

**An Alternative Response:  
Developing Restorative Justice for Sexual Violence  
on BC University Campuses**

**by  
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## Ethics Statement

The author, whose name appears on the title page of this work, has obtained, for the research described in this work, either:

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- b. advance approval of the animal care protocol from the University Animal Care Committee of Simon Fraser University

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## **Abstract**

This capstone investigates how restorative justice can be implemented into existing sexual violence policies at three BC universities – SFU, UBC, and UVIC. Universities are currently underutilizing alternative dispute resolution techniques, which can be a very beneficial process for survivor-victims. An extensive literature review and expert interviews justified the assumption of this paper that a restorative justice option should be offered to survivor-victims who seek justice through their university. Case studies and an analysis of the existing policies inform the development of four policy options for consideration. I conclude by offering a short-term recommendation that universities partner with local restorative justice centres, followed by a long-term strategy to work towards the development of a comprehensive province-wide sexual violence policy and response for post-secondary institutions.

**Keywords:** sexual violence; restorative justice; alternative dispute resolution; university; BC universities

## **Dedication**

This capstone is dedicated to women. To women who have spoken out, and to those who have been kept, or who have chosen to, remain silent. To women who have supported other women, and to those who continue the fight against sexual violence.

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## List of Acronyms

CAP	Community Accountability Program
DDS	Dalhousie Dental School
pc	Personal communications (interview)
PRISM	Promoting Restorative Initiatives for Sexual Misconduct
RESTORE	Responsibility and Equity for Sexual Transgressions Offering a Restorative Experience
RJ	Restorative justice
SFU	Simon Fraser University
SV	Survivor-Victim
SVPRO	Sexual Violence Prevention and Response Office
RP	Responsible Person
UBC	University of British Columbia
UNBC	University of Northern British Columbia
UVIC	University of Victoria

## Glossary

Complainant	The person who identifies as having experienced a crime and reports it to the university. The terms “survivor,” “victim” and “survivor-victim” may also be used interchangeably.
Offender	The person who is alleged to have committed a sexual crime against the survivor-victim. Used interchangeably with “responsible person” and “respondent.”
Campus PRISM	An initiative coordinated by the Skidmore College Project on Restorative Justice for “Promoting Restorative Initiatives for Sexual Misconduct.”
On Campus	While “on campus” refers geographically to a post-secondary institution border, for the purpose of the capstone, a sexual violence act that occurs “on campus” can occur in any place but is related to the campus in some way – whether the SV, RP (or both) are members of the university community, and/or the event where the violence occurs is related to the university.
Respondent	The person who is alleged to have committed a sexual crime against the survivor-victim. Used interchangeably with “offender” and “responsible person.”
Responsible Person	The person who is alleged to have committed a sexual crime against the survivor-victim. Used interchangeably with “offender” and “respondent.”
Restorative Justice	“A process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs and obligations, to heal and put things right as possible” (Zehr & Gohar, 2002).
RESTORE	A restorative justice program in Arizona for sexual assault cases. Stands for Responsibility and Equity for Sexual Transgressions Offering a Restorative Experience.

Secondary Victimization	“The victim-blaming attitudes, behaviors, and practices engaged in by others, which results in additional trauma for sexual assault survivors” (Wemmers, 2017).
Sexual Assault	An assault of a sexual nature that violates the sexual integrity of the victim ranging from unwanted sexual touching to violent, non-consensual intercourse, commonly referred to as rape.
Sexual Harassment	“Typically used in the context of workplaces. Refers to conduct of a sexual nature which is gender based, that is unwelcome, and that detrimentally affects the work environment or leads to adverse job- related consequences. However, while women typically experience sexual harassment more often than men, sexual harassment can and does happen to men. It can also occur between two people of the same sex (BC Human Rights Clinic, 2018) This capstone recognizes that sexual harassment is not necessarily gender-based in every case.
Sexual Misconduct	“A sexual act or an act targeting a person’s sexuality, gender identity or gender expression that is committed, threatened or attempted against a person without the person’s Consent. Such behaviour may or may not involve physical contact. It includes but is not limited to: sexual assault, sexual exploitation, sexual harassment, stalking, indecent exposure, voyeurism, and the distribution of sexually explicit photographs or videos of a person without their Consent” (Simon Fraser University, 2017).
Sexual Violence	Refers to all the sexual acts to be covered under BC’s <i>Sexual Violence and Misconduct Policy Act</i> including, but not limited to: sexual assault, sexual exploitation, sexual harassment, stalking, indecent exposure, voyeurism, distribution of sexually explicit photos, and attempts and threats of sexual misconduct.
Survivor	Refers to the person to whom the sexual offence has been committed against. It is commonly used in the new university policies and more recent literature. Used interchangeably with “victim,” “complainant” and “survivor-victim.”

Survivor-Victim	The preferred term in this paper as it recognizes the person who has been harmed right to be recognized as either a survivor and/or a victim. Used interchangeably with “survivor,” “victim,” and “complainant.”
Trauma Informed	When a program or policy’s values reflect 5 core values determined to alleviate tension: safety, trustworthiness, choice, collaboration, and empowerment (Karp et al., 2016).

**Disclaimer on Terminology:**

Recognizing the vast number of terms that exist to describe both the complainant and respondent of a sexual violence case, I have decided to use the terms “survivor-victim” (SV) and “responsible person” (RP) in my own writing and analysis.

Survivor-victim recognizes that some people may want to be labeled as a victim harmed by a crime, while others prefer the term survivor and do not wish to be viewed as a victim. As explained by Mary Koss (2014), “the term survivor victim retains the empowerment conveyed by the word survivor and the outrage implied by the word victim” (p. 1626). This term is presently being used in many policies in an attempt to give some autonomy to the harmed person. However, other terms to describe survivor-victims will be used in this paper when quoting or paraphrasing the work or ideas of others including complainant, victim, or survivor.

The term “responsible person” has been chosen as it is the preferred term in restorative justice processes. It does not presume criminal guilt or innocence, but recognizes that they are the person the survivor-victim feels are responsible for the harm caused to them, and the RP has accepted this responsibility. Other terms used by others include respondent, defendant, and offender.

## Executive Summary

Sexual violence has been inadequately handled by the courts and institutions time and time again. Low rates of reporting, and even lower rates of conviction for offenders, are only a fraction of the problems characteristic of sexual violence. Post-secondary institutions, particularly in recent years, have been criticized for the inadequacies in their policies and procedures. Survivor-victims (SV's) experience poorer mental health outcomes and are more likely to drop out of classes, or university all together. With approximately one in four women experiencing sexual violence before graduating from post-secondary, it is essential that changes are made.

British Columbia enacted legislation requiring all post-secondary institutions in the province to have stand-alone sexual violence policies in place by the Spring of 2017. These policies aim to be more survivor-centric and encouraging of those who come forward with reports. It is important that institutions have multiple strategies in place to handle sexual violence cases, especially since the of behaviours encompassed in the policy can vary greatly, from threats to aggravated sexual assault. This capstone focused on the three largest research universities in BC – SFU, UBC, and UVIC and how they could implement an alternative dispute resolution process as an option for SV's to pursue.

Restorative justice (RJ) offers a promising alternative to traditional adjudication processes due to the increased autonomy and decision-making power granted to the SV. RJ also involves the community, who is commonly left out of traditional procedures. Research into RJ for sexual violence cases, and other types of crimes, has shown encouraging results. Those involved in an RJ process are more likely to feel that justice has been served, and SV's report higher feelings of safety, than through a traditional adversarial process. There is also some evidence to suggest that RJ could reduce recidivism rates. For these reasons, the underlying assumption of this capstone is that RJ should be offered as an option to SV's, as well as used as a basis for educational and prevention initiatives.

There is a lack of research in the suitability of RJ being applied to sexual violence, especially within Canada. This capstone contributes a practical evaluation and

recommendation of the best way for universities to initiate an alternative dispute resolution process in the form of restorative justice.

### **Approach:**

To develop my recommendation, I used a mixed-methodologies approach. I conducted an extensive literature review into sexual violence and restorative justice, as well as spoke with experts in both fields. I then did a case study analysis of two RJ programs applied to sexual violence – Dalhousie Dental School and RESTORE, to develop a series of “Lessons Learned” to assist in the formation of my policy options and evaluative criteria. I reviewed SFU, UBC, and UVIC’s sexual violence policies to compare and contrast their strengths and weaknesses. I then determined the suitability of the existing frameworks to integrate RJ as an alternative response by speaking with representatives of each university’s sexual violence office.

Four policy options were developed for consideration: Status Quo +, an Internal RJ Facilitator, an External RJ Community Partnership, and a Provincial Sexual Violence Agency. Two key objectives, and three administrative objectives, were considered to objectively measure and evaluate each policy option presented. The benefits and trade-offs of each option were considered relative to each other and to the current system to produce two recommendations.

### **Recommendations:**

The primary recommendation of this capstone is that SFU, UBC, and UVIC offer an alternative dispute resolution process for sexual violence in the form of restorative justice. To appropriately implement such a process these institutions should look to partner with a community restorative justice centre. These community RJ centres have adequate knowledge about handling the dynamics of sexual violence cases that can be leveraged to provide the best process for SV’s and others involved in these cases.

The secondary recommendation of this capstone is that post-secondary institutions in the province consider forming a provincial agency to handle the policies and procedures around sexual violence education and investigations. This would allow for the sharing of resources and a more consistent experience for all those impacted by sexual violence.

# Chapter 1. Introduction

Sexual violence is not a new issue, but it is a concern that recently came into the international spotlight. In 2017, Time Magazine deemed the silence breakers the Person(s) of the Year. This group refers to the many women, and men, who brought forward reports of sexual violence to the public. The allegations of serious sexual misconduct and assault against Hollywood producer Harvey Weinstein have been credited with sparking the fire that has led to social movements such as #MeToo and #TimesUp. These movements have served as an “umbrella of solidarity” as individuals come forward with their stories of sexual violence (Zacharek, Dockterman, & Edwards, 2017). There has been no shortage of reports – many of them involving high profile men in positions of power in Hollywood, business, and politics. The silence breakers are not slowing down anytime soon, so it is critical that policy keeps up.

Sexual violence is pervasive across all industries. One of the many foci of this issue is the violence that occurs on post-secondary campuses. The numbers vary based on definition, but estimates suggest approximately 1 in 4 university women will be experience some form of sexual violence by the time they graduate (Gunraj & Wandio, 2014; Perkins & Warner, 2017). Most Canadian universities deal with complaints of harassment and assault informally (Chiose, 2016). Increasingly, the public and student communities, are growing intolerant towards the traditionally relaxed and quiet attitude that educational institutions have taken towards sexual violence (Chiose, 2017a). There are many procedural deficiencies when it comes to how universities are dealing with these cases.

Traditional campus adjudication processes can conflict with the needs of survivor-victims (SVs) (Karp et al., 2016). Reporting levels are alarmingly low (Sawa & Ward, 2017) and a lack of faith in the system is repeatedly cited as a main reason for not reporting (Gunraj & Wandio, 2014). For those who do come forward, they are often subjected to secondary victimization which only inflicts further harm (Karp et al., 2016). However, the reality is that post-secondary institutions are going to continue handling such cases. It is possible that reporting rates may increase considering current events, and so, institutions need to be prepared to respond appropriately. As the Change Project

(2015) articulates, “students whose lives are intimately affected by gendered violence require more from their universities” (Harrison, Lafrenière, & Hallman, 2015, p. 113).

One policy alternative that is gaining some attention is restorative justice. With a recent change in provincial government, the new solicitor general has expressed his desire to significantly expand restorative justice programs across the province (Migdal, 2017). There is, “national recognition that sexual-assault survivors need options outside the criminal-justice system” (Chiose, 2017b). With only a limited amount of existing research to turn to, restorative justice does appear to be a promising alternative to the traditional justice process that is offered to SVs. Brenda Morrison believes that when RJ is properly explained to the public, they usually begin to see a place for it in our justice system (pc, November 23, 2017). Universities are an ideal place to promote learning of what RJ is to the wider community.

