

National Skillshare Series – Work, April 21st 2021

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Farrah: All right, welcome. I'm so excited to be a part of the Courage Act National Skillshare. We're so excited to have you all here to hear about interesting and innovative ways to address gender based violence on post-secondary institutions.

My Farrah Khan. I am the Co-Director of Courage to Act. I use she and her pronouns and I'm really excited to be here. And we're thrilled to welcome you today to look specifically at key issues to do with gender-based violence investigations on post-secondary institutions. We have a jam packed session with lots of really amazing speakers. So we're going to get right into it.

But before we go on it, just a quick note on a language and accessibility for folks. So you can turn on and off your captioning on Zoom. So just go into the captioning area by clicking the closed caption in the controls bar at the bottom of your screen. You can also listen to this session in French. So don't hesitate. If you want to practice your French or you are French speaking, this is a great time to switch over right now.

And today's session is going to be recorded and it will be shared afterwards. So if you're furiously taking notes, you can watch it again, which I like to do. And a graphic recording is going to be created of this session and it's created by Annalee from Drawing Change. Her role is to deeply listen and then translate our ideas into visuals. And so just give us a warm hello, she just came on for a second, which is so great. Thank you so much for being here on Annalee. And you can watch along as she draws and she follows a session. And these graphic recordings will be available after the session, which is really exciting for us to get some graphic understanding of the work that we're doing.

So a little bit about Courage to Act. It's a two-year national initiative to address and prevent gender-based violence at post-secondary institutions and Canada. It builds on key recommendations from Possibility Seeds', vital report "Courage to Act: Developing a National Framework to Address and Prevent Gender-Based Violence at Post-Secondary Institutions. And of course, this is a part of a larger conversation about gender-based violence on campuses, which we're so lucky to be a part of.

And this is also part of the National Skillshare. And the National Skillshare is a series on addressing and preventing gender-based violence at post-secondary institutions. It runs from January until August 2021. You can use the hashtag, #IHaveTheCourageToAct when you're talking about online. Love when you share things online, so it lets people know in our community that this thing is happening and that they need to take attention to it.

One key thing to know is that Skillshare, we're really excited to introduce and offer insight into development of the tools. Because we've been working with folks from across Canada on these tools and it's really exciting. We also have amazing keynote speakers. So please, please attend all the sessions because they are fantastic.

And really important to note too is that we'd be piloting these tools that we're discussing in Fall 2021. So if your institution is interested in piloting these tools, all of them or some of them, please let us know. Send us an email to couragetoact.ca and we're happy to have a conversation with you about that.

Also, if you're an attendee, you're connected to a network of experts and advocates from across Canada. There's amazing people on this call and on this webinar that are going to be really engaged with this work. So don't hesitate to share your information, share the ways that you're doing the work, ask really great critical questions, and really know that we're doing 10 live webinars around these things are still coming up. So there's time to sign up.

Our project is made possible by the generous funding and support by the Department of Women and Gender Equality Canada. And of course, that's with the Federal Government of Canada. And they have been instrumental in this work, the federal government made a \$5.5 million commitment to address and prevent gender-based violence on post-secondary institutions at post-secondary institutions and we're part of that conversation. It's so great to have their support in the leadership, of course, Minister Monsef.

We cannot start these conversations without recognizing the fact that we are on Indigenous land. And I really encourage you if you're not sure about the Indigenous land that you occupy, go to nativeland.ca and learn more about it. We always begin our sessions really having that recognizing that consent on the land and consent on our bodies is so linked and the fact that this country was created on the sexual and gender-based violence against Indigenous people and that's an important recognition that we need to make. As a settler myself, this is a conversation that is ongoing for me.

And recognizing that gender-based violence is one form of violence caused by colonization to marginalize and dispossess Indigenous people from their lands and waters. Our project strives to honour this truth as we move forward to decolonize this work and actualize justice for missing and murdered Indigenous people including women, girls and two-spirit folks from across Canada.

One other piece with this too is self-care. As someone who's doing this work and the pandemic, as a new parent, as someone who's trying to run an office, too, it is intense this work. And so we really encourage you to visit our self-care page for Courage to Act, and look at ways that you can take care of yourself as work. You can also follow along with these conversations with the GBV National Skillshare. It's really important that we take care of ourselves over doing this tremendous work.

