



Ontario Undergraduate Student Alliance

A RESPONSE TO SEXUAL VIOLENCE WITHIN POST-SECONDARY EDUCATION

INTRODUCTION

Since the mid-1980's, student unions across Canada and within the United States have been advocating to governments and Universities-alike for increased safety measures for those affected by sexual violence and harassment. Student unions have played a crucial role in creating campus culture and social expectations. We have also been at the forefront of programming and processes around staff training to combat sexual violence, gendered-violence, and sex-based harassment, bystander intervention, and health and protective services. We offer important peer-to-peer and survivor services as well, recognizing that survivors prefer to seek peer support. Therefore we offer much to be listened to on this topic and have been given great opportunities over the past year to speak to some of these issues.

In May of 2014, the Provincial Government put out a call to stakeholders to present to select committees 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 sets out a schedule of legislation that amends the Ministry of Training, Colleges and University Act. The amendments require universities to develop a standalone policies and protocols for addressing sexual violence and harassment on their campuses. They must ensure these policies and protocols must be defined in ways that are understandable and clear. They must also report instances of sexual assault and harassment as well as the number pertaining to access of services upon request of the Ministry. Finally, as this is a short synopsis, they are required to provide training to all senior level administration on the policy and protocol once it is developed. Universities must have this policy 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. Acknowledging their efforts, the following policy is also meant to inclusively protect the entire campus community.

In order to better understand the policy to come, it is important to understand the language. As pulled from *The Change Project*, a report created by the Sexual Assault Centre of the Region of Waterloo, The Social Innovation Research Group (SIRG), the Centre for Women and Trans People (CWT), the UW Women's Centre, the Diversity & Equity Office at Laurier (DEO), Wilfrid Laurier University and the University of Waterloo, definitions are listed below:

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. As such, it is the result of complex relationships between variables at multiple ecological levels. Interpersonal gendered violence occurs within a range of relational contexts, including family, intimate partner relationships (i.e., married and dating couples), friendships, collegial and hierarchical relationships, acquaintance relationships, and between strangers. Gendered violence includes sexism, gender discrimination, gender harassment,

biphobia, transphobia, homophobia and heterosexism, sexual assault, sexual harassment, stalking, and intimate partner violence.¹

Survivor, Victim, and Complainant – Throughout this report we have used the terms “survivor,” “victim,” and “complainant” interchangeably to refer to people who have personally experienced gendered violence. We do so in order to honour the language that people use to talk about gendered violence and their own experiences. The term “complainant” is reflective of the language used in institutional policies.²

Disclosure and 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 motivated by a desire to make a formal complaint.

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 the recourse mechanism 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.

Public reporting versus ministerial reporting – Between the Premier’s *It’s Never Okay: Sexual Violence Action Plan* and the *Sexual Violence Action Plan Act*, universities are required to report on their progress enacting legislation and the impacts to both the Ministry and the public. *It’s Never Okay* mandates that universities “report publicly on incidence of sexual violence, as well as initiatives underway to address sexual violence and harassment, and their effectiveness.”³ The Act requires universities to provide the Ministry with information that details the occurrence of sexual violence on campus; students’ requests to access supports, services, and accommodations relating to sexual violence; the promotion of supports and services; and the implementation and effectiveness of the policy.⁴ The Act also allows the Ministry to conduct climate surveys on university campuses. Since these reporting requirements are much more detailed than what is required by the action plan, the sector and government have yet to reach agreement on what information will remain within the Ministry and what information is shared with the broader public.

According to the Change Project, approximately 40% of respondents in the Wilfrid Laurier University survey reported experiencing at least one type of gendered violence in the twelve

¹ Jay Harrison and Ginette Lafreniere, *University Campuses Ending Gendered Violence Final Report & Recommendations: Submitted to Wilfrid Laurier University* (Waterloo: The Change Project, 2015).

² Ibid.

³ Government of Ontario, *It’s Never Okay: An Action Plan to Stop Sexual Violence and Harassment March 2015* (Toronto: Queen’s Printer for Ontario, 2015), 27.

⁴ *Sexual Violence Action Plan Act (Supporting Survivors and Challenging Sexual Violence and Harassment)*, 2016 http://www.ontla.on.ca/bills/bills-files/41_Parliament/Session1/b132ra.pdf.

months preceding their taking the survey.⁵ While this incidence may seem staggering, it is possible to end gendered violence. With the coordinated response from the province, universities, and students, it is possible and it will happen, however not without recognizing these principles and concerns and implementing the recommendations to follow.

STAFF, FACULTY & STUDENT TRAINING

Principle: All University staff, faculty, administration, contractors, student leaders, and volunteers should have basic-level training on what to do in the instance that a student or fellow colleague discloses an instance of sexual violence.

Principle: Student unions should be consulted in the creation of training, policies, and protocols.

Concern: Sexual and gendered violence and harassment training is not mandatory for staff, faculty, administration, and contractors at many institutions.

