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FIVE THINGS

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Student Affairs Administrators
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FIVE THINGS Student Affairs Professionals Should Know About Campus GENDER-BASED VIOLENCE

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FIVE THINGS ISSUE BRIEF SERIES

Supported with funding from the NASPA Foundation and published by NASPA's Research and Policy Institute, the Five Things Issue Brief Series is designed to connect leaders in the field of student affairs with academic scholarship on critical issues facing higher education. Intended to be accessible, succinct, and informative, the briefs provide NASPA members with thought-provoking perspectives and guidance from current research on supporting student success in all its forms. To offer feedback on the Five Things series or to suggest future topics, contact Andrew Q. Morse, NASPA director for research and policy, at amorse@naspa.org. Previous published briefs may be accessed at www.naspa.org/rpi.

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Colleges and universities in the United States are facing an epidemic of gender-based violence and widespread allegations that they are responding inadequately to the problem. In January 2014, President Barack Obama announced a White House Task Force to Protect Students from Sexual Assault. The same month, a negotiated rulemaking committee, selected by the Department of Education the previous semester to write new rules under the Clery Act (2014), began its work.

In April 2014, the Department of Education's Office for Civil Rights (OCR) issued more than 50 pages of answers to frequently asked questions that it had collected from institutions of higher education since it issued a "Dear Colleague" letter in 2011 regarding Title IX (1972) and sexual violence, as well as a list of institutions currently under investigation by the OCR. At the same time, the White House Task Force issued its first report and nearly a dozen companion documents, including guidance on writing a policy on sexual assault; a chart specifying how Title IX, the Clery Act, and the Violence Against Women Reauthorization Act of 2013 (VAWA) interact; a toolkit for developing a campus climate survey; a model reporting and confidentiality protocol; and a sample memorandum of understanding (MOU) for collaboration among institutions and community victim advocacy organizations, all available at NotAlone.gov, a new website. The task force also announced intentions to fund research and other grant programs related to combatting sexual violence, including one program specifically designed to develop treatments for college perpetrators of gender-based violence. The launch of the task force report was quickly followed by a

New York Times front-page exposé (Pérez-Pena & Taylor, 2014), the first of several on specific cases of sexual violence at colleges and universities; a *Time* magazine special issue (see <http://time.com/100038/college-sexual-assault-debate>); and dozens of individual articles and editorials.

During summer 2014, the Department of Education published a Notice of Proposed Rulemaking and announced a one-month public comment period for the rules that the negotiated rulemaking committee had come to consensus on during the spring. In addition, Senator Claire McCaskill held three roundtables with various student survivors and gender-based-violence experts working both on- and off-campus. One roundtable was on the Clery Act, one on Title IX, and one on "Administrative Processes and the Criminal Justice System." The Senate Committee on Health, Education, Labor, and Pensions, chaired by Senator Tom Harkin, held a hearing as well. This congressional activity culminated in three bills being proposed in July related to campus sexual violence: CASA (Campus Accountability and Safety Act; S. 2692, 2014), SOS (Survivor Outreach and Support) Campus Act (S. 2695, 2014), and HALT (Hold Accountable and Lend Transparency) Campus Sexual Violence Act (H.R. 5269, 2014).

September and October 2014 saw several more actions by public policymakers related to this violence. The White House announced the nationwide “It’s On Us” campaign in September, along with several new best practice documents providing guidance on the role of Title IX coordinators, more information on climate surveys, and instruction on how to provide supportive and interim measures to victims after they disclose or report a victimization. In October, the Department of Education published the final Clery Act rules, scheduled to go into effect on July 1, 2015. NASPA–Student Affairs Administrators in Higher Education launched a companion campaign to “It’s On Us,” called #SAPledge, that nearly 2,000 NASPA members had taken by early December.

Throughout this time, student survivors of gender-based violence and their supporters have continued to advocate for better institutional responses and to file complaints with the OCR. The list of schools under investigation has grown to 91 at the time of this writing from the 55 originally announced in April, and the OCR has continued to investigate complaints, conduct compliance reviews (investigations initiated by the OCR), and announce

resolutions of investigations. To date, there have been a total of five six- and seven-figure publicly disclosed settlements, including one for \$2.8 million and one for \$1.3 million. On the policy front, still anticipated are more research and assessment grant competitions, a sample MOU for use by institutions and local law enforcement, a validation study of the campus climate survey, and potential reintroduction of the CASA, the SOS Campus Act, and the HALT Campus Sexual Violence Act.

In light of all of this activity, the average college or university is facing a seemingly endless list of tasks it must accomplish quickly, and student affairs professionals will be on the front lines of both policy development and implementation in light of the changes taking place. It is therefore critical for student affairs professionals not only to understand the scope, dynamics, causes, consequences, and complicating factors of gender-based violence on their campuses, but also to operationalize that knowledge into new or revised policies, procedures, training, educational programming, and student advising and counseling methods. This brief presents five steps student affairs professionals can take to begin both sets of tasks.

Key Terms for Understanding and Addressing Gender-based Violence on Campus

Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act)

The Clery Act is a consumer law that requires colleges and universities to collect reports of certain criminal acts committed on or adjacent to university property, and it provides student-victims with rights such as the right to have others present in hearings regarding an allegation of campus sexual violence. The Clery Act was amended by the Violence Against Women Act of 2013 by adding domestic and dating violence and stalking to institutional reporting requirements; requiring prevention programs; and adding new rules and transparency requirements regarding policies and disciplinary processes related to gender-based violence.