So a little bit about the project that we're doing. So we're talking with the Work Community of Practice today. There's some really great conversations happening. You're welcome to share questions with the Q&A box. Please share questions throughout, we'll be answering them at the end but definitely do that. You'll also find a link at the end of the evaluation form. Please, please evaluate this. Give us this feedback. Tell us how you're feeling, tells how you're not feeling. That's great.

And also, we're really excited to start this conversation with Chandra Pasma. I don't know if you know this powerhouse, who just announced that she's running. So I'm really excited about that. But Chandra is someone that I had the honour to meet two years ago now with this project and Chandra brings a wealth of understanding.

She is the Senior Research Officer in the National office of the Canadian Union of Public Employees, where she works on issues related to the post-secondary sector. She has been leading the conversations about reminding us that employees are a part of these conversations. So we cannot just focus on just on students. But employees are part of the conversation, a part of the action that we need to take around gender-based violence on campus.

So she talks about employment insurance and other precarious work. Chandra represented CUPE on the federal government's Advisory Committee on the framework to address and prevent gender-based violence at post-secondary institutions. She was instrumental in actually creating the current Courage to Act report that came out two years ago now. Oh my goodness.

And before joining CUPE, Chandra worked in politics and for non-government organizations specializing in social policy and issues of income security. Thank you so much, Chandra, for joining us. We're so thrilled to have you here. And also, congratulations about your new decision.

Chandra: Thank you so much.

Farrah: I'm going to stop sharing my slides and hand it over.

Chandra: Perfect. Thank you so much, Farrah and welcome, everyone. Good afternoon. if you're in the eastern half of the country, and good morning if you're in the western half. I'm joining you today from unceded Algonquin Anishinaabe territory in Ottawa, where it is snowing at the end of April.

And as Farrah mentioned, I am representing the Canadian Union of Public Employees, which represents over 70,000 workers in the post-secondary sector, at universities and colleges in all provinces, and in all job classifications except for permanent faculty and senior management. And CUPE's Post-Secondary sector has been unanimous in identifying the issue of sexual violence and harassment as an urgent priority.

There's also concerns though, that despite the work that's going on to create institutional policies to provide training and to find ways of preventing and addressing sexual violence and harassment on campus, that the perspective and the experience of workers has so far been marginalized. It's very important for the wellbeing of students and workers that institutional responses embrace all members of the campus community. But it's also especially important for survivors that they be given as much autonomy and choice as possible.

Part of a trauma informed response means empowering the survivor rather than taking away their autonomy, so making sure that they have choices that address their full identity. There's also a number of ways in which the post-secondary sector is unique for workers as well as for students. So I'll talk about why fulsome responses are really important from that perspective.

But first, just to give you an understanding of what work looks like in the post-secondary sectors. There's a tendency to think of it as just teaching and research but the reality is that there are all kinds of work that is happening in the post-secondary sector. There's administration, senior management. So that's the president, the deans, vice-president. There's faculty who can be both permanent and tenured or contract and temporary. There's postdocs and researchers, who are doing mostly research that could be teaching your class on the side.

Other academic workers, so teaching assistant research assistants, lab techs, markers, invigilators and other roles. There's librarians and library workers, information technology staff, clerical support staff, who are both supporting departments and doing the work of administration, enrolment, etc.

There's all kinds of custodial and maintenance support staff required, who are doing everything from cleaning to grounds maintenance, to fixing buildings and screwing in new light bulbs. And then there's all kinds of ancillary services support staff, which depending on the size of the university or college could include food services, counsellors, lifeguards, residents' assistants, parking lot attendants, and more.

Within this framework, there's a hierarchy of workers and worker power. So not all workers have the same power and resources if they are the survivor of an incident of sexual violence and harassment. But also, not all of them have the same resources and power if they are accused of having perpetrated violence.

Senior administration does not tend to be unionized, but they may be organized in a professional association but they are definitely at the top of the hierarchy of worker power. And just underneath them at the top of organized workers is permanent tenured faculty, and a portion of them actually tend to move in and out of senior administration

So at one point, you might be a dean, and then you might go back to being a professor. So there's a lot of power within that segment of the workforce. And then at the bottom, you have precarious faculty and staff

who are on contracts, temporary or casual positions, where if there's the slightest hint of trouble, if you raise an allegation, if somebody raises an allegation about you, you don't even need to be fired, the employer simply doesn't offer you a new contract.

