A RESTORATIVE APPROACH TO GENDER-BASED MISCONDUCT

St. Norbert College

LEARNING OUTCOMES

1. Possess an understanding of restorative justice and restorative principles
2. Articulate needs and obligations resulting from gender-based misconduct on campus
3. Acknowledge, be poised to rectify structural deficits to realizing restorative justice
4. Demonstrate strategies and mechanisms for application, within a social justice paradigm

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RESTORATIVE WAY OF THINKING

- What is the harm?
- What needs to be done to repair the harm?
- Who is responsible for this repair?

Adapted from H. Zehr (2002)

RESTORATIVE TRIANGLE

- Variations in process and purpose
- Indigenous practices
- Set of principles and values
RESTORATIVE APPROACH

- Relational
- Addressing Harms, Needs, and Obligations
- Collaborative
- Equal Concern for Parties

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RESTORATIVE JUSTICE ASKS…

Adapted from Pruss, 1997

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RESISTANCE

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SEXUAL AND GENDER-BASED MISCONDUCT

- As compared to other types of victimization
- Identity and cultural considerations
- Role of trauma

Obligations

Needs

Harm

Types of harm

Responses to victimization

How trauma manifests itself
Prioritize physical and emotional safety

Promote recovery and healing

Empower

Control

True choice

Give voice

Provide predictability and transparency

Culturally conscious

Sense of safety

Validation

For impact to be heard

Deeper understanding of what transpired

Accountability

Enhanced confidence the behavior will not recur
SEXUAL MISCONDUCT ON CAMPUS

- Breadth of behaviors
- Population responsible
- Intentions, motivations, and tactics

Rapisarda, S. S., Shields, R. T., & Tabachnick, J. (2020)

RESPONSIBLE PARTIES

- Acceptance of responsibility
- Voicing the harm
- Addressing causes
- Reintegration

- Harm to others
- Harm to self
- Damage to relationships
- Destroyed trust
- Lost opportunities

Dialogue in circle is not a substitute for qualified assessment and treatment.
RESTORATIVE JUSTICE IS A COMMUNITY APPROACH

THE ROLE OF COMMUNITY

Who is impacted and how?
What are the needs?
Whose obligation is the repair?
How does community support the person harmed?
How does community support the person responsible?

COMMUNITY REPRESENTATION

- Articulate broader harm
- Voice needs for repair
- Share community resources
- Provide reintegration support
- Acknowledge demands for and promote community change

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CONDITIONS FOR PARTICIPATION

FACILITATION CONSIDERATIONS

- Principles of Restorative Justice
- Opportunities for Application
- Nature of Gender-based Misconduct
- Needs of Parties
- Conditions for Participation
- Facilitation Considerations
- Resolution Agreements
- Case Study

PRE-CONFERENCING

- Trust
- Support
- Transparency
- Preparation
- Goals
- Needs
- Not linear

SCENARIO:

THE PHOTO
Corrine dated Max for a few months last year before he graduated. While they were together, she sent a few photos to him of herself partially nude, at his request. This year, back on campus from summer break, the picture seems to have surfaced and has been texted around to large groups of students and reportedly posted on social media, but when she hears about it, she is not able to find anything online.

Corrine has had numerous people ask her if she knows about the photo and feels like everyone is talking about her when she is out around campus. She hasn’t been eating, because she isn’t leaving her room much and went from loving school, where she is an early education major, to missing classes and jeopardizing her ability to stay in the program. She knows some of the people who have shared the photo, but not all.
SUPPORT PERSONS
- Friend
- Family
- Attorney
- Advocate

USING SURROGATES

CONSIDERATIONS

ADDITIONAL SAFETY CONSIDERATIONS
- Physical Safety
- Emotional and Psychological Safety
  - Physical location of circle
  - Virtual circles
  - Considerations re. law enforcement
**FACILITATION CONSIDERATIONS**

- Customized script
- Tone setting
- Keeper of restorative principles
- Order
- Timing

**RESOLUTION AGREEMENTS**

- Principles of Restorative Justice
- Opportunities for Application
- Nature of Gender-based Misconduct
- Needs of Parties
- Conditions for Participation
- Facilitation Considerations
- Resolution Agreements
- Case Study

"Fairness is assured, not by uniformity of outcomes, but through provision of necessary support and opportunities to all parties and avoidance of discrimination based on ethnicity, class and sex."

Fundamental Concepts of Restorative Justice
Zehr & Mika, 1997
RESTORATIVE AGREEMENTS

- Centering the harm
- Promoting healing
- Meaningful accountability
- Prioritizing safety
  planning
- Facilitating
  reintegration
- Logistics
- "SMART"
- Monitoring

POTENTIAL ITEMS

- Contact Restrictions
- Work / Learning / Living Arrangements
- Assessment & Treatment
- Psychoeducation
- Restitution
- Community Reparation
- Safety Plan
- Reintegration Measures

Pre- Conference
Restorative Conference
Post- Conference
Closing Circle
Raul and Althea are both working in Dr. Johnson's lab. Raul is a 5th year doctoral student and Althea is in her first year in the same program. The two have been working closely together throughout the year, as Dr. Johnson paired Raul with Althea as her mentor. They have hung out socially a few times, in a group, with the others working in the lab, and both have expressed some interest in each other through flirtatious comments. After a couple months, Althea begins to feel more uncomfortable with Raul's overt sexual comments to her while at work, in part because she started dating someone who doesn't work at the university.

One afternoon, while they are alone in the lab, Raul started making comments about Althea performing oral sex on him. She tells him to stop and he does, but he seems annoyed, telling her he was just joking and walking out. Althea confides in another student, who tells her that she should report his conduct. Althea feels anxious about what to do, scared about what will happen if Raul finds out that she reported what occurred and worried that Dr. Johnson will find out. She is concerned that this will jeopardize her opportunities professionally, but doesn't know how she can continue to work beside Raul if nothing happened. Reluctantly she looks up the office responsible for meeting with students who feel they may have experienced harassment and schedules a meeting.

RESTORATIVE JUSTICE ASKS…

- How can we increase opportunities for HP involvement in defining harm and potential repair?
- How can we increase RP awareness of impact on the victim?
- How can we encourage RP acknowledgment of wrongness of their behavior?
- How can we involve the RP in repairing the harm?
- How can we acknowledge HP harm and confirm that the victim is not responsible for what happened?
- How can the community send messages of disapproval of the behavior but not banishing RP?
- How can the community provide opportunities for the RP to repair the harm?
- How can the community be involved in the process holding RP accountable?
- How can the community be supportive of HPs by meeting their needs?