Post-secondary institutions are places of higher learning and self-development, which aligns with some of the core values of RJ (Karp et al., 2016). Universities have acknowledged that they have a responsibility to support their students in all facets of life (Harrison et al., 2015). The public wants to see institutions listen to SVs and ensure that their needs are met. The time is right for universities to take the lead on sexual violence.

Kingdon (2003) posits that policy is changed through the opening of a policy window. The problem stream raises awareness and defines the issue at hand. The policy stream demonstrates alternatives for change. The politics stream, including the “national mood”, inspires those with power to make a change. At least two of these streams need to exist for the policy window to open. We are in a time where all three streams are open, and we can move towards meaningful change. RJ offers a possible alternative to the norm for SVs of sexual violence, and can lead to positive impacts that are felt across the community and society.

This paper examines how three major research universities in British Columbia – Simon Fraser University (SFU), the University of British Columbia (UBC), and the University of Victoria (UVIC) – can improve their sexual violence policies by offering SVs more options on how to proceed with their cases – specifically with an option for restorative justice. The goal of this project is to outline the best strategy for implementing this option to best support the needs of SVs.

## **Chapter 2. Background**

This section will provide an overview of sexual assault and restorative justice. Sexual assault within the context of the traditional justice system, and the history of sexual violence on post-secondary campuses, will be described. Finally, an overview of restorative justice and how it can be applied in educational settings, as well as to sexual violence cases, will be explained.

### **Sexual Assault**

The World Health Organization (2011) defines sexual violence as:

“any sexual act, attempt to obtain a sexual act, or other act directed against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting”

Sexual assault has been called, “the most gendered of crimes” (Johnson, 2012, p. 613). While anyone can be sexually harassed or assaulted, the statistics show that women are significantly more likely to be victimized than men, and that nearly all offenders (~98%) are male (Rotenberg, 2017; Wemmers, 2017). Most sexual assaults occur between SVs and offenders who know each other (Rotenberg, 2017). Stereotypical attitudes and patriarchal social norms have contributed to a widespread history of blaming women and absolving men of sexual assault crimes (Johnson, 2012).

### **Sexual Assault and Canadian Law**

One of the issues with sexual violence is the range of behaviours it describes, ranging from psychological effects to extremely violent physical acts. It can be difficult to define exactly which wrongful act has occurred with terms such as sexual violence, sexual harassment, sexual misconduct, and sexual assault all being used.

For the purposes of the Canadian criminal justice system, the term sexual assault is used when charging an individual with this kind of crime. Sexual assault is defined in the same manner as all other forms of assault in s. 265 (1) of the Canadian Criminal Code:

A person commits an assault when (a) without the consent of another person, he applies force intentionally to that other person, directly or indirectly; (b) he attempts or threatens, by an act or a gesture, to apply force to another person, if he has, or causes that other person to believe on reasonable grounds that he has, present ability to effect his purpose; or (c) while openly wearing or carrying a weapon or an imitation thereof, he accosts or impedes another person or begs.

S. 265 (4) of the Criminal Code outlines the “Accused’s Belief as to Consent.” The penalty for sexual assault is laid out in s. 275 of the Criminal Code (see Appendix A).

Public opinion polls show Canadians expect the justice system to provide incapacitation, offender reintegration, punishment, rehabilitation, and deterrence (Johnson, 2012). While on paper Canada appears to have strict sexual assault laws, the reality is that most cases never make it to the court, and if they do, they are even less likely to result in a conviction (Doolittle, 2017). If sanctions are applied, it is unusual and inconsistent, undermining any preventive deterrence effects (Koss, Bachar, Hopkins, & Carlson, 2004). The reality is, most offenders get away with sexual violence.

### ***Sexual Assault in the Traditional Criminal Justice System***

A crime is considered a wrong against the state. In the modern discourse, this view fails to account for the individuality and humanity of a victim (Latimer & Kleinknecht, 2000). There has been a growing consensus that the traditional system is not always the right response for some types of criminal behaviour (Latimer & Kleinknecht, 2000). When sexual assault is pursued by the criminal court, the onus is on the SV to prove that consent was not given, and that this was made clear to the offender “beyond a reasonable doubt.” This is just one of the many ways that the traditional justice system has been criticized for structurally impeding survivors from receiving justice (Bielski, 2017).

There is significant research demonstrating the recurring issues with how sexual assault cases are inadequately and inconsistently handled by police and the courts (Benoit & Belle-isle, 2015). The true prevalence of sexual violence is unknown. In Canada, somewhere in the range of 5% of all sexual assaults are reported to police (Rotenberg, 2017), and less than 1% of these cases result in a conviction (Johnson, 2012). Due to the sensitive nature of sexual violence crimes, they can be quite difficult to

investigate, and are usually lacking physical evidence and/or witnesses (Rotenberg, 2017; Bielski, 2017).

Additionally, court proceedings can be quite traumatic for SVs and often lead to secondary-victimization (Karp et al., 2016). These are just some of the many contributing factors that have led some to question if the court system is adequately capable to process sexual assault cases (Benoit & Belle-isle, 2015; Bielski, 2017; CBC News, 2016).

### ***Sexual Assault in Civil Court***

Civil action is another option for SVs to pursue. It can be a venue for SVs to recover financial damages caused by an assault. However, this process is costly to begin with, and many SVs do not have the means to pursue their case (Siu, 2017). Surveys of SVs have suggested that pursuing a civil case may be more about seeking validation that the individual was wronged, and being able to share their experience (Koss et al., 2004).

The major difference between criminal and civil trials in sexual assault cases is the standard of proof required. In civil courts, a balance of probabilities is used. This standard makes a determination if the event was more likely to have occurred than not. A lower burden of proof to overcome does have its trade-offs: no criminal record, no sex-offender list, and no jail time. However, SVs will have an easier time presenting their case to the required standard. While some sexual assault advocates criticize this system for not being harsh enough, others believe the SVs should ultimately choose how to pursue their case (Dwivedi, 2017).

### ***Sexual Assault and Mediation Methods***

Mediation occurs between two parties, often viewed as equal partners, who have a dispute to settle (Koss & Lopez, 2014). This process occurs by negotiating and designing a settlement with the help of a mediator. The neutral third-party mediator has no power, but tries to help the parties come to a mutually agreed upon settlement by focusing on the interests and needs of all people involved (The Province of British Columbia, 2018).

Mediation and restorative justice can often be confused as being the same approach. They both require trained facilitator(s) and share similar terminology. However, there are key differences. RJ requires the responsible person (RP) to take ownership of their harm causing actions ahead of the process, while mediation does not require any kind of predetermined responsibility. It is during the mediation process that the extent of responsibility may be determined (Karp et al., 2016). The ‘facts’ of the case are not to be disputed during an RJ process, which is not a requirement of mediation.

Due to these differences, the literature suggests that mediation is not recommended as an appropriate justice process for sexual assault crimes. Mary Koss has cautioned against mediation due to its framing of a crime as a conflict (Koss, Wilgus, & Williamsen, 2014). Sexual violence is often labeled a crime about power (Cadrin, 2008); therefore, a mediation process could exacerbate unequal power dynamics. There are concerns of mediation methods’ inability to acknowledge the structural and gender imbalances that are inherent to sexual crimes (Koss et al., 2004).

Mediation is an excellent conflict resolution tool in certain contexts; however, sexual violence crimes require further considerations that may not be accounted for in traditional mediation methods, such as bringing in community members. There is also less application to the broader community using mediation methods.

## **Sexual Assault on University Campuses**

“It is important to understand that an institutions’ misconduct processes are very different from the criminal process, and these two should not be confused.”

- (Ministry of Advanced Education, 2017, p. 6)

In the past few years, there has been substantial movement in the United States around sexual violence on campus. This is credited to students and alumni survivors, and their allies across the country who began demanding change (Harrison et al., 2015). Some of these conversations, sparked by the national movement “Know your IX,” and the renowned Netflix documentary *Hunting Ground*, have made their way to Canada.

One of the earliest studies in the area of sexual violence on campuses, from 1998, reported 32% of undergraduate women being sexually victimized in some way (Quinlan, 2017). A recent study at the University of Ottawa suggested as many as 44%

of female students had experienced some form of sexual violence while at university (Sawa & Ward, 2017). The most current research in North America anticipates 15-25% of post-secondary women will experience sexual assault during their academic career (Gunraj & Wandio, 2014; Quinlan, Quinlan, Fogel, & Taylor, 2017). Regardless of the exact statistic, the reality is that many SVs are experiencing violence during their time at post-secondary and this is not acceptable.

These estimated numbers do not match the reporting statistics by universities. Experts have warned that the official documented number of reported sexual assaults on Canadian campuses is worryingly low, and this is not an indication that violence is declining. In both the US and Canada, universities have been criticized for their lack of encouraging assaulted students to come forward, as well as their ability to handle the cases for those who do (Gunraj & Wandio, 2014; Sawa & Ward, 2017).

Numerous reasons that have been cited for why women choose to withhold reporting including denial, self-blame, and humiliation (Rotenberg, 2017). Some of the reasons go beyond the individual and include lack of trust in the system, or the belief that the incident was not serious enough to report (Benoit & Belle-isle, 2015; Gunraj & Wandio, 2014). Most female students report being victimized by a boyfriend, ex-boyfriend, classmate, friend, acquaintance, or co-worker (Harrison et al., 2015) which further complicates the process of reporting.

Regardless of whether the incident is reported, these assaults cause major physical and mental harm, and often negatively impact academic achievement and completion of the SV's education (Gunraj & Wandio, 2014; Karp et al., 2016; Quinlan et al., 2017). The Campus PRISM project states that the lack of reporting to campus officials and police highlights the "significant gap between the kind of support survivors are seeking and the trust they have in campuses and the criminal justice system to meet their needs" (Karp et al., 2016, p. 8).

Similar to the criticisms faced by the legal system, there are structural problems with how cases of sexual assault are handled by universities, often rooted in patriarchal values and rape myths (Benoit, Shumka, Philips, Kennedy, and Belle-Isle, 2015). Canada has no regulations on sexual violence that occurs on campuses, including reporting, standardization of procedures, or punitive measures. Less than 1% of

perpetrators reported in Canada receive any disciplinary action by the university (Quinlan, 2017). METRAC has called for greater transparency around the procedures that are followed by every institution in a sexual violence case (Gunraj & Wandio, 2014).

### ***Sexual Assault on Canadian Campuses***

There have been many high-profile stories that have been reported in recent years about sexual violence occurring on university campuses in Canada. There were the “rape chants” on Saint Mary’s University and UBC’s campuses. A Facebook group formed by senior dental students at Dalhousie University was found to be filled with misogynist and violent comments about their female classmates that sparked a controversy across the country (Quinlan et al., 2017). Then the Globe and Mail brought light to how police handle sexual assault cases, including those on campus, with a 20-month investigation into this issue on a national scale (Doolittle, 2017). Due to these media stories, among many others, attention has been drawn to the shortfalls of universities’ responses to sexual violence (Quinlan et al., 2017).

In response to growing concern, Ontario enacted legislation in 2016 that all post-secondary institutions were required to have a stand-alone sexual violence policy. British Columbia followed suit with the *Sexual Violence and Misconduct Policy Act*. This Act required policies to be in effect by the spring of 2017 and include a range of sexual violence behaviours such as, sexual assault, sexual exploitation, sexual harassment, stalking, indecent exposure, voyeurism, distribution of sexually explicit photos, and attempts and threats of sexual misconduct (Ministry of Advanced Education, 2017).

### **Restorative Justice**

Restorative justice has developed out of faith-based and Indigenous legal traditions (Karp et al., 2016), and as Brenda Morrison describes it is, “an old idea brought into a new context” (pc, November 23, 2017). It is unique in that it is not a single practice, but rather a set of values, which leaves room for development (Karp et al., 2016). Restorative justice is not a replacement for the justice system – it is meant as a different response to crime; and together with the traditional system, they can strengthen each other (Brenda Morrison, pc, November 23, 2017).