And then at the very bottom are the contracted out employees who tend to work for services, such as food services, or custodial work, but at some universities and colleges that now includes some instructional staff. And they're not even seen as campus employees, even though they work on campus every day, they're paid by a different employer, they don't have access to the university or college pension plan or benefit, depending on the institution who actually holds the contract, could slip every two to five years.

So your employer is actually changing constantly. Depending on the province, you might not retain any of your seniority, your wages or your benefits when that happens. And the contract holder may be very eager to stay in the good graces of the university or college. And so, at the slightest hint of trouble, you might be pulled away from the campus and assigned to another workplace. Or again, if you're casual or contract, you just wouldn't have your contract renewed.

Somewhere in the middle there are student workers. Depending on their situation, they may have more power because they're seen as students. But they also tend to be younger workers, sometimes in their first ever position, less aware of what their rights are in the context of the workplace. And there's very high turnover in union leadership roles just because of the nature of post-secondary education and people graduating. So not as much institutional memory and so sometimes it can be harder to defend workers' rights.

That's not to say that it's a very clear dichotomy of workers and students within the sector. Many workers actually are students. This is an example from York University, which I picked just because they're one of the best universities for putting statistics online. And you can see that in 2019-20, the second largest proportion of the workforce that they reported on is actually teaching assistants, so these are students.

And these statistics don't even include students who are working as part time staff. So residents' assistance, lifeguards, accessibility service providers, food service workers, and more. So among the students and faculty and staff that we know about 30% are actually student workers. But if you included those part-time, it would probably more likely be somewhere around 40% of all the faculty and staff working at the university are both students and workers.

And because of the way the post-secondary community works, the same person could be both student and worker, and could be both supervisor and employee, depending on the situation. So you might be a graduate student who's teaching a class and reporting to a professor who is your supervisor. And you could be working in accessibility services where you report to one of the students who was in your class that you're TAing. So a lot of fluidity and not necessarily clear directions of power.

Within the post-secondary workplace, there's a number of issues that are very unique. As I mentioned, there's a very large proportion of young workers. There's the sense that your supervisor or your employer has very significant power over your future career. So if you are a student, it could be that you need a good grade or a good recommendation in order to progress within your field. The risk that if something happens, that the student will drop out or transfer and will not continue their studies in the field at all.

For researchers, and contract faculty, the support of your supervisor might be essential to being able to work in this field, or to find a permanent job in this field. And again, any kind of hints of trouble for contract workers might result in not having your contract renewed and therefore, just being done in this field.

There's very high levels of precarity. So the only part of the workforce that we have good statistics for is faculty, then we know that more than 50% of appointments are precarious. But we know that for many of the other job classifications as well anecdotally, that there's very, very high levels of precarity. There are significant levels of contracting out and privatization.

In food services, for instance, it's more than two thirds of universities that have contracted out their food services. There's no fixed workplace for many of the roles that happens. So you can be working in the classroom, in labs and offices, off campus, in your home online. And many of these interactions can end up taking place outside of work or working hours, particularly if you live on campus or if you're involved in any kind of social opportunities around campus.

So what does gender-based violence look like in the post-secondary sector? Well, Statistics Canada did a survey of students in 2019. This was a survey on individual safety in the post-secondary student population. And they found that 45% of women and 32% of men reported unwanted sexual behaviours. And the vast, vast majority of them did not report it to anyone associated with their institution. So only 10% actually told somebody at their school about the incident.

However, this survey did not ask about employment, and it only covered students not workers. What we do know is that 12% of the students who experienced discrimination on the basis of sex, gender identity or sexual orientation, said that the perpetrator was a professor or an instructor.

So, if you are from Statistics Canada, and you're joining us today, what we really, really need is a survey that asks students about employment and covers workers as well as students. But we do know some information from broader surveys of Canadians about what levels of sexual violence and harassment are taking place within Canadian workplaces. And we can generalize that to the post-secondary sector.

So Statistics Canada asked all Canadians aged 15 and older in 2018, about their experiences of sexual violence and harassment, and 29% of women and 17% of men said that in the last 12 months, they had

experienced unwanted sexual behaviours in the workplace. More than half of respondents, both men and women said they had witnessed inappropriate behaviour in the workplace in the last 12 months.