Climate Survey

A climate survey measures a number of factors related to a campus environment's friendliness or hostility to certain groups of students and community members. The climate surveys discussed in this brief would assess campus environments related to gender-based violence. Questions about victimization rates would form the core of climate surveys regarding gender-based violence, but other questions regarding environmental factors related to gender-based violence could also be included.

Disclosure vs. Report

A *disclosure* is when a survivor tells a campus official about his or her victimization in order to access services. A disclosure is to be kept confidential by that official and does not require action against the person a victim identifies as having committed the violence. A *report* is a survivor's official complaint. A report requires a campus official to take action against the person reported to have committed violence; the action likely will not allow total confidentiality, although campus officials should limit knowledge of the report to as few other officials as possible and may wish to put other confidentiality rules in place. For a sample reporting and confidentiality reporting protocol, see <http://notalone.gov/assets/reporting-confidentiality-policy.pdf>.

Gender-based Violence

Violence is gender-based when it is intentionally directed at a person because of his or her gender or when it disproportionately affects people of a certain gender. While most gender-based violence is directed at women and girls, boys and men can also be victims, such as when violence is directed at them because they fail to conform to or are perceived as not conforming to stereotypes of masculinity. Common forms of gender-based violence include domestic and dating violence, sexual violence, stalking, and violence based on gender stereotypes.

Protective Measures, Interim Measures, Supportive Measures, and Accommodations

These terms are used to identify services, changes, and methods of separating students following a disclosure or report of gender-based violence. Such measures include stay-away orders; changes to housing, classes, transcripts, and academic policies based on the victim's request; and services related to medical care, counseling, financial aid, immigration status, and advocacy within institutional proceedings and processes, as well as outside the institution.

Title IX of the Education Amendments of 1972 (Title IX)

Title IX prohibits colleges and universities, as well as K–12 schools and other educational programs that receive funds from the federal government, from engaging in sex discrimination that denies victims' rights to an equal education. Schools are considered to have engaged in sex discrimination when they tolerate gender-based violence that creates a hostile environment for students. Factors that create a hostile environment include, but are not limited to, gender-based violence, the trauma caused by the violence, and the exacerbation of that trauma by experiences such as victims being required to encounter or risk encountering their assailants postviolence.

Victim, Survivor, and Accuser; Perpetrator, Assailant, and Accused Student

Victim and *survivor* are used interchangeably in this brief to refer to a person who discloses or reports that he or she has been the target of sexual violence. Neither term indicates a finding of responsibility for gender-based violence. *Accuser* describes the role of the victim/survivor in a disciplinary proceeding. *Perpetrator* or *assailant* both describe a person who has been found responsible for gender-based violence, or are used in discussions in which it can be assumed the person committed the violence, such as in statistical analyses. *Accused* indicates a person who has been charged but not yet found responsible for committing violence.

Violence Against Women Act (VAWA)

VAWA was first passed in 1994 to provide grants and legal remedies under federal law for victims of violence against women. The statute has been reauthorized by Congress several times since then, most recently in 2013. The 2013 VAWA reauthorization included provisions that amended the Clery Act, including adding domestic and dating violence and stalking to institutional reporting obligations, requiring prevention programs, and adding new rules and transparency requirements regarding institutional disciplinary processes related to gender-based violence.

1 Know Their IX

At the most basic level, addressing and seeking to end gender-based violence as a society is a moral imperative. As stated in a 2006 report from the United Nations Secretary-General, it is widely accepted throughout the world that “violence against women is a form of discrimination and a violation of human rights. . . . It can only be eliminated, therefore, by addressing discrimination, promoting women’s equality and empowerment, and ensuring that women’s human rights are fulfilled” (p. i). As a nation, we have continually increased our commitment to fairness and equality for all and lives free of discrimination.

For this reason, the laws that seek to combat gender-based violence, especially Title IX, should not be viewed as obligations that we grudgingly fulfill, but as tools that can help higher education professionals realize one of our nation’s most fundamental values. Title IX prohibits colleges and universities, as well as K–12 schools and other educational programs that receive federal funds, from engaging in sex discrimination that denies the victims of that discrimination rights to an equal education. Schools are considered to have engaged in sex discrimination when they tolerate sexual violence in the form of severe sexual harassment that creates a hostile environment for students. Other forms of gender-based violence, including those based on gender stereotypes, stalking, and domestic and dating violence, can also generate such a hostile

environment. Factors creating this hostile environment include the trauma caused by the violence itself and the exacerbation of the victim’s trauma by experiences such as being required to encounter or risk encountering the assailant postviolence.

As will be discussed later in this brief, gender-based violence has devastating effects on victims’ lives, including serious educational consequences that can prevent victims from getting an education or make their educational experiences unequal. Therefore, every student affairs professional should develop a clear understanding of the core principle of Title IX: protecting the victim’s right to equal educational opportunity. This means that every time we face issues of gender-based violence among students, our focus should be on what victims need to continue their education in a manner as close as possible to their level of educational success or promise prior to the violence.

Focusing on equal educational opportunity means more than ensuring formal equality in investigation and disciplinary proceedings, although such equality is important, too, and will be discussed later in further detail. Equal educational opportunity requires an understanding of the effects of trauma on educational experiences and performance, as well as skilled work with the survivor to develop academic and cocurricular accommodations that will allow the student to heal from the trauma and resume work toward educational goals as soon as possible.