Concern: Staff, faculty, administration, and contractors are generally unprepared to deal with instances of disclosure or sexual violence in the institution.

Concern: The definition of sexual violence and harassment is generally confusing and misunderstood by students when entering university.

Recommendation: All staff, faculty, administration and contractors should be trained on the institution's policy and protocol regarding sexual violence and harassment, relative to their position within the university.

Recommendation: The provincial government should mandate that all staff of establishments that distribute alcohol, and residence life staff, receive mandatory bystander intervention training.

Recommendation: Institutions should make available optional training on bystander intervention, the policy, and the protocol for all students who wish to partake.

Recommendation: The provincial government should mandate that all students take gendered violence and sexual violence and harassment training before starting classes, which can be facilitated by online modules or during orientation week.

Leadership from the provincial government

Principle: Leadership on training of the sexual violence action plan, policies, protocols, and intervention should come from the government first, and should be instilled into institutions that this is a priority.

Concern: Government funding does not exist to help cover the costs of training on policy, bystander intervention, or terms of reference when it comes to sexual violence and harassment.

Concern: Student unions are ineligible for government funding to cover the costs of training student leaders and volunteers.

Recommendation: The provincial government should make envelope funding available to institutions to provide training that is specific to roles on the topic of sexual violence and harassment policy and protocol.

Recommendation: The provincial government should make grant money available to student unions who wish to facilitate their own policy and protocol training for student leaders and volunteers.

⁵ Harrison and Lafreniere, *University Campuses Ending Gendered Violence*.

EXPERTS ON CAMPUS

Principle: Universities should have appropriate staff on campus to facilitate all events; case work; adjudication and policy; and protocol management in regards to sexual violence and harassment.

Concern: Students are often left to their own resources to navigate the university's investigation system and often have to take on their cases themselves.

Concern: Stigma associated with visiting "sexual violence centres" often influences them not to seek help or resources when they need it.

Concern: Hours of operation of sexual violence experts on campus are often not conducive to the average student or when instances may take place.

Concern: Student unions are ineligible for grant funding from the provincial government

Recommendation: Institutions should hire "sexual violence educators" or "sexual violence coordinators" to assist students through the university's policy and protocol process and to act as their advocate.

Recommendation: Institutions should create or maintain relationships with already-established sexual violence centres in the community in order to provide students with the most options and to make use of available resources.

Recommendation: In order to make all complainants of sexual violence feel comfortable and to reduce stigma, universities should work to eliminate physical buildings or spaces referred to as "sexual violence centres".

Recommendation: Institutions should lengthen or adjust the hours in which "sexual violence administrators" work in order to be conducive to the irregularities in student schedules. In instances where this is not possible, institutions should make clear to students other options in the community that have longer hours of operation or require administrators be "on-call."

Recommendation: The provincial government should include student unions in eligibility requirements for grant funding.

Recommendation: Institutions should support peer-to-peer groups in services that are considered supports related to sexual violence and harassment.

Confidentiality & Anonymity

Principle: Students should feel comfortable and have the option to approach an on-campus staff member in reporting an instance of sexual violence and harassment. In assessing the case, the confidentiality and anonymity should be kept as one of the highest priorities.

Concern: institutions often have multiple departments coordinating sexual violence responses without much interaction between them – leaving students confused about the process in which they are to follow.

Recommendation: When students disclose instances of sexual violence or harassment, they should be made aware of the department responsible for facilitating case management and record keeping. The "sexual violence coordinator" should keep records of cases they manage in terms of which resources the student has accessed and when, and not what the incident actually consisted of.

DISCLOSURE & REPORTING

Principle: Responses to disclosure and reporting taken on by universities should be survivor-centric, acknowledging the power dynamic that exists, and ensure that all appropriate decision making ability is given to the survivor first.

Principle: Survivors should have the choice on whether they would like to disclose or formally report their incident.

Principle: Staff, faculty, and administration should make survivors aware of the choice to disclose or formally report to the appropriate and designated staff support when first hearing a disclosure.

Concern: The power balance that exists between a survivor and an institution can make it difficult for a student to feel comfortable coming forward.

Concern: Universities, in their responsibility and duty to report, often decide for survivors on whether to press charges against an accused without the consent of the complainant.

Recommendation: Survivors should be at the centre of the response universities make to allegations of sexual violence, considering their needs and choices first, and believing the survivor until assessed as otherwise.

Outcomes

Principle: Survivors should understand from beginning to end what the outcomes will be should they choose to formally report or disclose the incident.

Concern: Often survivors are blindsided or unaware of the consequences that may result when they decide to press formal charges.

Recommendation: Before bringing in special constables or police, universities should make all processes and choices available for the survivor. The survivor should have all knowledge of the policy and protocol before any action is taken.

Campus Safety

Principle: Greater campus safety should be considered a top priority when dealing with instances of multiple acts of sexual violence with similar modes of operation.

Concern: Survivors are not always considered when the university has a duty to report instances of sexual violence and harassment to external entities, such as the police.