The most common type of inappropriate behaviour with sexual jokes. The gender composition of the workplace really matters. So 39% of women who say all or most of their co-workers are men, had experienced some type of inappropriate sexual behaviour in the last 12 months. One in five women reported experiencing online harassment. Although, they did not always know the perpetrator or how the perpetrator had found them online. And 39% of women and 35% of men reported they have experienced at least one sexual assault on their life, and that doesn't include incidents committed by intimate partners.

A similar survey done also in 2018 by the Angus Reid Institute asked people about their lifetime experience. And 52% of women, 22% of men say they've experienced workplace sexual harassment at least once in their life. 89% of women have taken steps to avoid unwanted sexual advances at work. And 28% of women, 14% of men report that they have experienced sexual assault at work at some point in their lives.

And there was a correlation between harassment and assault. So half of the women who have experienced sexual harassment at work have also experienced sexual assault. Surveys have also noticed that there's a connection between sexual harassment and assault and other forms of discrimination. So workers who are racialized living with a disability, LGBTQ+, precarious rather than full time or permanent residents of migrant workers are also more likely to experience sexual violence and harassment in the workplace.

In addition to them experiencing it at higher rates, they also experienced more boundaries in reporting and in achieving accountability. The survivors themselves though may not actually experience the behaviours are primarily sexual because of their intersecting identities. So they may experience sexual harassment as a form of racism, for instance, or as an attack on immigration status.

And it's important for people who are working in this sector on sexual violence and harassment to understand that trauma can be collective or generational. So some people who have experienced the ongoing trauma with colonialism, systemic racism or homophobia, carry this with them when they experience sexual harassment or assault in the workplace. And these experiences shaped their decisions and their ability to participate in a workplace or institutional investigation.

When it comes to addressing workplace gender-based violence on campus, there are a number of processes that may be mandatory depending on who the survivor is and who the perpetrator is. In certain provinces, if the incident takes place in the workplace, there is a mandatory workplace investigation that must take place.

The employer has no choice, the survivor has no choice. This investigation has to happen under the law. If the alleged perpetrator is

part of regulated professions, such as a social worker, or a doctor or in some provinces, a childcare worker, then the professional regulatory body may require mandatory reporting when an employer becomes aware of an incident. And in certain instances, such as when the victim is a minor, the employer must report the incident to police.

But there's also optional processes that depend on the choices of the survivor. They could also depend on the institutional policies, which may limit the survivor's choices. So some institutions limit institutional complaints to students and will not allow a worker to complain for instance, but some will also limit the ability to combine different processes.

So you wouldn't be able to have an institutional complaint and a police complaint, for instance. So there can be more or less power to the survivor depending on the rules of the institution. But these processes include a complaint under the institutional process, complaint through the grievance and arbitration process. Alternative resolutions, such as restorative justice practices, a complaint through a Human Rights Commission or tribunal and the criminal justice complaint.

Regardless of what process is followed, collective agreements remain paramount, they have the status of law, and you can't just set them aside, regardless of the wishes of the survivor or the perpetrator. But it is essential for unions and employers to ensure that whatever process is followed, they're doing their utmost to ensure that it is safe as possible for the survivor and avoid retraumatization.

So that might mean, for instance, that even if you're following a grievance process, it doesn't need to be as combative as grievance processes normally are. And there's also a need for institutions to ensure that interim measures and accommodations address survivors' reality as a worker as well as a student. So with that, I will turn it back over to Farrah to talk about workplace investigations.

Farrah: Thanks so much, Chandra. That was such a great overview. And I really appreciate that you brought up the precarious status of so many workers on campuses, and how we need to address that piece.

So I'm going to move us to our next part, which is talking about the panel piece. So we're going to be talking with my esteemed colleague, Angela Bradley. But before we get there, I just want to tell you a little bit about how this working group came about. So we started looking at the principles of gender-based violence and investigations at post-secondary institutions, and kind of created a comprehensive guide for workplace investigations.

So who this tool is for is really clear, it's for people who are hiring, appointing or revising workplace investigations or gender-based violence complaints. It's for workplace investigators, so people that are coming into institutions, people like Angela, and those tasked with evaluating investigations report, so actually looking at the investigation report and saying, OK, how do I make sense of this? So understanding it.

And this tool became a behemoth of multiple tools. So we looked at an environmental scan of relevant legislation, policies and acts in every province and territory in Canada. We also did surveys and interviews with colleagues involved in post-secondary complaints processes. And then we identified four principles for workplace gender-based violence investigations. And as well, we compiled the guide, which includes practical suggestions for each of the principles and a tailored checklist for different users of the tool.