The Education-derailing Effects of Sexual Trauma

The trauma that results from sexual victimization makes it very difficult for survivors to maintain their previolence educational trajectory, especially in the immediate aftermath of the violence. Particularly if they are not addressed as soon as possible after the victimization, the negative health and educational consequences of sexual violence can have life-altering effects. The documented health consequences of sexual violence alone include increased risk of substance

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use, unhealthy weight control behaviors, sexual risk behaviors, pregnancy, and suicidality (Silverman, Raj, Mucci, & Hathaway, 2001). Common educational effects include declines in educational performance, the need to take time off, declines in grades, dropping out of school, and transferring schools (Loya, 2012), all of which have potentially devastating life-long financial consequences. The cost of rape and sexual assault (excluding child sexual abuse) to the nation has been estimated at \$127 billion annually (in 2012 dollars), \$34 billion more than the next highest cost criminal victimization, all crime-related deaths except drunk driving and arson (Miller, Cohen, & Wiersema, 1996).

These traumatic effects are often exacerbated when victims are forced to encounter or to risk encountering their assailants repeatedly after being victimized. Many of the educational consequences listed above are at least partly caused by victims' efforts to avoid their assailants in shared classes and campus spaces, all of which are linked to declines in educational performance and grades, which in turn can result in loss of scholarships and financial aid, along with tuition spent on classes the victims are not able to finish. In addition, trauma has multiple, intersectional inequalities attached, because expensive medical care and financial aid losses disproportionately impact students with less familial support, lowering their ability to stay in school at all, let alone recapture their previous success.

Maximizing a Victim's Options Before a Disclosure or Report

Especially right after a violent act occurs, student affairs professionals should focus on offering survivors as many options as possible with the full range of their individuality and diversity in mind. Maximizing options for survivors is trauma-informed, because victims of gender-based violence have generally experienced severe loss of control over their own bodies. Giving survivors as much control as possible after such violence is empowering, whereas eliminating even partial control can be retraumatizing. One of the best ways to maximize control and empowerment is to maximize options, and doing so will also help student affairs professionals meet the individual, holistic

needs of survivors, because every survivor will need a different mix of interim and protective measures, accommodations, and other remedies. Moreover, because there are so many survivors on college and university campuses and one size will never fit all, student affairs professionals must learn and use flexibility and creative problem-solving when working with survivors, constantly creating new options when necessary, and resisting closing off options, especially based on generally applicable policies that are not crafted with survivors or trauma in mind.

Student affairs professionals should focus on offering survivors as many options as possible with the full range of their individuality and diversity in mind.

A best-practice-informed menu should include options both before and after a disclosure or report. Before reporting an incident, a victim should have at least two paths from which to choose: a confidential disclosure or a nonconfidential report. Especially if an institution does not have a full-time victim services office, as discussed in point 2, each path should feature a diversity of employee positions. An institution without a victim services office should particularly ensure diversity among those in the confidential path, because the nonconfidential path will tend to encompass all employees who are not designated as confidential, and therefore will be larger and more diverse automatically. In addition, a disclosure in the confidential path can always be switched to the nonconfidential path, whereas an institution may not always be able to protect confidentiality for a victim who initially makes a nonconfidential report. Diversity within the confidential path should include employees who do not have state law privilege but who *do* have particular training or expertise in gender-based violence or play campus roles designed to assist violence victims, including staff in on-campus sexual assault centers, victim advocacy offices, women's centers, or health centers. There are many other details about

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constructing such a system in compliance with best practices and the guidance of the OCR (see sections D and E of the OCR FAQs on Title IX and Sexual Violence at the link in the Resources box on page 16). Making multiple disclosure and reporting options available to victims is indispensable for an institutional response that puts educational equity first.

Maximizing Options Once a Victim Discloses or Reports

After a disclosure or report, it is critical that student affairs professionals work with the survivor to establish necessary educational accommodations and options for separating from the reported assailant. Needed educational accommodations can include, but are not limited to, changes to housing, on-campus employment, classes, assignments, financial aid, tuition payments, and, in certain circumstances, even grades. Exceptions to various academic and cocurricular policies may need to be made in order to accomplish these accommodations, and those should be liberally made, as such policies are not made with trauma in mind or to address victims' experiences, and such exceptions will not prevent the policies from fulfilling their general purposes. Most of these measures can be implemented quickly after a victim discloses or reports.

Likewise, various options for initial separation can be implemented immediately after a victim reports, including measures such as stay-away orders and interim suspensions. Permanent, lengthier, or more comprehensive separations that affect the educational status of the reported assailant, such as changing housing or academic arrangements, suspensions, and expulsions, will require an investigation and more process. However, given the effects of trauma and of retraumatizing encounters or fears of encounters with

the assailant, the necessary process should be effectuated as promptly as possible, as long as the process is fair and equitable to both parties. Fair and equitable generally means that, although schools have some flexibility in how they construct their procedures, when those procedures give a right to the accused student, the student-victim must also get that right. In addition, such procedures should use a preponderance of the evidence standard of proof (OCR, 2011, 2014). That is the most appropriate standard of proof for a presumption-free proceeding that gives equal procedural rights to all parties because it requires just more than 50% evidentiary weight in favor of one side or the other.¹

It is important to note that student affairs professionals must be aware of their own health and psychological reactions to victims' reports of violence. Extensive research on jurors' reactions to sexual violence cases shows that jurors bring their own experiences and preconceived notions about victims, perpetrators, and gender-based violence to their decisions in those cases (National Judicial Education Program, Legal Momentum, 2011). This is likely just as true for student affairs professionals who have not had specialized training on victims' experiences and the effects of trauma.