One of the pioneers of the modern understanding of RJ was Howard Zehr who posed a set of three questions to consider within this type of justice system: (1) Who has been harmed?, (2) what are their needs?, and, (3) whose obligation is it to respond to these needs? (Zehr & Gohar, 2002).

A RJ understanding of crime suggests that there has been a disruption to the relationships within a community (Ministry of Public Safety and Solicitor General, 2010). This approach considers multiple victim populations such as direct victims, family and friends of the SV, family and friends of the RP, and community members (Koss, 2014). In an RJ approach all participants must be voluntarily willing to partake. The process is only initiated once the SV gives permission to go ahead. SVs can choose the extent to which they wish to participate. The RP must be willing to participate and must acknowledge that harm has occurred or no processes will follow (*Restorative Justice - Crime Prevention Information Series 3*, 2010).

A RJ approach offers non-adversarial options for misconduct through prevention education, meaningful resolution, and accountable reintegration (Karp et al., 2016). RJ has been applauded for its focus on self-responsibility and reflection. There is some promising evidence showing that a restorative justice approach could lower recidivism rates (Koss et al., 2004; Latimer & Kleinknecht, 2000). Victims, to a variety of crimes, who have participated in RJ have reported increased satisfaction and confidence with the justice system, and greater feelings of safety (Ministry of Public Safety and Solicitor General, 2010).

There are some risks with a RJ approach that should not be ignored. RJ is often criticized for being too lenient by those not involved in the process (Wemmers, 2017). However, Campus PRISM (2016) stresses that RJ, “does not advocate for softness and leniency, but it does call for accountability within the context of social support” (p. 13). There may be complications with protecting confidentiality by involving the community. There is always a risk for re-abuse to occur, or the patriarchal values of the community members present in the process to harm the SV (Koss et al., 2004). There is not substantial research on RJ being applied to sexual violence, so we may not be aware of all the risks at this time. The biggest known risk, is if the process is not facilitated by someone who adequately understands victim safety and harm reduction.

However, many of the worries surrounding restorative justice have stemmed from public misinformation. Academics and professionals familiar with RJ are positive and optimistic about its applications, with caveats that is conducted in an appropriate manner. By ensuring the facilitator is well-trained, many of the potential known risks can be mitigated.

## **Restorative Justice for Sexual Violence Cases**

Restorative justice has been used largely within the youth criminal justice system, and has shown positive results. Only recently has it begun to be used for more violent crimes, such as sexual assault. Brenda Morrison, of Simon Fraser University, suggests that the positive impact of RJ for more serious crimes can be even greater in magnitude than the promising results seen for minor youth crimes (pc, November 23, 2017). There have been only a few documented examples of using RJ for sexual violence cases at this time.

There are RJ Centres facilitating sexual violence cases in Canada, but usually these cases are initiated by the individual and are not referred through the justice system or an institution. Dr. Mary Koss, a professor at the University of Arizona, developed a promising program for sexual assault crimes called RESTORE that follows a RJ approach. The program has been quantitatively and qualitatively reviewed to empirically determine the processes impacts on all involved parties. A more detailed analysis of this initiative is conducted in a case study in Chapter 5 of this capstone.

## **Restorative Justice in Educational Settings**

Restorative justice has become a popular dispute resolution mechanism in primary and secondary schools, but for a variety of reasons has been much slower to be developed within post-secondary institutions (Brenda Morrison, pc, November 23, 2017). There a few post-secondary institutions who have implemented various restorative justice practices for different types of misconduct, and it appears to be slowly growing.

David McMurray, VP of Student Affairs at Wilfrid Laurier University (WLU), explains that students have asked for these types of alterative processes, and he believes that, “Student Affairs is to support [students] in and outside of the classroom.”

That is why WLU takes a restorative approach to its student code of conduct for non-academic violations (pc, November 23, 2017).

Dalhousie Dental School (DDS) is one of the first publicized examples of a RJ process being used for a case of gendered violence on a university campus in Canada. RJ was a part of their response procedures, and an option for SVs to pursue. However, this case was met with substantial outcry from the public and other students, who disagreed with the process. This case is further examined in Chapter 5 of this capstone.

Campus PRISM, based out of Skidmore College, has worked to develop a comprehensive strategy for US universities to use restorative justice as an alternative dispute resolution method for sexual violence. Its purpose is to create space for exploration of the use of RJ for sexual misconduct, as well as gather and spread valuable information about RJ to others (Karp et al., 2016).

## **Chapter 3. Methodology**

### **Research Questions**

My research seeks to answer two broad questions about sexual assault policies on British Columbia university campuses:

1. Why should RJ be included as an option for survivor-victims of sexual assault on university campuses in BC to pursue? This will be addressed in Chapter 4.
2. What would be the most effective ways of implementing restorative justice practices into the current policies? This will be explored from Chapter 7-11.

### **Scope**

This capstone looks at sexual violence which includes all of the acts that BC universities were expected to address in their policies which included: “sexual assault, sexual exploitation, sexual harassment, stalking, indecent exposure, voyeurism, the distribution of a sexually explicit photographs/video of a person to one or more persons other than the person in the photograph or videos without consent, and the attempt or threat of an act of sexual misconduct” (Ministry of Advanced Education, 2017).

The capstone was limited to three universities (SFU, UBC, UVIC) as they have the largest student bodies in the province, and are all located in urban centres. This means access to community resources are different than universities with smaller student bodies, and those in more rural regions. While it is hoped that my findings could be applicable to any post-secondary institution with similar resources, this was outside the scope of the project. The resources and existing policy of the post-secondary institution would need to be taken into account.

### **Methods**

To conduct my research, I used four data collection techniques in an attempt to broadly understand this issue from multiple angles and perspectives.

First, I conducted a literature review of scholarly articles and newspaper articles. This helped to contextualize the issue in real-time, as well as understand the problem historically. This provides the justification for my assumption that universities should provide a restorative option for its SVs.

A case study analysis of the DDS and of the RESTORE program allowed me to investigate how restorative justice processes could work within a campus setting. I was specifically interested in the benefits and potential risks identified by such cases as identified in the “Lessons Learned” section.

I then conducted a document analysis of three urban BC universities sexual violence policies (SFU, UBC, UVIC) – as they existed as of September 2017. I compared various aspects of the policy to better understand why many survivors are feeling discouraged and concerned by the on-campus justice process. I clarified certain sections through qualitative interviews with each university, and explored the feasibility of my policy options.

Finally, I spoke to 10 individuals in open-ended qualitative interviews. In the first round of interviews with academics and RJ facilitators, I was able to fill in the gaps that the previous methods did not address. In my second round of interviews with university administrators who deal directly with the sexual violence policies on their campus, I could test the feasibility of my policy options.

The following ten individuals were interviewed:

1. Blair Littler, Vice President, Research Universities Council of BC
2. Brenda Morrison, Director of the Centre for Restorative Justice, Simon Fraser University
3. Interviewee A, Research Assistant, Department of Investigations, UBC
4. Cassbreea Dewis, Equity and Human Rights Office, UVIC
5. CJ Rowe, Director of Sexual Violence Support and Prevention Office, Simon Fraser University
6. David McMurray, Vice President of Student Affairs, Wilfrid Laurier University
7. Interviewee B, Executive Director of a Restorative Justice Centre in BC

8. Interviewee C, Graduate Student studying Restorative Justice and Sexual Assault at a Canadian University
9. Mary Koss, Director, RESTORE
10. Interviewee D, Program Manager of a Restorative Justice Centre in BC

*\* The professionals and experts interviewed do not necessarily endorse my paper or its recommendations*

## **Limitations**

This study is limited by the fact that SVs were not interviewed. This was due to my own limitations as a researcher to offer and provide the necessary support during such interviews. Due to the policy focus of this research project I felt that adequate knowledge could be provided by the selected interviewees.

There are also issues with quantitatively measuring sexual assault data due to the low reporting of such crimes, as well as the discrepancies between definitions. This means a greater emphasis needs to be placed on qualitative accounts of incidents, and less on officially collected statistics. This increases the potential for personal bias. This was compensated for by attempting to use objective criteria when reviewing the data and analyzing policy options.

This capstone is also limited in its scope in three ways: (1) that this capstone is focused on students<sup>1</sup>, although it is recognized that sexual violence can impact anyone, (2) that restorative justice is the only aspect of the policy that is reviewed, although there are many other procedures, and alternative dispute resolution processes that could be used following an act of sexual violence, and (3) that this capstone does not address the much larger problem, which is the large incidence of sexual assaults that occur on campus. More research needs to be conducted into prevention, education, reporting, and cultural change around this issue.

The reason for the narrow focus was to complete this capstone in the time allotted, but also because I felt this was an area where small changes could be enacted

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<sup>1</sup> For the university policy to be in effect a student must be either the SV or the RP, as a case between two or more staff or faculty members would be under the jurisdiction of their collective agreement policy.

quickly to make real change for students dealing with sexual violence cases on their universities right now. The hope is that a properly implemented restorative justice process would help lead towards positive change in all areas including prevention; however, the primary purpose is to provide SVs and RPs with an appropriately implemented alternative justice process.

## Chapter 4. The Case for an Alternative Response

“When we think about “punishment” – it is important to think about what the survivor-victim wants.”

- (Interviewee C, pc, December 2017)

This section will justify the underlying assumption of this capstone that post-secondary institutions are currently underutilizing restorative justice. RJ would provide one option that SVs who suffer sexual violence on campus could proceed with their case. The traditional goals of the campus adjudication process can be “incompatible with the needs of survivors” (Karp et al., 2016, p. 8) which means policies need to adapt if they are to be truly victim-centred and survivor-centric. As the Change Project articulates,

“There is no question that contemplating a restorative response to direct victimization within the existing legal and cultural environment requires creativity and commitment, and an institutional willingness to consider critical paradigm shifts. Nonetheless, the research documenting positive survivor, offender and community outcomes is sufficiently compelling to invite national and institutional investment in exploring this frontier” (Karp et al., 2016, p. 27).

The high prevalence of sexual assaults occurring between people who know each other, especially on university campuses, can complicate the decisions that are made by the SV to move forward with charges or go through a formal court process. A recent Globe and Mail article quoted Emily Hill, a legal advocacy director, about the role of RJ:

“Many victims have an ongoing relationship with the offender because of family or community connection. This relationship will continue. The harm that can be done by the criminal justice system can sometimes deepen the wounds caused by the sexual assault rather than help heal them” (Siu, 2017).

It is likely that a number of SVs would like the opportunity to speak to the RP in a safe setting (Karp et al., 2016). It has been suggested that nearly one-quarter of sexual assault survivors would be interested in restorative justice (Wemmers, 2017). This number demands specific attention, especially as this interest is within the context of RJ being an uncommon process currently, with many SV’s likely unfamiliar with the benefits of the process.

One of the most effective ways of empowering SVs is to allow them some decision-making (Wemmers, 2017). Following an incidence of sexual violence, there are two major categories of needs that SV's have: survival needs and justice needs (Koss, 2010). These justice needs are motivated by "righting" the wrong that has occurred. But, as Brenda Morrison (pc, November 23, 2017) explains,

"A restorative process is hard work for everyone involved. it is not an easy way out. The court is offender-centric, [it is] not designed to support victims, [it may even] re-traumatize them, [and they] may not get the result they want because [the SV] will opt out."

So, she asks,

"How can we find better mechanisms to support these allegations at an institutional level so we can learn and grow together?"

This is where we look to alternative dispute resolution. RESTORE found that SVs can satisfy their justice needs when they are able to meaningfully contribute to input into decisions, receive timely responses, tell their story without interruption, receive validation, and shape a resolution (Koss, 2010). Non-adversarial processes can give SV's a voice and help them feel supported, rather than alienated, by their university (Karp et al., 2016).

The New Zealand Law Commission recommended that there was a need for alternative responses to sexual violence to increase reporting rates (Wemmers, 2017). As human beings, we have a desire to connect with others, and in RJ emotions act as the "engine to reconciliation" – which is something that the requirements of the traditional justice system, such as third-party decision making does not enable (Brenda Morrison, pc, November 23, 2017). SVs have stated that they want a justice process that,

"validates their status as legitimate victims, focuses on offender behaviour and not on theirs, provides a forum to voice the harm done to them, accords them influence over decisions about their case, and incorporates their input into the consequences imposed" (Koss, 2014, p. 1627).