And so I'm going to invite Angela Bradley, who when I was asked who I wanted to work on this to bring together investigations, Angela was the first person that came to mind. I've had the honour to work with Angela before, and I'm really impressed with her trauma informed, but procedurally fair way of approaching these conversations.

Angela has over 20 years of experience, practicing employment labour law in the United States and Canada. Since 2015, she's devoted her practice to workplace investigations, and mediation, including trauma informed investigations of gender-based violence within post-secondary institutions. She's been working to develop a tool for trauma informed investigations. And I'm so happy to pass on the mic to her now.

Angela:

Thank you so much, Farrah. And I want to also acknowledge and thank Anoodh and Kelly for the amazing work. It's been so wonderful to work with them both. And as well, I want to acknowledge the Complaints Community of Practice. Their guide, the comprehensive guide is an incredible tool and I really appreciate all that work. It's been really helpful in bringing forward this work as well.

So why is this tool important? Why are trauma informed approaches, why are they important? I think we're now at a crossroads where a lot of the even legislation across provinces and federally are really looking at competencies. And particularly in Ontario, and in the federal government, the statutes around health and safety are actually looking at the baseline of what is a competent, trained investigator. So that is just the baseline.

And I think what I would like to say is that trauma informed practice is part of that definition in the future, because as I'll go through the slides, being trauma informed and being fair and transparent to everyone involved in an investigation is just supporting procedural due process and fairness for everybody. So I think it is the ideal.

When I receive a file and what I recommend is when something comes forward to you, when you're accepting the case, assume that there is trauma, because you'll probably be right. Throughout the investigation, if you start with that assumption, and then you treat the people involved with that assumption.

Even into your report writing where you know, you still have that assumption, and you are not operating on any types of myths or you're not misquoting or paraphrasing incorrectly that would support any sort of

myths in your writing. So it's a complete assumption that you keep throughout that I think is very helpful to guide the entire process.

It's not that the professional and personal qualities cannot be learned or practiced. But I do believe that these qualities are important for someone working in trauma informed investigations and empathy, flexibility, which we'll go into with the interview, really listening. It's really about them. It's trying to empower the survivor, it's trying to give them voice.

So it does take patience. It's not a straightforward linear process, and a quick process and I think it's really important to show the parties that you've been thorough. So that they've been listened to that you care that you thoroughly recorded their experiences.

I just have to also say this is the most beautiful graphic of equity I think I've ever seen. It really brings forward law and art in such – it's just a beautiful way.

So these are the four pillars that were in the tool that were part of the interviews that were done. And part of the tool for the work community practice that came forward. The trauma-informed practice, procedure fairness are the two things that I often talk about together, equity and harm reduction.

So how do you implement them? And one of the things I said was transparency, and I think it's really important to be very transparent about what is in front of the parties and tell them what you're going to be doing. As I said about the assumptions, also look for ways that they might that – and check yourself, check your biases, which is really hard to do, but we all have them, and try to recognize if you are falling into any traps as I would say, around stereotypes or myths, or misconceptions about how someone should act, if they've experienced trauma.

And flexibility, again, like I said, it's not linear. With open ended questions or one technique, let the person whom you're interviewing and meeting with ask them where they'd like to start, or what they'd like to tell you. I often ask, just sort of get to know each other, tell me about yourself, what do you love to do? What are you studying? What do you love to do outside your studies or your work? So, just a way to have your own warm up conversation, so to speak.

And this is something really important for lawyers, like myself, try not to get into legalese, or any jargon of your profession, really have a conversation. I say right out of the front, if you have any questions, please let me know. And I really consider this a conversation. And sometimes I can even see people's shoulders relax a bit in the first few minutes, which is really, it's the way that I prefer to approach especially these investigations.

And the number five, apply trauma-informed approaches with all of the parties, this is where we'll get into later on. I really do think if you do use these techniques, everyone is going to feel that they've been respected and treated fairly.

And this goes more into the actual report writing, the person receiving your report may not agree with you, but what you really want to make sure that you've written it out and you have your clear written reasons for the findings that you've come to.

The same thing on the other end, a reasonable notice. You want to give both parties notice and an opportunity to prepare for a meeting with you. And, again, the bias piece. Check your biases throughout the investigation. It's not just at the front end, because investigations are very organic, and things can come up, people can tell you things and it's almost like you need to run that through your filter of bias.