These are difficult goals to achieve, but fortunately expert help is available to understand, operationalize, and fulfill our commitment to equality for all. How to find and use such help is the subject of the next section.

2 Get SMART

Many expert resources on gender-based violence in education exist, and a fair number are available on campuses and in communities. Some experts specialize precisely in gender-based violence in education, and many more specialize in areas that significantly overlap with it. The challenge is to identify and organize these resources for the benefit of survivors and of the institution.

¹ These characteristics track those in the OCR's guidance and thus demonstrate the good reasons behind the OCR's rules. They help operationalize Title IX's prohibition on sex discrimination, sexual harassment, and gender-based violence.

Victim Services Offices

A full-time victim services and advocacy office benefits both survivors and institutions. Such offices allow survivors to access a range of services, including medical, counseling, academic, housing, employment, financial aid, law enforcement, Title IX, and student conduct processes, through a single office. These offices are best able to provide the confidential, individualized, and creative support and problem-solving discussed in the previous section and that survivors most need when trying to recover from trauma and revive their pursuit of education. Because these methods are also highly effective and extremely efficient for assisting survivors in the most comprehensive fashion possible, victim services offices also benefit institutions.

Other benefits shared by survivors and institutions include minimizing the chances that a victim will be retraumatized by an institution's response system. For instance, in the immediate aftermath of trauma, it is very difficult for victims to navigate the often complex bureaucracies and dispersion of services throughout a college or university. Even before a victimization, a student may have difficulty understanding where to go and with whom to speak to access services, but the severe shock to both their physical and mental systems that violence victims experience can make this challenge seem insurmountable.

Moreover, once a victim has identified needed services, a campus system without a victim services office will require the victim to recount repeatedly the violent experience, keeping the trauma fresh and becoming an obstacle to healing. This constant retelling will not only include medical and counseling professionals who presumably have some training in working with victims, but professors and deans who may have little to no understanding of this violence or the resulting trauma. These variations mean that even victims who manage to recount their violent experiences repeatedly may get very different reactions to each retelling, increasing the chances that they will be retraumatized by hostile or disbelieving responses, including those that violate Title IX. Because institutions will want to avoid violating Title IX, they have good reason beyond even their preexisting moral imperative to avoid retraumatization.

Both victims and institutions also benefit from victim services and advocacy offices because the professionals who lead those offices are experts in the dynamics of gender-based violence, the effects of trauma on survivors, how to assist survivors in the most holistic fashion possible, and how to craft policies and programs to prevent violence. Although they may not directly provide services, these experts will have extensive knowledge of the kinds of services survivors generally need and, when confronted with new needs and circumstances, will have the expertise and

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professional connections to creatively problem-solve and generate options for an individual survivor's specific circumstances. They can thus communicate to survivors the full range of options available both on and off campus for healing and continuing with their education. In addition, their knowledge about gender-based violence and about what survivors on their particular campuses are experiencing makes these professionals invaluable resources for designing policies and presenting prevention programs and training to other faculty, staff, and students.²

SMARTs

The benefits of employing victim services professionals will be increased exponentially if these professionals can collaborate with multidisciplinary teams of other staff and stakeholders, which this brief refers to as Sexual Misconduct and Assault Response Teams (SMARTs). However, because these groups are more commonly known as CCRTs (coordinated community response teams) and SARTs (sexual assault response teams), this section will mainly discuss

² Victim services professionals are different from Title IX coordinators. Victim services offices are engaged in supporting and advocating for survivors and can keep survivor disclosures confidential, whereas Title IX coordinators are involved in responding to nonconfidential reports and the investigation and resolution of those reports. Institutions need both victim services professionals and Title IX coordinators. See sections D and E of the OCR FAQs from April 2014 at the link in the Resources box on page 16 for further information.

CCRTs and SARTs, and only use the term SMART as an umbrella term to refer to both CCRTs and SARTs together. CCRTs bring together key stakeholders in institutional response systems, both on and off campus, and provide an ongoing mechanism for those stakeholders to assess an institution's system, identify elements that need to be changed, lead the implementation of those changes, and oversee and adjust the system on an ongoing basis. It is important to recognize that, even though they may initially perform similar functions, CCRTs are not task forces, which typically have a limited duration, but are ongoing and designed to exist in perpetuity or at least until an institution ends gender-based violence in its campus communities.

CCRTs should include departmental representatives who play a significant role in the campus response system; other members of the institution with expertise in combating gender-based violence, especially faculty members; and student and alumni leaders and survivors. A partial list of typical CCRT members includes: appropriate student affairs staff; victim services and advocacy professionals; student and/or alumni survivors; women's center, LGBTQ center, and multicultural center staff; university counsel staff; disabilities services staff; the Title IX coordinator and/or deputy coordinators; faculty from women's or gender studies programs; and appropriate faculty governance bodies. Student survivors should be consulted for nominations, especially of faculty. A CCRT should also include members from the surrounding community, particularly staff of local anti-gender-based-violence organizations and local law enforcement. All CCRT members and leaders should recognize that keeping this group of stakeholders in regular and effective communication is as important as the tasks accomplished by the group. Therefore, if someone has a relevant role or experience to contribute but does not get along with other team members or is perceived as having a difficult personality, it is critically important he or she not be excluded from the CCRT.