There are also strong arguments to consider for implementing RJ into the broader community. Brenda Morrison said, "that is hard to find safe, deliberate spaces to engage about serious social problems" (pc, November 23, 2017). Creating these spaces could ideally help change the culture on campus, and eventually shift to the wider community. The ultimate success would be preventing sexual violence in the first place.

In the United States, Campus PRISM, a restorative justice initiative at Skidmore College, uses a:

“wide range of restorative options including policy development; circle practices to provide meaningful prevention education; restorative conferences that respond to specific incidents of misconduct; and circle practices to provide support and accountability for offenders who are returning to campus after a period of separation” (Karp et al., 2016, p. 7).

While this report is tailored to the unique structures of the US educational system, it demonstrates an example of what we should work towards achieving in Canada. Brenda Morrison is hopeful that we will have a Canadian version of PRISM in the future as a resource (pc, November 23, 2017).

It is important to reiterate that restorative justice is recommended as being **one** option, among several, that SVs could chose to pursue. The RP would also need to be willing to accept the terms of an RJ process for it to move forward. This means that RJ will not be the right process for every case to follow. Even when every party is willing to participate, there are additional factors to consider. Mental health of the participants needs to be accounted for, as well as the resources available to facilitate a safe process for everyone. However, if these conditions can be met, there is no reason not to offer RJ as an alternative response for those who wish to pursue it.

## Chapter 5. Case Studies

### Dalhousie University Dental School

“...First and foremost we are educators. Punitive measures such as expulsion do not change attitudes or positively influence future behaviour, nor do they address underlying systemic problems. A number of the young women, harmed by the Facebook posts... saw restorative justice as the most promising path towards meaningful change.”

- (Macisaac & Mackay, 2015, p. 13)

In December 2014, Dalhousie University made headlines after four women reported a group of their male peers for perpetuating sexual violence on Facebook. The “Class of DDS 2015 Gentlemen” was an online private Facebook group made up of 13 male dental students who shared explicit comments about their female classmates online. Professors, students, and outsiders all debated the proper sanctions and whether these men should be allowed to graduate or not – with most people preferring the later. In the end, they did all finish their degrees and graduate with their class. The reason being that the dental students (12 men in the original Facebook group<sup>2</sup>, 3 additional men, and 14 women) participated in a restorative justice process with the hope of “support[ing] learning from the past in order to ensure a better future” (Macisaac & Mackay, 2015, p. 5).

### The Process

Dalhousie was well positioned to initiate such a process. Nova Scotia is considered a global leader when it comes to restorative justice, and the university’s sexual harassment policy included allowing complainants the choice to proceed formally or informally in processes such as RJ. When the women initiated their complaint, they were presented with a host of options for how to pursue their case (Macisaac & Mackay, 2015).

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<sup>2</sup> One man from the original Facebook group chose not to participate in the restorative justice process. He originally had agreed, and then declined participation and continuation in the process, choosing to have his conduct evaluated by the Academic Standards Class Committee (ASCC). The details of that process have remained confidential, but he did fulfill his graduation requirements.

A crucial aspect of the Dalhousie process is that restorative justice was *one* option presented to the complainants, and this is the route they **chose** to pursue. The SV's felt empowered by their ability to choose and explained that they wanted the men to learn from their behaviour. Critics argued that restorative justice was being forced on the complainants, yet a statement issued by the women shows that this was not the case. It became quite complicated to navigate the process amidst the public backlash.

The process was broad in focus due to the nature of the incident, and the underlying culture of the DDS and broader campus community. Spanning nearly six months, a team of RJ facilitators led by Jennifer Llewelyn spent over 150 hours with the various participants in one-on-one counselling, small and large group sessions, workshops, group circles, and information sessions. There were near-daily meetings for the RPs. The process focused on supporting all participants, "to understand their responsibilities on the role they played and what need[ed] to be done to make things better in the future" (Macisaac & Mackay, 2015, p. 34).

The women complainants could participate as often as they wanted to, including not participating at all. The only members in the process required to partake in specific dealings were the twelve responsible men. They could leave if they wanted to, but then would be subject to other sanctioning processes. After six months, all of them were said to have successfully completed the process (Macisaac & Mackay, 2015).

Two years after the incident, in 2016, Dalhousie issued a statement saying, "Our ongoing response across the university is a holistic one. We are making positive change at Dalhousie and a lot of progress has been made over the past two years." There was also recognition that the institution would be judged by their long-term impact of being able to properly handle this incident via restorative justice (Dicks, 2016). This case provides an practical example of how restorative justice can be applied to a university context, and guide long-term change.

## **Lessons Learned**

It is important to note that the Dalhousie study represents a successful application of RJ for a group process – and is not necessarily transferable to a single-case incident. However, lessons can still be learned from Dalhousie that could be

considered for any type of RJ being developed for post-secondary use. Some of these considerations include:

***RJ as one option:***

Dalhousie University was well positioned to provide RJ as a process to an individual who requested it. The initial complainants were given options such as having the responsible parties investigated by the Academic Standards Class Committee (ASCC), but felt that RJ was the best road forward for them. The women were empowered by choice, and wanted this dealt with in a non-punitive forum since these classmates were their friends and future colleagues. The people most harmed by the incident got to choose the road forward.

***The importance of external and internal support:***

This case was in the national spotlight, and RJ supporters and critics around the world followed the process. Support from the Dalhousie administration, as well as academics and facilitators from around the world rallied around Jennifer and her team. As one of the first examples of a facilitation process of this magnitude for a sexual violence case, experts had to discuss every aspect of the process to try and ensure that they had “thought of everything” (Brenda Morrison, pc, November 23, 2017). The students participating in the process also needed substantial support, especially when the public backlash began and other students and faculty members at the university, and elsewhere, began to voice their disapproval.

***Confidentiality***

With such a high profile case, issues of confidentiality arose. While the expectation would be that protecting confidentiality for smaller, more individual cases, would be easier than a massive undertaking such as DDS, the risk still exists, especially when community members are involved in the process.

***Impartiality***

Jennifer Llewelyn insisted that she needed to be impartial in the process and thus separated from her role as a representative of Dalhousie University to facilitate properly. It is crucial that the facilitator does not have any bias in favour of the institution,

especially since cases could include a faculty or staff member of the university. The university itself may play a role in the RJ process but should not be influencing the facilitator in any way.

### ***Timing***

While this case was uncharacteristically large, it is important to consider the amount of time it took to plan and execute such a process. This was no small task, and took a lot of people and many hours over six months to successfully achieve the goals set forth. It may be unrealistic to expect this type of process to become the norm on university campuses. Processes would need to be shortened, but still maintain safety for the SV, RP, and community at large. There is also a substantial time commitment to the participants. In this case, the twelve men who had to participate dedicated hours every day to the process, while still working through the academic requirements of dental school.

## RESTORE

“RESTORE was intended as a justice process that expanded on justice options and responded in the ways survivor-victims say they would like to be treated”

- (Koss, 2014, p. 1627)

The pilot program RESTORE (Responsibility and Equity for Sexual Transgressions Offering a Restorative Experience) offers a well-established and researched case study on the effectiveness of RJ for sex crimes. Located in Tucson, Arizona the RESTORE program has processed cases from March 2003 to August 2007. They started with 66 referrals, and successfully completed over a dozen cases in that time frame. Mary Koss, the director of the program, has also produced the first peer-reviewed quantitative evaluation of restorative justice conferencing for adult sexual assault cases. The vision of RESTORE is to offer SVs “Justice that Heals” (Koss et al., 2004).

Using a fully restorative conferencing model the program brings together the SV, the RP, and the families and friends of both (Lopez & Koss, 2016). When designing RESTORE there were many considerations taken into account, several of which can be used by universities wishing to develop a restorative justice policy. Plans need to account for the unique features of sexual assault crimes, consider how alternative practices may or may not improve SV satisfaction, account for the rights of the offender, and anticipate and minimize as many of the potential risks that exist from using restorative methods as possible (Koss, 2010).

The anticipated and documented negative risks of sexual assault cases were outlined, with program design features for RESTORE implemented to mitigate them. For example, there is a common concern with a lack of space for the SV to be able to give their story directly or indirectly to the RP and inform them of the impact of the event. RESTORE proposes encouraging SVs in the program to express their feelings and meet face-to-face with the RP if they wish. The desired outcome is an impact statement created and delivered to the RP (Koss, 2010).

## The Process

There are four steps involved in the program which are summarized below (Koss, 2010; Lopez & Koss, 2016).

- (1) **Referral** – Informed consent to participate in the program must come from both the SV and the RP and the case is referred to the program by the county prosecutor's office. The SV is given the choice to accept or decline RESTORE before the RP is contacted. The SV is also given access to a civil-attorney free of charge. Once the SV grants permission, the RP is contacted and given 10 days to decide about participating. If they accept, they are evaluated by a psychosexual evaluator to deem the acceptability of them participating in RESTORE to ensure their mental health and expectations of the process are suitable.
- (2) **Preparation** – Both the SV and the RP are independently prepared for the conference with a trained RESTORE facilitator. Considerations that are gone over include safety concerns, development of written statements, the friends and family that will be involved, and what may be said at the conference. Friends and family of who are participating also are prepared ahead of time and are asked to prepare an impact statement.
- (3) **Conference** – A formal facilitated conference occurs beginning with the SV or the RP (decision is up to the SV before the start of the conference). The RP is asked to summarize what the survivor victim has said about the incident. Friends and family then speak to how they have been impacted, and again the RP is asked to summarize these accounts. The RP then gets to tell their side of the story, and their friends and family have an opportunity to share. Apologies are not obligatory, and at this stage, are often not recommended. A Redress Agreement is then discussed between the SV and RP along with input from friends and family. The final agreement outlines rules, timelines, and expectations and is signed by the parties.
- (4) **Accountability and reintegration of the responsible person** – Over the following 12 months, RESTORE personnel supervise the RP and their adherence of the agreement. If the RP fails to complete their agreement or

reoffends they are referred back to the conventional criminal justice system for prosecution. After the year passes, the RP attends one final meeting where they read a prepared statement as the formal recognition of their reintegration back into society. This is where they may choose to deliver a formal apology. The SV, and any other conference participants who wish to attend may do so, however, no SV's chose to attend the exit meeting.

## **Lessons Learned**

RESTORE has shown some very promising results: including a reduction in PTSD, stress, and fear for SVs, and increases of empowerment for SVs (Koss, 2014). It is very likely that a similar model to RESTORE could be successfully applied to universities with appropriate amendments that would make it more applicable to the university context (Mary Koss, pc, December 5, 2017). Some of the key ideas from the model include:

### ***Timing:***

The process can be very long – this is to ensure that adequate safety considerations have been accounted for before the SV and RP ever meet face-to-face. The conference cannot proceed until both parties feel adequately prepared for such an encounter. The time it takes to achieve this comfort level can vary greatly between individuals.

### ***Power to the Survivor-Victim:***

Once RJ is initiated, another choice that can be given to the SV is the option to participate in the process or not. If they do choose to participate, they also can determine the extent to which they want to be involved. The only necessity required on their part is permission for the RJ process to go ahead. A volunteer can act on behalf of the SV and stand in for them during the face-to-face process. The SV can choose to write a written statement to be read aloud on their behalf and/or have a say in some of the redress proposals.

***Redress Proposals:***

The redress proposal sanctions that are often a part of the yearlong plan the RP must follow upon conclusion of the process are a great example of RJ sanctions. These proposals may include monetary payments, charitable donations, replacement of sentimental items damaged in the offense, psychotherapy and counselling, weekly supervision, community service, and/or no contact orders with the SV. Apologies were recommended to be done at the end of the program, and serve as an “earned opportunity” (Koss, 2014, p. 1652).

***Process:***

RESTORE offers a proven, methodical program to facilitate a RJ process for a sexual assault case. Following similar steps from referral, to preparation, to conference, and to accountability would provide a solid framework for other processes to follow. The process also requires strong confidentiality measures in place, as well as an impartial, neutral facilitator.