And the flexibility in being responsive, you may need to be rescheduling. You really want to try not to meet a lot, try to get as much as you can from the first meeting with the survivor. And flexibility, one of the techniques that I found was helpful when a survivor just could not come to tell the story over again of the actual incident, we could rely on the security report if it was available and just kind of fill in some gaps so as to not re-traumatize the survivor.

And one of the things that I do when it's coming to both parties is the respondent. I will give in writing in advance a summary of the allegations that they can review. And on this last note here on the slide, I think it's important when we're looking at the allegations that both parties have a support person or a representative and that they're given that opportunity from the very beginning. And I think that goes a long way and not to sound too lawyer like, but to have a defensible investigation and something that can hold up if there is a review of the investigation.

And again, at the very outset, I try to make sure that everyone understands who I am and what I'm doing and what my background is. I put that into an introductory letter in writing. But I want to make sure that I can show the relationship that I have with their employer in the workplace. And usually I'm setting out that I'm impartial and I don't know the people involved. And so that helps with the whole perception or actual bias that people may feel.

Going back to what is a competent investigator, there are the baseline competencies, but I think in being trauma-informed, people should know, the investigator should know what the elements of trauma-informed investigation are, what are some of the techniques that should be included. And in this context, and I've said this on a couple of other panels, I believe we are at a point now whether it's in PSIs or in society as a whole, that we cannot -- I think that trauma-informed and anti-racism or anti-oppression need to be created together and is one.

So it's what Chandra had said at the beginning, about looking through that intersectional lens as well. And I believe that that's incredibly important right now that we take into account cultural sensitivities, generational violence, trauma, all of those sorts of things.

And I am very much a proponent of having the support system. And sometimes as it says here that can include translation for language,

other communication tools, whether there are assistive devices that are needed, I've had emotional support, animals attend interviews, which was totally fine. It was great to have that support there as well.

And so I really think that it's a very open approach from informed investigation where with openness and humility would be how I would sum it up. And always be willing to check your biases, ensure that people are empowered and feel supported throughout the process and just be clear and be transparent about both your processes and your communication.

And again, when we look at the harm reduction principles, this goes a bit more to policy and on this particular slide, I would really encourage reference to the complaints working group, the comprehensive guide, because there are amazing resources in there regarding policy work and just implementing, putting into your existing structures, the trauma-informed frameworks and approach. So I think that's a really important piece to know. And once we have the comprehensive guide more widely available, I think it will be a tremendous resource for investigators and decision makers, who are hiring investigators and PSI as well.

And this is some of the techniques here, implementing the principles and the investigation. This is a personal one in my checklist framework sometimes. You want to make sure that the person can be supported within work hours. So not Saturday night emails or anything to try to organize your schedule. And mitigate risk and address symptoms and effects of stress.

And one thing I have learned is that it's always great, especially when we can go back to in person, to have those snacks, to have the water, or the tissues, even to have something to work with your hands. It's really helpful to try to mitigate the stress because even the process can be stressful.

OK, thank you.

Farrah: Thank you so much, Angela. And Angela, I'm really excited about the tool that you and Zanab and Deb and Brittany, and there's a whole host of people, but you've been leading and I really want to say thank you for that. And I want to bring on two fantastic people that we're actually going to have to have a conversation now about trauma-informed ways.

We're going to go a little bit over time, so 10 minutes over time. So hopefully people stick around for this awesome conversation. So I just want to invite Jiaqing Wilson-Yang, who I have the honour of working with at Ryerson's Sexual Violence Support and Education office. She is a trans woman working in Toronto that has been supporting survivors for over 10 years in various roles and is also an award-winning writer that's very shy about speaking about that.

And then we also have Amelia Golden with us, who has the best last name, and she is the owner of Golden Investigations, a workplace

discrimination and harassment firm, which specializes in post-secondary institution in investigations, and school boards and government ministries and agencies. As an individual who's been working in the field of human rights since 1998, Amelia has focused on integrating cutting edge human rights analysis with solid investigation practices as a way of promoting, working and learning community growth and wellbeing.

So welcome, everyone. So I'm just going to start our questions here. And first, I'm going to go to you actually, Jiaqing, I'm going to ask you this question. So why is it important to even have trauma-informed workplace investigations?