An appropriate individual with excellent facilitation skills should lead the CCRT, especially at the group's inception. Having a skilled facilitator is critical because the first 6 months or more are likely to involve conflicts among CCRT members (Aldrich, 2014). In addition to having a strong facilitator,

a CCRT should, both at the beginning and in an ongoing fashion, seek to gather information and invite members or experts in gender-based violence who are not on the team to introduce readings and lead discussions about gender-based violence generally or specifically with regard to the institution. An effective CCRT should also develop an ongoing list of gender-based-violence-related tasks that need to be accomplished, and establish subcommittees to develop and implement action plans for completing those tasks.

Whereas CCRTs deal with policy and systemic issues, SARTs focus on individual cases. Although they, too, should be multidisciplinary, SARTs should not be as large as CCRTs because of the need to limit knowledge of private information in individual cases to as few people as possible. As a result, members of a SART will generally include only those with necessary skills or authority related to a victim's needs, including medical and counseling professionals as well as academic deans or advisors.

Victim services and advocacy offices and SMARTs are indispensable to institutional gender-based-violence response systems because they both broaden and deepen understanding and expertise in preventing violence and assisting survivors. They therefore take colleges and universities beyond technical compliance with Title IX, which alone will never meet the diversity and wide range of survivor needs. Going beyond technical compliance is important to both survivors and institutions, for reasons related to our society's moral imperative to end this violence as well as to the fact that survivors can sue institutions that did not sufficiently meet their needs and win significant monetary damages. This liability has the potential to be extremely expensive, by far the most expensive liability facing institutions in gender-based-violence cases (Cantalupo, 2012).

3 Be Empowered and Empowering

As suggested by the composition of SMARTs, ending gender-based violence is both a campus and community endeavor. Therefore, all student affairs professionals must develop significant knowledge in this area, and understanding gender-based violence

is only partially delegable. All higher education professionals need such knowledge—especially the experience of survivors and of trauma—to efficiently respond both institutionally and personally. The CCRT is a good way to start, because everyone will learn from and continue to communicate with each other. However, not all student affairs professionals at a given institution will be able to be on the team, so the CCRT cannot be the only mechanism for developing this expertise.

The nondelegable quality of learning about gender-based violence and victims' experiences with trauma and recovery means that all student affairs professionals should get training in how to understand the violence and to work with survivors. It is worth noting that the changes to the Clery Act regulations that were required by VAWA 2013 will go into effect on July 1, 2015, and the Department of Education's Office of Postsecondary Education (2014) has further announced that colleges and universities must already be making a good-faith effort to comply with the statute. Institutions will be required by the statute and regulations to provide educational programs and training on gender-based violence to both incoming students and new employees (Student Assistance General Provisions, 2014). The content and method of this training will depend on the other resources the institution puts in place, especially whether it has a victim services and advocacy office in place. If the institution has such an office, that office, likely along with the Title IX coordinator and appropriate SMART members, can both design and deliver the training to staff. The content of the training may also teach employees to quickly refer victims to the victim services office, thus saving more time to discuss the scope and dynamics of gender-based violence and trauma on campus and in society. If no victim services office or SMART exists, such training should be sought from local, state, or national organizations such as a rape crisis center, the anti-sexual or domestic violence coalition for the state, or a national organization such as the Victim Rights Law Center.

In addition to empowering staff through extensive training, student affairs professionals, especially those in leadership roles, should act with their own empowerment in mind. By continuing to learn about

gender-based violence and survivors' experiences, student affairs professionals can become experts in this subject and be able to mentor colleagues on how best to respond to this violence—even if such mentoring requires disagreement with mentees who are higher up in the organization chart or have professional credentials that may seem more adept to this subject.

One potential way to mentor others is by making the training for student affairs staff available to those outside of the department. As already noted, training

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and educational programming is mandated by VAWA for more than just student affairs staff. Although designing and determining how to deliver this training should ideally be led by the CCRT, that team may ask student affairs to take the lead on training and, as noted earlier, student affairs will have good reasons to broaden the mandated training to include all of its staff. By making this training available to employees in other departments, faculty included, student affairs can play a campuswide leadership role and build relationships it may not previously have had.

As student affairs professionals lead training and mentoring initiatives, it is important not to assume that lawyers and others with legal training do not need mentoring. Although the legal issues involved in gender-based violence and institutional responses to it are important and can seem complex, lawyers should not automatically have either the first or the last say on matters related to gender-based violence, especially if they do not specialize in laws related to gender-based violence. This is particularly true today, when the law is somewhat in flux and the application of Title IX to gender-based violence is new to many professionals, lawyers included.

Extra vigilance against a tendency to defer to lawyers is likely to be necessary in at least two specific instances when responding to gender-based violence on campus: when crafting the response system as a whole and when there is an active case in which lawyers are representing students in internal disciplinary and Title IX processes. In both instances, the participation of lawyers can be helpful, even indispensable, but only among a group of other important contributors. A response system should ultimately be crafted by a CCRT, of which the institution's counsel (either internal or external), Title IX coordinator, and victim services and advocacy professionals (only some of whom will be lawyers) should be members.