***Terminology:***

The requirements for terminology will be an important part of any RJ process policy. Unlike the requirements of some RJ processes, RESTORE does not have a requirement for the terms “rape” or “rapist” to be used. Some SV’s have identified the need for these terms to be used in order to feel validated during the process (Interviewee B, pc, November 27, 2017). The pros and cons of having these terms used would need to be considered.

## Conclusion

Overall both Dalhousie and RESTORE offer useful examples of using RJ for cases of sexual violence. Their carefully documented processes show promising results and demonstrate two very different processes of an RJ application.

There are three areas of major learning that can be taken away from these cases are:

- 1) **Empowerment through choice:** Certainly, both cases demonstrate the empowerment that can arise to SVs through the choice of being able to have a say about the process they wish to use. Once RJ is selected as an option, the SV can continue to be empowered through various options within the process such as the extent of their involvement and how the conference will occur. This gives the SV some power back following an incident that took that away from them.
- 2) **Timing:** A suitable RJ process takes a substantial amount of time. It is necessary that facilitators take the time to ensure the SV safety with the process. However, time can be problematic in a university context where semesters are approximately fifteen weeks long with substantial break periods in between. Especially if a process involves a senior student who may be graduating shortly, it could be difficult to facilitate an RJ process in that time frame. There would need to be processes in place for incidents that occur near the end of a semester, or with students who may be graduating.
- 3) **Support:** RJ is a holistic process that is focused on the reparation of communities and relationships. Having community support during this process can be essential to the success of the practice. Building an understanding of RJ in the university community can help ensure that SV's feel supported if they choose to pursue this route. It can encourage RP's to participate and hopefully have community members willingly partake if asked. Universities have an opportunity to promote RJ to the broader community as well and help gain a broader support network.



and weaknesses that have been identified. Then the feasibility of a RJ process being able to fit into the existing policy structure is evaluated.

## **University Policy Overview**

### **Simon Fraser University (SFU)**

SFU's policy is called "Sexual Violence and Misconduct Prevention, Education, and Support - Policies and Procedures." It was ratified on March 30, 2017. The sexual violence support and prevention office opened in the spring of 2018 and is directed by CJ Rowe. The role of the office is to provide support, counselling, accommodation, self-care, assistance with navigating and reporting complaints, and help making informed decisions.

CJ believes it is important to, "lean into expertise that is already available." They spoke about the long history SFU has had with certain community organizations that offer counselling and other support services. They also were hopeful about how institutions could work together to "strategize the most thoughtful ways forward" (pc, January 26, 2018).

When asked about the outcomes that a SV may be looking for when coming to the office, CJ thought they may be, "looking at engaging in a healing process for themselves." They felt a part of the healing process can include wanting assurance the RP does not hurt anyone else, and/or a feeling of needing to engage with the respondent in some way (pc, January 26, 2018).

When asked if RJ was one of the possible services and resources stated in section 7.4c of the policy, CJ felt that there was a lot of interest from the community to explore its potential, but it was still a new area that they were not quite ready to initiate at this time (pc, January 26, 2018). CJ did say that SV's are already engaging in alternative dispute resolution processes in the community at this point. The purpose is to work with the SV to discover what they need to heal (pc, January 26, 2018).

## **University of British Columbia (UBC)**

UBC's Policy 31 "Sexual Assault and Other Sexual Misconduct" came into effect on May 18, 2017. The stated aim is to:

"...provide a central site for information regarding the resources and options available to those affected by sexual misconduct, to create and make available programs and resources to educate its community on the prevention of sexual misconduct, and to provide a process to respond to and to investigate allegations of sexual misconduct" (p. 1).

The policy commits itself to taking a trauma-informed approach to sexual assault cases, including respecting the rights of SVs to make their own decisions about what support services, accommodations, and processes they wish to pursue.

UBC has two central locations for SVs to seek resources and support: The Sexual Violence Prevention and Response Office (SVPRO) and the Student Society Sexual Assault Support Centre (SASC). The SVPRO has been opened at both the UBC Vancouver and the UBC Okanagan campuses.

SVs tend to be searching for a process that has the RP take accountability for their harming actions when they visit the SVPRO. According to the interview conducted with the Office of Investigations, it was clear RJ has been a part of discussions, but that no implementation strategy had been determined at this time (Interviewee A, pc, January 18, 2018).

Interviewee A did feel that there would be a benefit to including external organizations because they are a part of the community that students share, but was unable to say if a formal partnership was a potential future strategy. They did believe that standardization across universities would potentially be a good idea, especially to increase transparency and accountability in the processes (pc, January 18, 2018).

## **University of Victoria (UVIC)**

UVIC's "Sexualized Violence Prevention and Response Policy" was ratified in June 2017. Sexual violence response falls under the Equity and Human Rights Office, which differs from the other universities. A sexual violence prevention education coordinator is available for disclosures and investigations.

UVIC has committed itself to acting in a survivor-centred manner. The university is committed to transparency and accountability in the implementation of its policy and related procedures. Cassbreea Dewis, from the Equity and Human Rights Office thought the policy was very strong in its survivor-centric policies, and general principles. However, she noted that it is a long document that many SVs and RPs have a difficult time in understanding. Cassbreea suggested they are working towards a more user-friendly information document in the future (pc, January 30, 2018).

When asked about the general outcomes SVs are looking for when filing a report, Cassbreea has yet to come across anyone saying, “I want them kicked out of school and put in jail.” In general, she has found SV’s just want the RP to know what they did to them and the harm they have caused. (pc, January 30, 2018).

Cassbreea explained that the community accountability agreement written in the policy follows the same principles and values as a RJ facilitation. It is just labelled differently. She did explain the model is still in the process of being developed, and at this point in time, has yet to be initiated by an SV (pc, January 30, 2018). UVIC has the only policy that explicitly names RJ in the policy as an alternative dispute resolution process.

It was felt that UVIC does not have the capacity at this time to facilitate many of these processes, and Cassbreea explained that is why they choose to contract out services. There was thought given to the benefit to having a third-party, who is not a university employee, be involved as it can change how a SV and RP respond. The office is trying to compile a list of third-party individuals who are able to facilitate investigations and RJ-type work. (pc, January 30, 2018).

Cassbreea would like to see the general aspects of sexual violence policies be more coordinated – such as reporting and disclosure processes, models for alternative dispute resolutions, and sharing resources such as lists of investigators. It would also be helpful for future policy development if data collection and statistics could be collected in the same way (pc, January 30, 2018).

## Policy Comparison

The following outlines the key strengths and weaknesses of SFU, UBC, and UVIC's sexual violence policies as identified from the policies and through interviews with representatives from each institution.

### Key Strengths

**Table 1: Key Strengths of University Policies**

All institutions/ policies:	States that they are trauma informed
	Utilizes the balance of probabilities standard of proof during investigations
	Discusses considerations of intersectionality and diversity
	Discusses data collection
	Seek to provide students with education and prevention initiatives, as well as violence responses
	Provide a written report to the SV following the decision of the investigation

The biggest strength of the reviewed policies, is that they all promote trauma-informed models, with mentions of alternative dispute resolutions and community resources. RJ is consistent with the values of trauma-informed processes (Karp et al., 2016). All the universities interviewed, stated that these processes were still being developed. There was substantial interest in how an RJ process could be implemented into the existing policy structure. This suggests that institutions could be willing to pursue the recommendations of this capstone, as they are currently determining how to best implement an alternative dispute resolution process.

## Key Weaknesses

**Table 2: Key Weaknesses of University Policies**

All institutions/ policies:	Have informal relationships with community organizations (eg. Local sexual assault centres); but none of them have established a formal partnership
	Have an alternative dispute resolution method in the policy, but are still in the process of developing what that entails
	Use different terminology with the nuanced differences causing confusing, and being especially problematic for data collection (eg. Sexual misconduct, harassment, assault etc.)
	Need to work more with unions on campus and attempt to integrate policies with collective agreements

One of the greatest weaknesses of these sexual assault policies, is that they are not “easy” reads for the people who the policy most impacts. These documents do not clearly outline the steps a SV can take after an incident occurs and what rights they are entitled too. The same can be said for the RP and what rights they have during the process. While properly written policies are important for administration, a more accessible document, or forum such as a website, would benefit the general members of the university community. For students to be aware of processes such as RJ, this would need to be adequately addressed.

## Conclusion

All the policies share many similarities, once terminology differences are accounted for. This is unsurprising as they were all developed in the same time period, and shared information during the development process (Blair Littler, pc, February 1, 2018). It is feasible to believe that institutions can work together to improve these policies, and develop alternative dispute resolution methods, such as RJ.

Improvement and revision seems to be an area of interest for all three institutions, and would integrate well into the existing policy structure. The recommended policy option, or other findings from this capstone, could be easily incorporated in the next revision cycle.

## **Chapter 7. Policy Options**

Four policy options have been developed in this capstone, using the methods in the above chapters. Each option offers a different process for BC universities to develop a restorative justice response to sexual violence. This chapter will outline and describe the policy options.

These options are not mutually exclusive. None of these options have been implemented in the way they are described within another jurisdiction at this point. As this is a relatively uncharted area of policy, and context specific to each university, the formation of ideas was guided by the literature review and expert interviews that took place.

### **Option 1: Status Quo +**

The Status Quo + option will build off the current sexual violence policies with an increased focus on survivor-centric considerations made available to SVs through a restorative lens. This option was developed based on recommendations by Campus PRISM. One of the first steps they recommend is utilizing restorative language. For example, the promotion of the usage of the “language of harm” – which entails asking each party to identify the harm that has occurred and what would need to be done to repair it could be a feature of the policy (Karp et al., 2016).

Howard Zehr and Harry Mika (2002) have identified ten restorative practice goals, which with Campus PRISM concurs, that I believe could be incorporated into the current BC sexual violence policies to increase the restorative values reflected by the policy. These goals are listed in Figure 2 below:

1. Focus on the harms of wrongdoing more than the rules that have been broken
2. Show equal concern and commitment to victims and offenders, involving both in the process of justice
3. Work toward the restoration of victims, empowering them and responding to their needs as they see them
4. Support offenders while encouraging them to understand, accept and carry out their obligations
5. Recognize that while obligations may be difficult for offenders, they should not be intended as harms and they must be achievable
6. Provide opportunities for dialogue, direct or indirect, between victims and offenders as appropriate
7. Involve and empower the affected community through the justice process, and increase its capacity to recognize and respond to community bases of crime
8. Encourage collaboration and reintegration rather than coercion and isolation
9. Give attention to the unintended consequences of our actions and programs
10. Show respect to all parties, including victims, offenders, and justice colleagues

**Figure 2: Restorative Justice Goals**

This option would also ensure that the impacts on the broader community are accounted for. By ensuring that policy is designed in such a way that ensures the right kind of supports are available for anyone who may need it, the role of a sexual violence office will become more restorative in nature. This option does not offer the direct implementation of a restorative process.

## **Option 2: Internal University RJ Facilitator(s)**

This option would create an internal university RJ process – likely within the current office that handles sexual violence offences. This type of process could be modeled in part after the Dalhousie Dental Case – which had Dalhousie University faculty and staff members involved in the facilitation process.

This option would simply expand the types of processes offered by the sexual violence response office. Facilitator(s) would be employed by the university and provide prevention and education in a restorative way, as well as handle individual cases that wish to pursue an RJ process. They would need to have adequate knowledge and training of victim-centred practices, as well as experience facilitating RJ for sexual

violence. This may be independent of other non-academic misconduct cases, or may be inclusive of all cases.

### **Option 3: Community RJ Centre Partnership**

Option 3 is similar in structure as Option 2, however, it relies on an external partnership to facilitate RJ processes. This partnership was modeled after other relationships that exist within the university-community context, such as that between Wilfrid Laurier University and their local sexual assault support centre. The centre has a formal contract with WLU and a staff member is on campus four days a week to handle individual cases, as well as dedicates one day a week to education and prevention initiatives throughout the campus (David McMurray, pc, November 23, 2017).