Jiaqing: Thanks, Farrah, and thank you everyone for having me here. Definitely, thank you, Angela and Chandra for what they brought earlier on the panel. I'm taking notes and really into it. And I think what's important about trauma-informed investigations has kind of been talked about by our previous speakers. But I really would like to emphasize like the quality of information that's going to be given in the investigation just increases when we're using trauma-informed practices.

So I've had the pleasure of sitting in investigations, pleasure is not the right word, but sitting in investigations that Angela is running and seeing the pace at which she speaks, the way she explains things. Just bringing in that, like a lot of space and room for the survivor to have their feelings to acknowledge it to take breaks, has just changed so much the ways that survivors share information in those investigations, versus other investigators that I've seen that don't provide that kind of space that are a lot more pushy if I'm going to use a word about getting the information.

And I think when we talk about putting together an investigation and procedural fairness, you want to have good quality information. And we know that the most common response to trauma for survivors is freezing. So if a survivor is feeling overwhelmed and traumatized in the investigation, you're going to see folks freezing, not saying anything, or kind of gapping out dissociating, or they may argue with you and you get a fight response. And again, the quality of the information that you're getting in the investigation just goes down.

So you don't have procedural fairness, because you're not actually getting a clear story from the complainant and the survivor in this situation. And I don't have as much experience supporting respondents but I would imagine, it's very much the same because we know that respondents also are survivors sometimes and are also trauma survivors. So bringing this in on both sides really helps the quality of information.

Farrah: Yeah. I really appreciate that piece around just reminding people that it actually makes a process better when you're trauma-informed. That's what I'm kind of hearing as a thread here from all the speakers. And I want to go to Amelia and ask, and Angela, hopefully you can pipe in as well. But there's a whole thing about if you are trauma-informed, then you can't be procedurally fair. And if you're procedurally fair, then you can't be trauma-informed.

And I think it is a myth but tell me why it's a myth, because I want to understand it better. And also, I want to be able to explain it so I'm working with other institutions around this because there's such pushback around that. So Amelia, do you want to start us off and then Angela, join in?

Amelia: Actually, Angela and I were talking about this earlier, and Angela, I thought it might be best if you started off.

Angela: OK, fine. Yeah, we did speak about this, that there has been attention even in the work that was done with the Complaints Community of Practice and with the Work Community Practice. There is this tension out there that if you're giving too much on the trauma-informed piece, then the respondent is not being treated fairly and vice versa.

I still see that there's a perception that the respondent should not receive the allegations in advance. There's still an idea out there, and I've noticed south of the border that this is more prevalent as well, that the element of surprise, that people feel that they will get more truth if they surprise the respondent.

That's not really, in my opinion, following the edict or the foundations of what procedural fairness is all about, the right to be heard and to be heard by an impartial decision maker. So I do believe that when you don't take that humility and that openness at the front end and realize that there can be trauma on both sides.

And then go forward with that, that you want to make sure that both parties have the equity or equal right to be heard and to be heard by someone who is not biased. So that's why in my practice, I do provide a summary of allegations. And that is to try to make sure that everyone knows what we're talking about.

Amelia: I think it's very interesting that when one is talking about a complaint process, and you think about gender-based violence, you often think about the court process. And the court process, the survivor has no due process, has no procedural fairness. All they are is a witness to the crime that happened to their bodies.

And when you move into investigations, and you try to balance that the survivor actually has rights to fairness and rights to an equal voice, then that becomes seen as skewed and often given the survivor more. When in actuality, it's just sort of trying to correct the criminal process, which gives the survivor nothing or at least no control over their own statements and their own experience.

So procedural fairness, there's a few basic precepts, as Angela was saying, make sure everybody understands what they need to be answering to, what the allegations are, a fair opportunity to speak to any counter evidence that comes up, that the person hearing the evidence is the one making the decision. There's basic precepts to procedural fairness.

But it's a phenomenon that we see so often, that when, and let's say, the majority of complainants in gender-based violence are women, not certainly all of them. But in the situations that I deal with, I would say the majority in the numbers are women. When their voice has equal space, it's seen as unfair, it can be translated to unfair.

So if I got a complaint about lack of procedural fairness, what I would be doing is drilling down and actually looking at what the fears are, what the fears are that that there's going to be a loss of power or a loss of fairness, just because there's a desire or impetus or a recognition that both sides actually need to be treated fairly and how that is seen as a loss of fairness to the respondent.