In an individual case of gender-based violence that is going through a Title IX investigation and disciplinary proceeding, lawyers may also be involved, including lawyers serving as advisors to the students involved in the case. The regulation changes to the Clery Act spurred by VAWA allow students to pick an advisor of their choice to accompany them in investigation and resolution proceedings in gender-based-violence cases. Under the new rules, institutions may not restrict a student's choice of advisor in any way (Student Assistance General Provisions, 2014), so the likelihood that some students will select lawyers to be their advisors will increase significantly. However, those regulations retain the right of institutions to structure and define the role of all advisors in such proceedings (Student Assistance General Provisions, 2014). Therefore, institutions may design their systems so that an advisor's role in any gender-based-violence disciplinary proceeding may be limited to silently accompanying a student, rather than playing the more traditionally active role that lawyers carry out in a court of law, especially because school disciplinary proceedings are administrative

rather than court proceedings, and therefore follow rules of administrative due process, as established by the U.S. Supreme Court.

If institutions limit the role of advisors in such a way, student affairs and other professionals involved in these proceedings will need to ensure that any advisor, including attorneys, respect and follow the restrictions. The system should be designed to reinforce institutional employees in this regard, with clear consequences for advisors who break the rules. In addition, all employees involved in the proceedings must guard against making exceptions or failing to enforce the established rules based on arguments presented by advisors, even if those advisors are attorneys and make arguments based on laws with which non-lawyer employees are unfamiliar. At such moments, higher education professionals who are empowered with knowledge and expertise in addressing gender-based violence and in the response system designed by the institution and its CCRT can retain confidence in and meet any challenges to the system.

4 Treat Research as a Friend

Developing knowledge and expertise requires a commitment to continual learning about gender-based violence and how it manifests in the lives of students. In addition, given the activities of the White House Task Force, the possibility of new legislation, and new Clery Act regulations, simply keeping current on legal developments will require continuing education. Such learning need not be limited to knowledge acquisition, but can and should also include knowledge creation. In this sense, developing the expertise required to respond to and combat gender-based violence serves other purposes as well, all of which are especially appropriate to colleges and universities and their missions of teaching, research, and service to society.

What we do not know about gender-based violence and how to end it, both on campuses and in society, utterly dwarfs the little we do know. All institutions of higher learning should be conducting research on gender-based violence that goes beyond simply documenting the rates and dynamics of the violence.

All institutions of higher learning should be conducting research on gender-based violence that goes beyond simply documenting the rates and dynamics of the violence.

Indeed, colleges and universities are in a better position to conduct research on gender-based-violence prevention and response methods than any other entity in the world. Although some do not include research in their core mission, most universities and many colleges are centers of research. In addition, students and other community members have traditionally been willing research subjects, even for studies that did not seek to learn anything about or improve the lives of students themselves (Lisak & Miller, 2002; Warshaw, 1988).³ Colleges and universities also have established ethical rules for research, including institutional review boards, to protect research subjects from harm or exploitation.

The acute problem of gender-based violence in education gives many institutions an opportunity to use their already established values and infrastructures for research to experiment with new response and prevention methods that could reduce this violence not only among their students but also in society at large. Although many institutions appear to view the benefits of studying this subject as outweighed by the public image problems associated with documenting and publishing high rates of violence among their students, the federal government has announced its intention to mandate that all institutions conduct climate surveys with their students. The first report from the White House Task Force stated an intention to create such surveys and to require all schools to administer them, and two of the three bills introduced recently in Congress would do the same.

Contrary to creating a problem for institutions, mandated surveys could facilitate the use of research resources to study gender-based violence with the goal of ending it. As the White House Task Force's (2014) first report acknowledged, right now the counterintuitive effects of high rates of violence with low reporting rates give institutions a disincentive to encourage students to disclose or report gender-based violence. This works against our

collective moral imperative to address and end the inequality inherent in this violence, because victims who do not disclose or report cannot access services and resources to heal and get their education back on track. Because most campuses have a high rate of violence but a low rate of reporting, if one institution encourages reporting but others do not, the campus that is doing more to combat this violence looks more dangerous. Institutions are then faced with the moral dilemma of protecting their public image or helping their students. Mandatory surveys would remove this dilemma by putting all institutions on an equal playing field, especially because the available evidence based on voluntary surveys administered by institutions indicates that most have rates of violence comparable to the national statistics (Cantalupo, 2014a; Freyd, 2014; Massachusetts Institute of Technology [MIT], 2014).