This option would encourage each University to partner with a local RJ centre, who already has trained and experienced staff able to handle sexual violence cases. Universities would refer individual cases to the Restorative Justice Centre for facilitation, and help them in whatever way deemed acceptable. The University and the RJ centre could also work together to provide education during orientation week, and throughout the year.

### **Option 4: Sexual Violence Agency for BC Universities**

On the RJ tradition of community, this option explores having the major research universities of BC develop and form a central organization who facilitates education, awareness, and investigation of sexual assaults on all BC campuses. This option was expanded from Campus Prism's recommendation for a RJ study group/steering committee (Karp et al., 2016). While they encourage internal collaboration with faculty, staff, and students, I believe that universities could share these resources, especially when they are located within the same province, instead of each attempting to do the same work.

The Change Project report to Wilfrid Laurier University found that, "the existing policies, procedures, and strategies for addressing gendered violence are currently not coordinated under a single, dedicated body" and that this resulted in an uncoordinated response to sexual violence (Harrison et al., 2015, p. 103). While the report was

speaking about the internal policies at WLU, it is applicable to the variation and disparities across universities' policies. The resources of each individual university could be consolidated and shared, and lead to more impactful responses. A comprehensive sexual assault policy that all institutions would follow could be developed. This could potentially fall under the jurisdiction of the Research Universities Council of BC (RUCBC)<sup>3</sup>; however, various implementation options would need to be explored.

While this is a much broader strategy than the other options, it is not realistic to suggest a collaborative RJ body operating outside of the context of a general sexual violence agency. The RJ process would be one feature alongside other support systems and dispute resolution techniques developed and offered through the agency.

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<sup>3</sup> "The Research Universities' Council of British Columbia (RUCBC) represents the interests of BC's research universities. RUCBC's mandate is to identify issues facing the universities, provide system wide leadership in the development of relevant public policy and communicate on behalf of the university system. RUCBC also provides a coordinating forum for its member universities and acts as a provincial focal point for working with the Government of British Columbia and provincial or national bodies associated with universities" (RUCBC, 2018).

## **Chapter 8. Policy Evaluation Criteria**

It has been assumed for the purposes of this capstone that having a RJ process would improve the university justice process following an alleged assault. All of these options were developed with the intention of achieving the highest possible SV satisfaction possible, as well as due process and a positive experience for the RP. Within these options, policies would need to be designed to ensure that the SV's primary needs are being met during the process. This would entail a process that is deemed safe, which includes many features such as no victim-blaming, an affirmation of the SV's story, and an assertion of the wrongfulness of the offence (Karp et al., 2016). The process needs to provide the SV with options as well as voice when it comes to sanctioning (Wemmers, 2017).

However, the purpose of this capstone is to determine the best way to explore a RJ option as an institutional response for sexual violence crimes. The following criteria, which are outlined below, are an evaluation mechanism to determine the best way to implement an RJ approach into the existing policies.

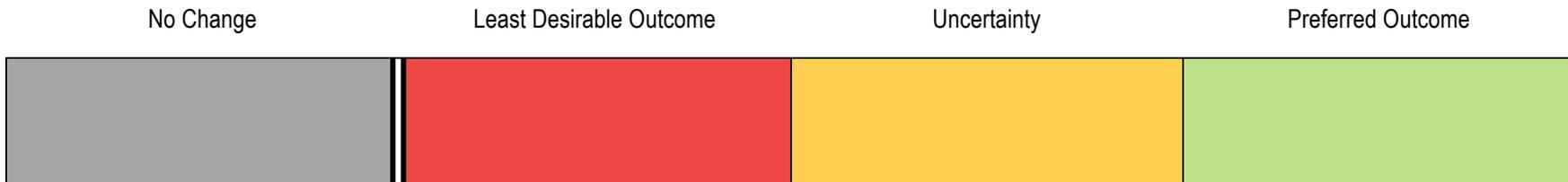
These criteria are meant to represent societal and governmental objectives and potential trade-offs of each policy option. It is not possible to account for every potential objective, and therefore only the most important criteria have been selected for the purposes of this capstone. The policy options I have chosen to compare are assessed on five criteria: accessibility, effectiveness, stakeholder acceptance, ease of implementation, and cost. The societal objectives of accessibility and effectiveness are the most important, and are weighted more heavily than the administrative objectives of stakeholder acceptance, ease of implementation, and cost.

**Table 3: Criteria and Measures**

Objective	Criteria	Measure	Weighting
<p style="text-align: center;"><b>Accessibility</b></p> 	<p>How easily is RJ accessed as a potential option for a survivor-victim?</p>	<p>The accessibility of the policy option in regards to timeliness and availability of services:</p> <p style="text-align: center;"><i>Very accessible</i> <i>Somewhat accessible</i> <i>Difficult to access</i></p>	X 2
	<p>How easily are RJ resources accessed or provided to the broader school community?</p>	<p>The availability of resources to facilitate larger community education, prevention, and response programs for the broader university community:</p> <p style="text-align: center;"><i>Very accessible</i> <i>Somewhat accessible</i> <i>Difficult to access</i></p>	X 2
<p style="text-align: center;"><b>Effectiveness</b></p> 	<p>Is the facilitator guiding the RJ process a neutral third-party, who is properly trained in sexual violence crimes?</p>	<p>Having a neutral adequately trained facilitator guide the RJ process:</p> <p style="text-align: center;"><i>Yes</i> <i>Yes, with concessions</i> <i>No</i></p>	X 2
	<p>Are there systems in place to allow properly conducted RJ processes to occur, including oversight external to the university to ensure safety and accountability?</p>	<p>Is a properly facilitated RJ process able to occur:</p> <p style="text-align: center;"><i>Yes</i> <i>Yes, with concessions</i> <i>No</i></p>	X 2

<b>Stakeholder Acceptance</b> 	How willing would students be to accept this policy option?	Individuals on the university campus would be accepting of this policy option:  <i>Very accepting</i> <i>Somewhat accepting</i> <i>Not accepting</i>	X 1
	How willing would the university administration be to implement this policy?	The university administration would be willing to implement such an option:  <i>Very accepting</i> <i>Somewhat accepting</i> <i>Not accepting</i>	X 1
<b>Implementation Complexity</b> 	How complex would it be to implement this policy option?	How many resources would be required to initiate this process (hiring, training, materials, space etc.):  <i>Low complexity</i> <i>Medium complexity</i> <i>High complexity</i>	X 1
	What is the estimated time frame to implement such a process?	How long would it take to initiate, develop, and begin the proposed option:  <i>Short time frame (&lt; 1 year)</i> <i>Medium time frame (1-3 years)</i> <i>Long time frame (&gt; 3 years)</i>	X 1

<p><b>Cost</b></p> 	<p>What is the fixed cost of the policy option?</p>	<p>Estimates of financial resources that would be required to implement the policy relative to the other options:</p> <p><i>Low Cost</i> <i>Medium Cost</i> <i>High Cost</i></p>	<p>X 1</p>
	<p>What is the marginal cost of the policy option?</p>	<p>Estimates of the cost of each additional RJ process to the university in the developed system:</p> <p><i>Low Cost</i> <i>Medium Cost</i> <i>High Cost</i></p>	<p>X1</p>



**Figure 3: Visual Ranking System for Evaluation Matrix**

## **Accessibility**

This criterion is meant to account for the SV satisfaction with accessing RJ as an option from their university sexual violence office. The desired outcome of this objective would entail having an adequate number of RJ trained facilitators, as well as a process that can be completed within an acceptable time frame. Accessibility is considered relative to the other options and categorized as very accessible, somewhat accessible, or not very accessible. Accessibility is one of the two most important objectives of this analysis; therefore, each measure will be double weighted.

### ***Specific Incidents***

The target of this capstone is for institutions to be able to offer an RJ process to those involved in a case of sexual violence. The SV should be able to access information about the process at the time of reporting, and initiate a process as soon as requested. The process also needs to be able to occur within a reasonable time frame. There should be no wait-lists or back log.

### ***Community Learning***

The accessibility of an RJ office to provide educational and informational services to the broader community would be an added benefit to this process. It is important that the broader community is not dismissed after a crime, especially a violent one. The impacts of a sexual assault can be far-reaching and long-lasting (Harrison et al., 2015) so there could be processes for residences, or classes that have been impacted by sexual violence, similar to DDS.

## **Effectiveness**

Effectiveness of the proposed policy options would examine the capacity to provide safe and successful processes for the SV and the RP. Based on the literature and the case studies, ensuring an effective process would require adequately trained, and neutral facilitators who can work with both the SV and the RP, as well as those to work with community members. It would also consider the ability of the option to provide

a properly conducted RJ experience for those involved. Effectiveness is double weighted in this analysis due to its importance.

### ***Facilitator Effectiveness***

This measure considers the ability of the institution to hire and work with proper RJ facilitators with experience in sexual violence. This criterion is operationalized as having adequately trained and neutral facilitators who can safely guide the process for the SV and RP, as well as community members.

### ***Process Effectiveness***

Process effectiveness is the ability of the institution to offer adequate procedures for those who wish to pursue RJ. A degree of transparency with the general process would help to ensure that proper safety measures are being accounted for and procedures are being followed. This criterion would also need to consider the balance of protecting the privacy rights of those involved in the RJ process.

## **Stakeholder Acceptance**

Without acceptance from certain stakeholders there will be no RJ process. There are two key groups to consider in this situation: the individuals part of the university community, and the administration of the school who is responsible for implementing the policy and ensuing processes. The public are not accounted for in this measure, although their opinions could be considerably impactful, considering the Lessons Learned from DDS. However, many people currently hold misconceptions about RJ, and there is a lack of examples to look at to form a solid basis for opinions on these options. For this reason, only the two main stakeholders are accounted for.

### ***University Communities (individuals)***

The individual acceptance is the desire of the student body, as well as staff and faculty members, to see such a process being offered on their university campus. Parents are also included in this group, as they can hold a lot of influence over university policies, especially in their support of wanting their child to attend a specific institution. Accurately measuring public opinion is complex, as a survey would need to be taken of these individuals. However, based on the literature, including recent newspaper articles

and using the DDS as a case study we can make educated guesses about the willingness of individuals to allow a RJ process as an option on their campus.

The acceptance of SVs, RPs, and community members involved in an act of sexual violence is important, but there is no way to measure this within the scope and restrictions of the capstone. It is hoped that their views would be captured with the rest of the university community, as any individual could be a future involved party.

### ***University Administrators***

The acceptance from university administrators is measured on the willingness of the policy makers and decision makers who implement the sexual violence policy to work on implementing the proposed option. This willingness has been measured based on the content analysis of the pre-existing policy and if there is already a place for such a process to fit it; as well as interviews with members of each of the universities and their direct thoughts on such options.

## **Ease of Implementation**

Ease of implementation is considered in the context of required resources by the university, as well as time frame that is estimated to initiate and develop such a process.

### ***Complexity***

The complexity of the policy option considers the amount of resources that would be required to implement the system. This would include, but is not limited to, hiring and/or training RJ facilitators, editing current policies, office space, and developing an RJ program. This criterion is measured relative to the other options as low complexity, medium complexity, or high complexity.

### ***Time Frame***

Time frame is the length of time in which it is estimated that the option could be implemented. This is measured using my best estimates, as being approximately less than 1 year, 1-3 years, or over 3 years.

## Cost

Cost is a criterion that is difficult to operationalize within this capstone due to a variety of circumstances. Most RJ centres operate as non-profit organizations with a small number of paid staff, and the rest serving as volunteers. Funding would be required for all the options, but the exact dollar amount is not possible to estimate. In turn, funding decisions would need to be made by the individual institution based on their preferences and priorities. The options are rated as best estimates relative to the other options. None of the options are expected to be unrealistically expensive to the university.

### *Fixed Cost*

Fixed cost considers the amount of money required to implement a proposed option. This cost would be paid regardless of the effectiveness or take-up rate of the RJ process through the process.

### *Marginal Cost*

The marginal cost considers the approximate amount of running such a proposed option, and the variable costs associated. It specifically considers the additional costs that each RJ process in the proposed system would add.