Recommendation: Survivors must be notified of the institution's duty to report before the institution does so.

Supports & Services

Principle: Supports, resources and services should be available to anyone who needs them.

Concern: Survivors are often unaware of services and supports available to them, and therefore do not access them when needed.

Recommendation: Whether or not survivors choose to formally report, all resources and services should be made available upon their request.

Recommendation: Students and staff should be made aware of the community partnerships, supports and services that exist and should be encouraged to weigh all options before deciding where to go.

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

PUBLIC REPORTING & MINISTERIAL REPORTING

Principle: The information required for ministerial reporting is inherently different than the information required for the disclosure of information at campuses needed to protect survivor anonymity and confidentiality.

Concern: The information required for ministerial reporting will not meet the needs of the local campus community because of its focus on resources and local capacity.

Recommendation: There should be clearly differentiated information provided to meet both ministerial reporting requirements and information needed for the public disclosure on campus communities.

Recommendation: Universities should not be required to divulge personal information to the ministry in reports of sexual violence on campus. Only formal reports should be released to the ministry with information relevant to the case, without personal details.

Recommendation: Universities should be required to report to the ministry how many students access counselling services, advocate services, and other related supports on campus.

Recommendation: In order for the province and external entities to get a better sense of the feelings of safety on campus, and for students to anonymously report their experiences with the institution, the government should use a climate survey tool across all campuses.

Public Reporting

Principle: Reporting and disclosure to the public should be considered paramount in order to create safer campus communities.

Concern: The public disclosure of sexual assault information may be less widely disclosed if the university is concerned about their reputation.

Recommendation: Universities must emphasize campus safety and security over university reputation when it comes to public disclosure and reporting.

ADJUDICATION

Principle: The choice to pursue a criminal investigation should primarily be that of the survivor, with only information provided by administration or support advocates.

Principle: All accommodations should be met to ensure the safety for the survivor regardless of whether they choose to disclose or formally report.

Concern: Often students feel pressure to report to the police by administration to avoid liability or risk of campus safety.

Concern: Special constables on campus have a duty to report incidences of sexual violence or harassment to police once a report has been filed.

Concern: Survivors frequently are in the presence of their perpetrator after the event takes place due to the close-knit nature of a university campus.

Recommendation: Students should be given all relevant information about the criminal justice system before deciding whether to pursue formal charges against the accused.

Recommendation: Special constables should be specially trained to respond to disclosures.

Recommendation: Police should be trained on the policy and protocol of an institution so they know who to contact should an incident occur on campus.

Recommendation: Universities should still provide academic accommodations, residence accommodations, and campus accommodations to the survivor if requested, regardless of their decision to pursue formal charges.

Consequences & Rights of the accused

Principle: The rights of the accused that are enshrined in the law should not be infringed upon unless determined by a court of law.

Principle: The confidentiality of the accused shall be taken in the highest regard when the university is first assessing allegations and concerns.

Principle: The overall safety of the university campus should be considered in the highest regard when assessing the severity of allegations. The university must take more severe precautions when trends exist.

Principle: Rather than the survivor, the accused must be the one to make the accommodations when an allegation happens.

Concern: Oftentimes the rights of the accused overshadow the concerns of safety for the survivor.

Concern: Currently, there isn't much guidance from the provincial government on how to handle the accused when making accommodations for the survivor.

Concern: Universities, in times of pressure, often fail to alert campuses about trends in allegations and therefore act reactively instead of proactively.

Recommendation: All reports of sexual harassment or sexual assault given to Special Constables or Campus Police should continue to be reported to local police or OPP.

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

Recommendation: The provincial government should become the leader in setting regulations for universities making accommodations for the survivor and the accused.

Recommendation: Where concerns of safety are present and trends have been noted, universities should take extra precautions to ensure that the accused is supervised when on campus.

Recommendation: The Residential Tenancy Act should be amended to include residences in tenancies that can be terminated in cases of sexual violence or harassment.

Appeals & Recourse

Principle: Where an employee or student at the university believes that they are a victim of harassment, the university should conduct a prompt, thorough, and impartial inquiry designed to reliably determine what occurred at the discretion of the survivor.

Concern: Often investigations into sexual violence or harassment complaints in universities are lengthy, disorganized, and not survivor-centric.

Concern: Appeal procedures are often not known to the survivor or the accused, or do not exist at some institutions.

Concern: In the current structure, it is unclear as to where students can go in the event an institution is not following their policy or protocol.

Recommendation: If harassment that creates a hostile environment is found, the university must take prompt and effective action to stop the harassment, eliminate the hostile environment, and address its effects.

Recommendation: Harm reduction should continue well beyond the incident to ensure a return to a more conducive environment for study and work

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

Recommendation: There should be an appropriate response team established to handle the appeals of decisions either from the accused or the survivor.



Ontario Undergraduate Student Alliance

Recommendation: The province should make clear which government agency is responsible for ensuring regulatory compliance when it comes to enforcing the policy and protocol at institutions

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