas: Survivors should be encouraged to pursue any and all avenues of support that they choose.

Whereas: Universities must be equipped to provide support to survivors who have experienced sexual violence both on- and off-campus.

Whereas: Investigations into incidents of sexual violence should be prompt, thorough, impartial, and at the discretion of the survivor.

Whereas: The overall safety of the university campus should be prioritized when assessing the severity of allegations.

Whereas: The interests, privileges, and safety of individuals who have experienced sexual violence should be prioritized when determining consequences for perpetrating sexual violence.

Whereas: The rights of the respondent enshrined in the law should never be infringed upon.

Whereas: The privacy and confidentiality of the respondent must be maintained when incidents of sexual violence are first disclosed.

Whereas: All appeals or complaints against universities must be handled in an accessible and timely manner.

Whereas: All appeals should be kept confidential.

Whereas: Safety concerns of the survivor should be given the greatest weight when determining how to accommodate for interactions between the accused and the survivor.

Whereas: The respondent must be the one to make accommodations when an allegation occurs rather than the survivor.

Whereas: Accommodations pertaining to the mental and physical health of survivors must be available beyond the incident of sexual violence.

Whereas: All students should have access to necessary health care.

Whereas: All students should have access to accommodations regardless of their financial background.

Be it resolved that: The provincial government should establish a unit within the Ministry of Advanced Education and Skills Development to make recommendations regarding the implementation of best practices based on ministerial data about sexual violence prevention at Ontario's universities.

Be it further resolved that: The provincial government should adapt the Terms and Conditions of the Women’s Campus Safety Grant in order to address the need for sexual violence education, bystander intervention training and other interventions, and program evaluation on university campuses.

BIFRT: The Provincial Government should mandate that all students attending post-secondary institutions receive evidence-based and survivor-centric education and training in preventing and responding to incidents of sexual violence.

BIFRT: The Provincial Government should invest in early outreach programs for secondary school and elementary school students regarding sexual violence education.

BIFRT: The provincial government should mandate ongoing education and training with a focus on the transition period between secondary school and university.

BIFRT: The Provincial Government should mandate that the Smart Serve certification be expanded to include bar-specific, sexual violence prevention training.

BIFRT: The Provincial Government should mandate that on-campus bars expand their training to include mandatory in-person bystander intervention training.

BIFRT: The *Occupational Health and Safety Act* should be updated to ensure that all staff and faculty with student-facing roles must be trained in how to respond to disclosures and/or prevention of sexual violence.

BIFRT: Campus security at post-secondary institutions must be trained in survivor-centric response to disclosures and the prevention of sexual violence to create safer, more supporting reporting structures.

BIFRT: Campus security and local police should be trained in referrals to different forms of support.

BIFRT: The Council of Ontario Universities should develop a set of mandatory, minimum safety standards for sexual violence prevention at all university campuses.

BIFRT: The provincial government should mandate all universities to perform regular campus safety audits to identify safety concerns and ensure that the mandatory safety standards are being met.

BIFRT: The provincial government should make capital project funds available to universities to allow them to enable, implement, and maintain them to make campuses safer for students.

BIFRT: Ontario Regulation 131/16 should be amended to include all essential aspects of survivor-centric sexual violence policies, as identified in existing literature.

BIFRT: The province should make clear which government agency is responsible for ensuring regulatory compliance when it comes to enforcing section 17 of the *Ministry of Training, Colleges, and Universities Act* and its associated regulation.

BIFRT: The Ministry of Advanced Education and Skills Development should collect *Sexual Violence Action Plan* report-backs and define the scope of the data collected including: disclosure, criminal and institutional reports, and track access rates to resources and services on campuses. The Ministry should publicly disseminate this information in the *Sexual Violence Action Plan* report-backs.

BIFRT: The Ministry of Advanced Education and Skills Development should also collect the following demographic data: year of study, faculty of program, age, gender-identification, sexual orientation — if they agree to disclose — and racialized people.

BIFRT: The Government should pass legislation requiring a neutral organization to collect and publicly report data and information regarding sexual violence in a centralized manner with other post-secondary data and information.

BIFRT: The Ministry of Advanced Education and Skills Development should more clearly communicate to students and survivors the intent and purpose of collecting data and information related to the incidence of sexual violence on university campuses.

BIFRT: The Ministry of Advanced Education and Skills Development should collect data on the number of survivors who formally report their experiences and the number who simply disclose it.

BIFRT: In the provincial climate survey, the ministry should address: how many students have experienced sexual violence on- or off-campus; their knowledge of provincial law, services, and sexual violence prevention education available to them; perceptions of campus safety and responses to sexual assault; and their confidence in student and institutional leadership for addressing sexual violence.

BIFRT: Our proposed Sexual Violence Prevention Unit should interpret climate survey findings and make policy recommendations to the Ministry of Advanced Education and Skills Development that work towards fulfilling the *Sexual Violence Action Plan*.

BIFRT: Our proposed Sexual Violence Prevention Unit should investigate and eliminate barriers to disclosure and reporting.

BIFRT: The provincial government should mandate that survivors must be notified in advance of universities' duties to report to the police and obligations of collective agreements.

BIFRT: The provincial government should take measures to eliminate contractual agreements between campus and regional police services that take away a survivor's agency and forces them to pursue a criminal investigation.

BIFRT: The provincial government should mandate that universities include external supports and service referrals in their policy.

BIFRT: The provincial government should provide funding to ensure that there are substantial and intersectional supports (including religious, spiritual, and cultural) available to survivors on or around university campuses.

BIFRT: Our proposed Sexual Violence Prevention Unit should investigate and eliminate barriers to individual paths to healing.

BIFRT: The provincial government should mandate that centralized response teams are implemented and empowered to advocate on behalf of survivors on university campuses.

BIFRT: Our proposed Sexual Violence Prevention Unit should identify procedures in the institutional investigation, which prevent survivors from pursuing the type of justice they seek, while balancing the rights of the respondent.

BIFRT: The provincial government should provide a clear outline of fair investigations and the decision-making processes that are survivor-centric to guide universities in implementing new, institutional policies.

BIFRT: The provincial government should set clear guidelines and provide examples of appropriate consequences in university settings for perpetrating sexual violence.

BIFRT: Regardless of the outcome and varying levels of involvement, there should be a requirement for written notification to the parties of the outcome of the appeal.

BIFRT: Our proposed Sexual Violence Prevention Unit should develop guidelines and best practices for response teams to confidentially handle the appeals of decisions from respondents or survivors.

BIFRT: The provincial government should give more clear direction on implementing interim measures and accommodations for survivors and their respondent such that the following are available.

BIFRT: The provincial government should extend OHIP and UHIP coverage to cover medical care resulting from instances of sexual violence.

BIFRT: The provincial government should develop a new Ontario Drug Support Program, similar to the Ontario Trillium Drug Program, specifically for survivors of sexual assault to cover all associated prescriptions.

BIFRT: The provincial government should ensure that OSAP does not penalize survivors of sexual violence who may lose full-time status.

BIFRT: The provincial government should ensure that OSAP does not penalize the respondent by revoking full-time status during the investigation.

BIFRT: The provincial government should mandate that institutions provide full academic accommodations to survivors.

BIFRT: The provincial government should mandate that universities develop academic reporting procedures surrounding incidents of sexual violence that retain the confidentiality and anonymity of students.