## Chapter 9. Policy Analysis

### Option 1: Status Quo +

#### Accessibility

This option would not necessarily allow for accessibility to a RJ process. It would improve the current process by making it more aligned with restorative principles. This could still be beneficial to SVs, but not fulfill the ultimate goal of providing an alternative dispute resolution method to students.

Community education built on a foundation of restorative principles could increase access for students more generally. Campus PRISM believes that community education on appropriate sexual conduct can be built from restorative interventions (Wilson, 2016). It is difficult to determine how impactful the accessibility to services would be as this is contextual to the university and its priorities.

#### Effectiveness

A restorative lens on sexual violence policies may be an effective strategy for improving the policies. However, this option does not adequately fulfil the objective of effectiveness since there would not necessarily be an RJ facilitator with this option.

The processes that may be initiated as a result of this option, without explicitly offering an RJ process, may not be overseen by someone with adequate training in RJ and sexual violence, which may lead to unsafe practices. This raises concern about the risk of taking “baby steps” to implementing an RJ process.

#### Stakeholder Acceptance

There is no reason to expect any resistance by individuals or administrators, as the option follows similar values as the current policies by promoting victim-centred processes. While difficult to generalize US responses to Canada, stakeholder interest with Campus PRISM has been growing in the United States (Skidmore College, 2018).

This suggests that universities are, and would be, interested in RJ strategies to fight sexual violence on their campus.

### **Ease of Implementation**

This is the most straightforward option to implement. It only requires that the current policy is updated to reflect a more restorative understanding of harm caused by sexual violence. This could occur during the scheduled review that is required every 3 years by the institution.

### **Cost**

This option would have no fixed costs compared to the status quo, or compared to the other proposed options. It would only require amending the current policy during the next review period. The marginal costs would be negligible as no processes would be expected to occur, however RJ resources may be developed.

## Summary of Option 1

Accessibility		Effectiveness		Stakeholder Acceptance		Ease of Implementation		Cost	
Individual	Community	Facilitator	Process	Individuals	Administrators	Complexity	Time Frame	Fixed	Marginal

Status Quo + performs highly on administrative objectives, as it would be quick and easy to implement, with little to no controversy expected from the school community. However, this option would not utilize our best knowledge to develop a truly comprehensive, victim-centred, survivor-centric policy including RJ. It would be good if policies became more restorative in principle, but this option should only be viewed as an interim measure, or to be used with other changes. For this reason, this option is not recommended unless combined with another policy option that implements an alternative dispute resolution RJ process.

## **Option 2: Internal University RJ Facilitator**

### **Accessibility**

An internal RJ facilitator(s) would be accessible for SV's and RP's as the RJ facilitator would be working on campus. It would be easy to get further information about RJ and initiate a process if desired. The facilitator would be immersed in the policy of the school and its practices and can provide full access.

The facilitator(s) will also be on-campus to work with administration and student groups in the development and implementation of various education and prevention initiatives.

### **Effectiveness**

An internal facilitator would be able to adapt practices to the institutional context. Educational programming around sexual consent and safe practices could be tailored to the needs of the student body. This would be very beneficial to the access of RJ for the students at the university. The institution can ensure that they choose properly trained and experienced facilitators to work in their offices, if they are responsible for their hiring. There may be concerns that the facilitator(s) hired by the university could be biased in favour of the organization they work for. Dalhousie did their best to overcome this, by allowing the project leader Jennifer Llewelyn to act as a neutral third-party on her request.

This option would allow for a suitable process to be developed within the university. It would keep the associated processes under the same context and jurisdiction of the current policy which would mean no major changes needed to be established. But, there would be no external oversight to ensure the process is being conducted in a suitable and safe manner which may be a disadvantage.

### **Stakeholder Acceptance**

There is some uncertainty in regards to the reaction expected from the community. It is expected students and university members would be supportive of

efforts to expand current sexual violence offices through the hiring of more professionals. With current media stories about students demanding more from their universities when it comes to responding to sexual violence, it is anticipated that this option would be welcomed. However, there is a risk that this is not the desired outcome students are seeking, and they may reject this type of process being developed using university resources, such as what occurred at Dalhousie. It is worth considering that the involved parties may have different views on their preference of dealing with an internal or external facilitator to guide the process.

There is no reason to expect much resistance from university administrators, but they may have concerns about their abilities to properly include such a process within their mandate and budget. Across the interviews with SFU, UBC, and UVIC, there was a consensus that they were unsure of what to expect in terms of workload as the policy was in such a new stage of implementation. All the university's offices are quite small, with only a few staff. It may be difficult to hire on a facilitator who is so specialized, especially with limited resources.

### **Ease of Implementation**

Substantial resource development would need to occur to be prepared to provide RJ processes at the individual and community level. This option requires some new resources such as employees, materials, and potentially office and facilitation space. It should be noted that RJ facilitators with appropriate training and experience with sexual violence may be in short supply, and it may be difficult to find qualified people to hire. The universities do not currently have alternative dispute resolution processes implemented at this time that could be built off of, so substantial work still needs to be done.

In terms of timing, this could be reasonably implemented within a year. However, due to the potential mentioned above of a shortage of available facilitators, additional training may be required for people with some, but not all, of the required qualifications. Due to training and finding appropriate facilitators; as well as development of the policy it is estimated this option would take between 1-3 years to initiate.

## Cost

The cost of hiring RJ facilitators and developing educational materials may require an increased budget for the sexual violence office. While one facilitator may be able to train another case worker, or handle the case load, it is recommended at least two facilitators were hired to ensure adequate resources are available for the SV and the RP in a case. The cost of additional employee(s) would not be large in the context of a university budget and could be managed. The costs expected with this option would be low-moderate.

## Summary of Option 2

Accessibility		Effectiveness		Stakeholder Acceptance		Ease of Implementation		Cost	
Individual	Community	Facilitator	Process	Individuals	Administrators	Complexity	Time Frame	Fixed	Marginal

The option of an Internal RJ Facilitator would increase the access to individuals and the community, but warrants some concern with the other criteria. This is mainly due to issues of transparency and capacity within the current institution. Currently, the offices are small, and hiring another staff member may not be feasible. There would also be substantial resource development that would need to occur to be adequately prepared to offer RJ services on campus. Option 2 could be considered for schools who may have the capacity and resources to hire on an internal RJ staff, and develop such programming, but is not recommended as the best option forward in this capstone.

## Option 3: Community RJ Centre Partnership

### Accessibility

A University – Community RJ Centre partnership would allow full access to RJ processes for SVs. Depending on the contract, and space, the SVs may have to go off campus to access services, but it is entirely possible that the facilitator is given space to work out of the university as well as WLU has done with the local sexual assault centre. The accessibility is expected to be equal to that of Option 2.

This option may decrease access to RJ processes and education on campus when compared to Option 2. Community agencies have stated that they have difficulty connecting with students on campus unless they have relationship with the university (Harrison et al., 2015). This would provide a forum for the RJ centres to share their expertise with the university community. This type of formal arrangement would allow RJ centres to connect with the university community. However, due to their primary commitment to their own organization, there may be fewer resources that are able to be dedicated to the broader university community.

### Effectiveness

Forming a relationship with established organizations would ensure neutral and qualified people were involved in the development and implementation of these processes. This could increase the neutrality of the process<sup>4</sup> as it could benefit students who prefer talking to someone external to the university (Cassbreea Dewis, pc, January 30, 2018).

RJ Centres in Vancouver and Victoria are reputable and have systems in place for training and execution of RJ processes. This options offers an excellent opportunity to leverage existing knowledge and expertise. This type of relationship would allow for greater transparency and oversight with the university's sexual violence policy, and its alternative dispute resolution processes. Even for aspects where the RJ centre may not have a direct involvement with the policy, they could still provide some feedback and

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<sup>4</sup> There is a risk that a facilitator on contract could be equally or more biased in favour of the institution than a staff member due to a desire to earn another contract

guidance as an external stakeholder. Interviewee D explained RJ centre has had some success with implementing RJ into post-secondary institutions, which can serve as a proactive approach before a conflict occurs (pc, November 30, 2017).

## **Stakeholder Acceptance**

It is expected that individuals would be supportive of community partnerships and opportunities for further resources through their campus. For those who may be unsupportive of Option 2, the distance to the institution provided by an external partnership, may be easier to accept. Again, SV and RP acceptance may differ here, however, it is difficult to know without having interviewed these groups specifically.

Stakeholder acceptance from an administrator will be dependent on the terms of the contract between the university and the RJ centre. Opposition of such a relationship is not expected, however, certain respects of the contract may be more contentious such as financial support or administrators wanting more oversight with the process than the centre believes should be granted. However, these issues do not seem exceedingly difficult to overcome. Due to everyone wanting to achieve the same goal – assisting SV's heal – an agreement should be achievable. David McMurray (pc, November 23 2017) shared WLU's arrangement with other Ontario universities, and at least three have now initiated similar partnerships in their own communities.

## **Ease of Implementation**

This option is simpler in some areas in that much of the groundwork about proper processes will have already been done by the partner organization. They will already have trained staff able to facilitate cases. A formal contractual partnership would be necessary to eliminate the risk of changing administrations or shifting priorities (Harrison et al., 2015).

The only anticipated complexity would be to draft and agree upon a contract. Once a contract is reached, the time frame to implement such a process would be quick. There is little to no training that needs to occur, and between the institution and the RJ centre many materials would already be ready for education and response procedures.

## Cost

Most RJ centres operate as non-profits, and are run by volunteers. It is likely that to expand their operations to include formal services to a university, the institution would have to provide financial funding for these organizations to operate. Cost-sharing would be expected, but present an “opportunity to demonstrate the commitment and responsibility for issues that impact both parties” (Harrison et al., 2015, p. 107). Excluding Option 1, a partnership performs well comparatively due to cost-sharing, and is less than would have to be paid internally (David McMurray, pc, March 4, 2018).

There is also a substantial risk associated with this type of relationship, as the BC government does not provide Community Accountability Program (CAP) funding to centres that accept referrals for sexual assault (See Appendix B). There is a worry that a relationship to offer RJ as a sexual violence resolution would suspend the centres from this funding. To overcome this, university institutions may have to provide further funding to make up for this loss. But overall, costs are estimated to be in the low-medium range due to the cost-sharing, and the savings on training and resource development.

### Summary of Option 3

Accessibility		Effectiveness		Stakeholder Acceptance		Ease of Implementation		Cost	
Individual	Community	Facilitator	Process	Individuals	Administrators	Complexity	Time Frame	Fixed	Marginal

The community partnership option performs very well on the key criteria of this capstone: accessibility and effectiveness. While there are some minor uncertainties, and issues of administrative objectives to consider, none of them are impossible to overcome to ensure success of the project. The high marginal cost of this option is only a concern if the uptake of RJ processes is extremely high, which is not anticipated, and the contract charges on an individual per case basis.

This option is the primary recommendation of this capstone, with further information outlined in Chapter 11.

## **Option 4: Sexual Violence Agency for BC Universities**

### **Accessibility**

In theory, the formation of a provincial sexual violence agency would lead to high access to RJ for every SV and university member. Ideally, every university would have an RJ expert at the university, or easily reached via email, phone, or video-conferencing. For any SV wanting to pursue an RJ process, it would be easily and completely available. However, due to staffing constraints, facilitators may be accountable to more than one institution at a time which may lead to delays to accessibility.

For community members, the RJ programming would be incorporated into existing campus events and education. Resources could be shared among institutions. For example, a shared online site could be developed with educational materials every new student must complete as part of their orientation. There would be RJ specialists available to conduct on-campus processes as needed. The access to RJ processes would be very high if it was incorporated into the wider university culture in BC.

### **Effectiveness**

This option would ideally lead to the most qualified and experienced facilitators working for this managing agency, and overseeing training of all new facilitators. This would also have facilitators who were accountable to the agency and not individual universities, which would increase neutrality.