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Even voluntary surveys that are not mandated by law present a critical opportunity for colleges and universities to move in the direction of beneficial research that will help combat gender-based violence. Voluntary climate surveys that institutions have conducted in the past with their students have proven valuable in many ways. They have helped institutions understand more about the scope and dynamics of gender-based violence on their campuses and identify solutions to prevent this violence. For instance, one institution that has surveyed its students for several decades, in intervals of 6 to 12 years, has been able to assess the

³ For instance, one of the earliest studies on acquaintance sexual assault, discussed in Robin Warshaw's (1988) *I Never Called It Rape*, was conducted on college women and men subjects, but draws conclusions regarding men and women generally. Likewise, Lisak and Miller's (2002) *Repeat Rape and Multiple Offending Among Undetected Rapists* used a study conducted on 1,882 students at a midsize urban commuter university to support the proposition that the majority of undetected rapists are repeat offenders, without differentiating between college student undetected rapists and undetected rapists in general.

effectiveness of multiple institutional responses and determine that two responses in particular appear to reduce violence: an on-campus victim services and advocacy office and a bystander intervention education program. The faculty who have conducted those surveys have published multiple scholarly articles regarding the surveys, contributing significantly to their institution's research mission (Cantalupo, 2014a). At other institutions, these surveys have provided evidence for leadership to allocate resources for creating victim services and advocacy offices and other anti-gender-based-violence programs (Cantalupo, 2014a; Freyd, 2014; MIT, 2014). As research projects that have institutional insights and explanations, the surveys provide a contribution not only to the institution's research mission but also to its service mission, and they create another opportunity for student affairs to collaborate across departments and with faculty who are interested in such research.

In keeping with another important aim of most institutional research, surveys and other research efforts will also contribute to a college or university's teaching mission. The increased understanding that research will facilitate regarding gender-based violence among students will contribute significantly to the teaching and education happening both in the classroom and in nonclassroom student affairs programs.

5 Engage in Comprehensive Prevention of Inequitable and Violence-supportive Cultures

Because most of this brief has focused on what institutions should do once a victim reports, it may seem like student affairs professionals should not be concerned with preventing assault. In fact, what an institution does after a victim reports is an important part of preventing gender-based violence, but it is not the only type of prevention that institutions should be undertaking.

Experts on prevention best practices agree that effective prevention needs to be comprehensive, which the Centers for Disease Control and Prevention (2004) defined as including primary prevention, secondary

prevention, and tertiary prevention. "Primary prevention [includes] approaches that take place *before* sexual violence has occurred to prevent initial perpetration or victimization. Secondary prevention [consists of] immediate responses *after* sexual violence has occurred to deal with the short-term consequences of violence. Tertiary prevention [involves] long-term responses *after* sexual violence has occurred to deal with the lasting consequences of violence and sex offender treatment interventions" (Centers for Disease Control and Prevention, 2004, p. 3).

The new VAWA and Clery Act regulations that will soon require institutions to offer prevention programs to both students and employees incorporate this comprehensive approach to prevention, particularly in its definition of the statutory term "programs to prevent dating violence, domestic violence, sexual assault, and stalking" (Student Assistance General Provisions, 2014, p. 62,784). That definition requires that institutions must provide "comprehensive, intentional, and integrated programming, initiatives, strategies, and campaigns intended to end dating violence, domestic violence, sexual assault, and stalking that (A) Are culturally relevant, inclusive of diverse communities and identities, sustainable, responsive to community needs, and informed by research or assessed for value, effectiveness, or outcome; and (B) Consider environmental risk and protective factors as they occur on the individual, relationship, institutional, community, and societal levels" (Student Assistance General Provisions, 2014, p. 62,784). The definition also makes clear that it is an umbrella definition for other statutory terms such as "primary prevention programs," "bystander intervention," "awareness programs," "ongoing prevention and awareness campaigns," and "risk reduction" (Student Assistance General Provisions, 2014, p. 62,788).

Therefore, to craft a comprehensive prevention program, institutions will need to do more than improve the mostly secondary and tertiary responses already discussed in this brief. They will need to provide primary prevention programs and increase their secondary and tertiary prevention programs significantly. Institutions should assess their existing programs to determine in which areas (primary, secondary, or tertiary) their programs are weak or have gaps, and to create or adopt programs that will address those

gaps and weaknesses. In addition, as the “programs to prevent” (Student Assistance General Provisions, 2014, p. 62,784) definition makes clear, these programs will have to be supported by research, evidence, or some other assessment that indicates the program uses legitimate and effective prevention methods (note that surveys and other research could help provide this value assessment and evidence-based approach).

Just as important, the focus on comprehensiveness and intentionality indicates that all prevention methods must be consistent with each other. For instance, a primary prevention program that seeks to teach “positive and healthy behaviors that foster healthy, mutually respectful relationships and sexuality” (Student Assistance General Provisions, 2014, p. 62,788) would be inconsistent with a tertiary approach that assigns minimal and nonmeaningful sanctions to students who subject others to unhealthy and disrespectful violent relationships and sexual encounters. Allowing different types of prevention to contradict each other negates the comprehensiveness of the prevention program.

In addition, many student conduct systems strive to be educational. Such educational goals are laudable but must also be consistent and informed at every stage by a specific educational goal for the institution’s process at that stage. For instance, when minimal sanctions are levied after the institution finds that a student has perpetrated violence against another student, this teaches all the students involved, most critically the responsible student, that such violence is not serious or prohibited by the institution because there are little to no consequences for engaging in that violence.

Student conduct systems can also educate students in equality and equal treatment. Under both Title IX and the Clery Act, equal treatment is already required, but it also has a laudable educational goal. Student affairs professionals involved in such proceedings have a unique opportunity to demonstrate equality in a very real way, by treating equally students who are parties to a conduct proceeding. Most critically, this means procedural equality, where each student gets equal rights through a general rule by which rights extended to one student must be extended to the other.

In addition, use of the preponderance of the evidence standard of proof educates students in equality because it requires just more than 50% evidentiary

weight in favor of one side or the other (OCR, 2011, 2014). As such, it comes closest to procedural equality for all student parties and most effectively teaches students that the basic equality of all people precludes giving presumptions for or against any one person’s account, which evidence standards such as “clear and convincing evidence” and “beyond a reasonable doubt” give to accused students. That is, because it assumes that all student parties are equally likely to tell the truth, the preponderance standard *does not* suggest what “clear and convincing evidence” and “beyond

By incorporating equality principles into tertiary prevention methods such as conduct proceedings, these proceedings can now educate students consistently with other prevention efforts.

a reasonable doubt” suggest: a general societal belief that one side or the other is more likely to lie or that this belief is so strong it needs to be systematically built into the very design of our processes. Because campus gender-based-violence cases tend to be word-on-word cases that are decided largely based on the parties’ credibility, using a standard of proof such as “clear and convincing evidence” or “beyond a reasonable doubt” essentially signals that those who report being sexually victimized are less credible and more likely—across the board—to lie than the accused. This is not an education in equality.

By incorporating equality principles into tertiary prevention methods such as conduct proceedings, these proceedings can now educate students consistently with other prevention efforts. For instance, many primary prevention programs will seek to intervene in the unequal cultural aspects of gender-based violence. Such approaches include programs directed specifically at ending gender-based violence, but can also include academic courses and other programming that deal with inequality and human rights, especially as they relate to gender. As the 2006 report from the United Nations Secretary-General noted, gender-based violence and gender inequality are

Resources

The following resources can help student affairs professionals stay current on campus gender-based-violence prevention and response.

- ◆ OCR FAQs on Title IX and sexual violence:
<http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf>
 - ◆ OCR 2011 “Dear Colleague” letter:
<http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.pdf>
 - ◆ OCR 2013 revised guidance:
<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201304.pdf>
 - ◆ Guidance on retaliation:
<https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201304.pdf>
- ◆ Final Violence Against Women Act (VAWA) rules:
<http://www.gpo.gov/fdsys/pkg/FR-2014-10-20/pdf/2014-24284.pdf>
(full Clery rules, as amended by VAWA, begin on p. 62,783)
- ◆ Proposed legislation:
 - ◆ CASA (Campus Accountability and Safety Act):
<https://www.congress.gov/bill/113th-congress/senate-bill/2692>
 - ◆ HALT (Hold Accountable and Lend Transparency) Campus Sexual Violence Act:
<https://www.congress.gov/bill/113th-congress/house-bill/5269>
 - ◆ SOS (Survivor Outreach and Support) Campus Act:
<https://www.congress.gov/bill/113th-congress/senate-bill/2695>
- ◆ White House Task Force to Protect Students From Sexual Assault report and best practices documents:
<https://www.notalone.gov>
 - ◆ Report:
<https://www.notalone.gov/assets/report.pdf>
 - ◆ Campus climate surveys toolkit:
<https://www.notalone.gov/assets/ovw-climate-survey.pdf>
 - ◆ Model reporting and confidentiality protocol:
<https://www.notalone.gov/assets/reporting-confidentiality-policy.pdf>
 - ◆ Checklist for drafting and reevaluating a comprehensive sexual misconduct policy:
<https://www.notalone.gov/assets/checklist-for-campus-sexual-misconduct-policies.pdf>
 - ◆ Sample MOU with community victim advocacy organizations:
<https://www.notalone.gov/assets/mou-rape-crisis-centers.pdf>
 - ◆ Intersections among Title IX, Clery, and VAWA:
<https://www.notalone.gov/assets/ferpa-clerychart.pdf>
 - ◆ Title IX coordinator’s role:
<https://www.notalone.gov/assets/role-of-title-ix-coordinator.pdf>
 - ◆ Providing supportive and interim measures to victims:
<https://www.notalone.gov/assets/interim-and-supportive-measures.pdf>
 - ◆ It’s On Us campaign and NASPA companion campaign:
<http://www.naspa.org/focus-areas/violence-prevention/sapledge-its-on-us-to-stop-sexual-assaults>
 - ◆ Prevention resources:
<https://www.notalone.gov/schools>
(Click the “Schools” tab for other documents)

causes and consequences of each other. It is also well-documented that stereotypical and rigid ideas about masculinity are connected to gender-based violence directed primarily by men and boys toward members of all genders (Cantalupo, 2014b; Kimmel, 2005). Discussions of equality and human rights more broadly, including how inequality is linked to violence directed at certain groups, highlights the cultural aspects of discriminatory violence such as gender-based violence and encourages interventions into such cultures.

Institutions of higher education and student affairs professionals have a unique opportunity to fulfill the mission of higher education by engaging in comprehensive prevention education both inside and outside of the traditional classroom setting. By using its teaching and expertise in education to intervene in unequal and violence-supportive cultures, higher education would go beyond only preventing violence among its students; it would help prevent gender-based violence throughout the country and even the world.

CONCLUSION

Although the changes of the past year related to laws, policies, and public attention to gender-based violence on college campuses have been incredibly swift, methods for adjusting to even rapid change are available and well tested. The five recommendations discussed in this brief will assist student affairs professionals not only to learn about gender-based

violence, but also to operationalize that knowledge once acquired. Most importantly, these five ideas are designed to assist student affairs professionals in continuing to improve gender-based-violence prevention and response efforts—even if the legal and policy landscape shifts—and to fulfill our collective, preexisting moral imperative to end this violence.

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