The processes that are developed would be created with the university context in mind. Transparency around sexual violence and institutional response would be much higher than it is now. The Change Project believes that a standing committee that, “represents a diversity of skills, knowledge and experience would allow for more accountability and transparency about how gendered violence is addressed” (Harrison et al., 2015, p. 103).

## Stakeholder Acceptance

University community members would likely be supportive of a more harmonized approach to sexual violence. It would lead to more clarity and understanding of the available processes. For involved parties, the expectations and consequences of actions would be clearly laid out. For a system that is often criticized for unclear policies and procedures, this option could improve this aspect for all involved.

University administrators may be less inclined to accept such an option. As was discovered in my interviews, there can be substantial differences in university contexts and what administrations want their policies to be, even if the end goals are the same. It is not clear how many institutions would be willing to partake in such an endeavour. The director of UVIC's office thinks that certain higher levels of sexual violence policies being coordinated would prove to be very beneficial for everyone such as the processes for disclosure, and data collection (pc, January 30, 2018).

## Ease of Implementation

This option is complicated to implement as it requires a complete overhaul of how these sexual violence policies are done now. It would require forming a governing body, and then deciding how to best create and implement the new policies. However, the universities are already communicating and sharing resources. Once initiated, much of the administrative complexity would be alleviated, and resources would ideally be consolidated and shared.

The specifics of how the office would operate, and where facilitators would be located, is still unclear. Due to the complexities of this option, it would take the most amount of time to implement, with an estimation of several years before programming would be able to begin.

## Cost

It is likely that this option would have the highest cost associated with it due to its intricacy. New staff would need to be hired, and it could take substantial time to get resources developed for use by all the institutions. It would require substantial investment by all institutions involved.

## Summary of Option 4

Accessibility		Effectiveness		Stakeholder Acceptance		Ease of Implementation		Cost	
Individual	Community	Facilitator	Process	Individuals	Administrators	Complexity	Time Frame	Fixed	Marginal

A sexual violence task force is an ambitious option. It provides neutral and transparent services to all students and allows for a highly accessible service to be offered to students that is tailored to the student experience. However, the complexity and costs associated with an entire agency may be too high for it to be feasible in the near future. It would also cause significant delays for students who want to access alternative dispute resolution processes in the interim. A harmonization of policies and resources could be an effective and powerful way to change sexual violence responses in the province.

This option is the secondary, long-term recommendation of this capstone. It is further explored in Chapter 11.

# Chapter 10. Policy Comparison

Table 4: Policy Analysis Matrix

	Accessibility **		Effectiveness **		Stakeholder Acceptance		Ease of Implementation		Cost		
	Individual	Community	Facilitator	Process	Individuals	Admin	Complexity	Time Frame	Fixed	Marginal	
Option 1 Status Quo +	Red	Yellow	Red	Red	Green	Green	Green	Green	Grey	Green	Not recommended
Option 2 Internal RJ Facilitator	Green	Green	Yellow	Yellow	Yellow	Yellow	Red	Yellow	Yellow	Green	Not recommended
Option 3 RJ Community Centre Partnership	Green	Green	Green	Green	Green	Green	Yellow	Green	Yellow	Yellow	Primary recommendation
Option 4 Provincial Sexual Violence Agency	Green	Green	Green	Green	Green	Yellow	Red	Red	Red	Green	Secondary recommendation

\*\* Key objectives: Measures weighted more heavily

## **Chapter 11. Recommendations**

### **Primary Recommendation: Partnership with Community RJ Centres**

The primary recommendation of this capstone, based on my analysis of the four proposed options, is a partnership with a local RJ centre. This option provides a balance between the various objectives. It achieves a best outcome on nearly all measures, and performs especially well on the key criteria of accessibility and effectiveness. Overcoming the complexities associated with a contract negotiation is not an obstacle.

Status Quo + does not go far enough, while a sexual violence agency is an overly ambitious and complex primary recommendation to make. Between Options 2 and 3, an external partnership allows already existing resources to be leveraged and utilized in a mutually beneficial way for both the university and the centre. Community harmony is an important aspect of RJ and, “the university culture is intimately entwined with that of the surrounding community” (Harrison et al., 2015, p. 106).

This recommendation is in line with Ending Violence Association of BC recommendation that universities/colleges in larger communities considers approaching and inviting specialized community-based service providers to deliver sexual assault response services on campus for a fee-for-service (Ending Violence Association BC, 2016). While speaking about community partnerships, the Change Project explains that “joint responsibility for creating cultural changes [is] imperative because there are limits to what any single agency can do alone” (Harrison et al., 2015, p. 106).

The most important first step is to have people who are trained and understand trauma-informed responses to sexual violence (Interviewee B, pc, November 27, 2017). There are RJ facilitators operating in Victoria and Vancouver who are adequately trained and prepared to handle sexual violence cases. Universities should seek out their knowledge and experience, and ask for assistance in implementing RJ processes to ensure their safety and success.

Beyond individual processes, changing current norms will take efforts that are internal and external to the university (Harrison et al., 2015). This type of relational

approach will help bring together the university community and external community together in the fight against sexual violence. David McMurray (pc, March 4, 2018), “expects more [partnerships] will follow because the partnership team, together with our own staff, brings a great deal of expertise to the campus as well as capacity to support students.”

## **Secondary Recommendation: Sexual Violence Agency**

While stated above as being an ambitious goal, Option 4: A Sexual Violence Agency for BC Universities, is recommended as a longer-term goal that should be considered. This option has benefits to addressing sexual violence on university campuses beyond just a restorative justice process. It performs well on the objectives of accessibility and effectiveness; however, its drawbacks are on its administrative complexity. However, that should not be a deterrent and rather serve as a reminder for why institutions should work together. Brenda Morrison believes, “an easy, effective, and especially important step [to solving sexual violence] is universities supporting one another” (pc, November 23, 2017).

It is important to recognize the diversity that exists among university communities. It may not be appropriate to have one single policy regulating all the campuses. There are many factors to account for including size of the student body, proximity to community services, and how many students live on campus. It is recommended that a task force is created and certain elements of sexual violence policies are coordinated among all institutions, with specific details being handled by the individual university. For example, the VP Student Affairs of WLU spoke about “Laurier-izing” the New Hampshire model of bystander training to make the process more distinctive to their campus environment (David McMurray, pc, November 23, 2017).

This recommendation requires an agency formed out of all the post-secondary institutions in the province – even though this project was focused specifically on SFU, UBC, and UVIC. It was outside the scope of the capstone to have had all the information necessary about other universities and colleges, but that would be an area that would need further research.

The 2018 federal budget has included funding for the national harmonization of sexual violence policies, which suggests we may be heading in this direction sooner than anticipated (Brean, 2018).

## **Implementation Plan and Risk Management Considerations**

There are several considerations to account for in the implementation of these recommendations.

Firstly, a RJ process would remain one option for SV's to pursue, alongside more traditional processes. While implementing RJ, it is important to not neglect the other equally important processes that could be selected, and to ensure that every avenue offered can be provided to SVs in an effective and safe manner.

It is also critical that facilitators are trained in sexual violence safety to ensure that more harm is not inflicted upon the SV through the process. Appropriate safety measures need to be reflected in the policy, such as not allowing this process for repeat sexual offenders, or those with serious mental health concerns. Strong confidentiality policies would need to be ensured before the processes could work involving the community.

Informing the university community and the rest of the public would need to be a part of the implementation strategy. A plan would need to be in place in case there is public backlash to such an offer being offered to SVs. Being prepared to explain RJ and acknowledge its shortcomings, as well as its benefits, will be important especially to SVs that come forward, or RPs being investigated.

The acceptance of these recommendations from the perspective of SVs and RPs was unable to be adequately considered in this capstone due to an ethical constraint on interviewing these groups. There is no literature that exists that asks for opinion of such specific options. It would be important that institutions speak with their university communities, and to those who have been impacted by sexual violence, to gather a sense of the acceptability of a policy before implementation.

While this capstone explicitly considered sexual violence – an RJ approach could be useful for all kinds of gendered violence such as gender discrimination or harassment

that would not necessitate criminal proceedings. For RJ to be truly successful and “bought in” by the community, it needs to be a part of all the policies and be an option for all acts of misconduct. This means that wider discussions about an RJ focus to healing harm on the university campus need to be had with offices of student affairs and those who deal with other misconduct offenses.

There are some important financial barriers that may need to be overcome. Currently, the BC government will not provide funding to Community Accountability Programs that take referrals for sexual assault, domestic abuse, or hate crimes and this would likely need to change before a formal partnership could occur in this way. To overcome this, RJ centres and universities would likely need to lobby the government to change this directive. There is an opportunity to present this partnership strategy as a pilot program to measure the effectiveness and success of RJ processes for sexual violence cases. This could be very beneficial for all involved, draw attention to problem areas, as well as ease anxieties about expanding the process to more people. A graduate student in dispute resolution recently found that Canadian RJ centres are overall practicing in a safe and effective manner when facilitating sexual violence cases (pc, December 1, 2017).

Ultimately, for a RJ partnership to succeed there “needs to [be] genuine support and the willingness to put resources into it to make it work” (Interviewee D, pc, November 30, 2017).

## Chapter 12. Conclusion

“As capacity grows, campuses can apply RJ practices broadly with the goal of true community transformation.”

- (Karp et al., 2016, p. 42)

Restorative justice offers a unique way forward to a difficult problem. What is important to remember is that, “everyone need to be heard in ways that are appropriate for them” (Brenda Morrison, pc, November 23, 2017). If this process will help even one SV heal from a sexual violence incident, or prevent one RP from re-offending, then it worth having a plan in place to offer and conduct such a process. A partnership with a community RJ centre offers an excellent start to offering this process to students impacted by sexual violence.

The ultimate goal is to stop sexual violence from occurring at all. There are many areas around sexual violence on campuses that require further research to work towards achieving that objective. The statistics that show violence is exacerbated for marginalized groups – such as women of colour and LGBTQ+ (Karp et al., 2016) that needs to be addressed. While all the universities explicitly acknowledge this in their policies, future work in this area should examine the impacts of intersectionality, and how universities are offering responses in a way that works for everyone.

There has been a distinctive policy window that has opened for addressing sexual violence. It is the hope of this capstone that SFU, UBC, and UVIC acknowledge the promise of alternative responses and decide to act as leaders in the education and implementation of restorative justice as a potential response to sexual violence.

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## Appendix A: Criminal Code

### Section 275

*Everyone who commits a sexual assault is guilty of*

*(a) an indictable offence and is liable to imprisonment for a term of not more than 10 years or, if the complainant is under the age of 16 years, to imprisonment for a term of not more than 14 years and to a minimum punishment of imprisonment for a term of one year; or*

*(b) an offence punishable on summary conviction and is liable to imprisonment for a term of not more than 18 months or, if the complainant is under the age of 16 years, to imprisonment for a term of not more than two years less a day and to a minimum punishment of imprisonment for a term of six months.*

### S. 265 (4)

Accused's Belief as to Consent

*Where an accused alleges that he believed that the complainant consented to the conduct that is the subject-matter of the charge, a judge, if satisfied that there is sufficient evidence and that, if believed by the jury, the evidence would constitute a defence, shall instruct the jury, when reviewing all the evidence relating to the determination of the honesty of the accused's belief, to consider the presence or absence of reasonable grounds for that belief.*

## Appendix B: CAP Funding

The following is an excerpt from the BC Minister of Public Safety and Solicitor General Community Accountability Programs Information Package (2004, p. 23):

“In Part 1 of this manual, the caution was made that Community Accountability Programs should not handle cases that involve violence against women in relationships, sexual offences, child abuse, or hate crimes.

These crimes are often referred to as “power-based crimes.” These are crimes in which offenders abuse the power they hold over the victim, and the victim feels powerless to resist, avoid, or even speak about what is going on. The power that these offenders wield may be physical, emotional, psychological, social, or financial in nature, and is often based on gender, age, relationship, ability, race, country of origin, sexual orientation, or physical size. Most victims of crime feel that their ability to make a free choice has been diminished as a result of the experience. Victims of power-based crimes feel this more acutely. Hence, they usually require more attention and intensive support than can be provided by a Community Accountability Program.”