Farrah: And it's such a thing to balance because we see time and time again now, also, that respondents are suing universities or there's more of a litigiousness on that side, or also lawyering up when they're going through this process. So it's like, how do you do this in a way that's actually going to be procedure fair, trauma-informed and not moving away that actually does more harm than good on any side?

One of the things we've got too, Amelia, and I wanted to kind of flow on this and maybe Jiaqing and Angela, you can jump in is the piece where the complainant says, "OK, you know what, I don't want to participate anymore." So how do we actually move forward to do that with procedural fairness? And how do we do that from a trauma-informed place?

Because there is a time where complaints are like, "You know what, it's been five years in my life and I'm finally ready to say something and now I don't want to go forward" or "this process was too intense for me", or "I just don't have the financial resources to keep going with this." So tell us some ideas around that piece because I think that one is really tricky sometimes.

Amelia: I agree. There's definitely a tension between having an investigative process of being trauma-informed and then the law, at least in Ontario, which is that once an institution becomes aware of a certain transgression, they have a responsibility to investigate to the extent that it's appropriate.

And so you can often get a complainant or somebody who's experienced sexual violence, gender-based violence, and they don't want to move forward with it. But if the institution has become aware that this is an allegation, they have a responsibility, they have a responsibility to the rest of their community that they don't just bury it and they do address it.

It's something actually, Angela, I've been thinking a lot about since our conversation the other day. And I think we do exist within the legal framework and we do have to do our due diligence, and that's part of the reason why we're hired so that the institutions know that they're fulfilling the requirements and where they are required to by law.

I do try to have a conversation with if it's, let's say, at Ryerson, consent comes first, the different organizations that are there to support and they already have a relationship with the complainant, just to fully flesh out what the picture is, and see if any of the reticence can be dealt with because I far prefer having an investigative process where the complainant has a voice and feels empowered to use that voice.

At the same time, completely understanding that it's within their rights and their own autonomy to pull back and not want to proceed. But at that point, legally, the institution does have to continue going for it. And it's not the kind of investigation that I like doing because it's not balanced, but it can be the best that we can do. Unfortunately, sometimes that's where we have to settle.

Angela: I just wanted to add one idea, and that's not always successful. But I agree with Amelia, it doesn't feel right to not have the complainants voice. So what I have offered sometimes, especially if the university or college has already said that they will take the complaint forward, I'll offer to the complainant, "Would you like to be a witness instead?"

And I'll explain, at least in Ontario, that means they won't get the results and any corrective action that was taken, but their voice is part of the investigation. And to me that, that's really important, echoing what Amelia said that in a criminal – they're basically witness to what has happened with their own body, so it's balancing that. But if they're comfortable being witnessed, I'd like to offer that.

Farrah: I really love that I love the ideas of when we're talking about trauma-informed, we're talking about consent, giving people options is always a way for people to feel safer in those moments. Jiaqing, I see you nodding your head. Do you want to add anything to this in terms of things that you've seen in terms of investigators being trauma-informed or working from a trauma-informed place? Can you give some examples that you've seen in terms of your own work, or things that you're like, "Oh, I wish they could do that more?"

Jiaqing: Definitely providing breaks, having support in the room. I've been in investigations where an investigator doesn't want me to speak at all, and they just want me to sit quietly and not interact. And I can appreciate not wanting me to be influencing the testimony that the complainant is sharing. But that sort of set something up at the beginning where I knew that if I was going to be intervening, I might be frustrating the investigator, which may impact how the student was feeling or how the complainant was feeling.

And generally, when I interrupt or do anything like that, it's just to check on if the survivor or the complainant needs a break. Or if they want to take a pause or if they would like me to recount the story of the incident, and then they can provide corrections to me. So those are things that have been helpful and also not helpful.

I know, Angela, you referenced it a little bit. Maybe it was a different case but I remember another case where we were able to use a security

report, we were able to use emails where the incidents already been described in full where someone else has already taken that information and have the complainant repeat that again and again has been helpful.

And with respect to this sort of witness or not wanting to participate any further in an investigation, or when a complaint needs to step out, for whatever reason, I think going back to the information that's already been collected, because generally, when we're at a point where as a survivor is like I've had enough of this investigation. The information has already been collected, it may not be enough for the investigator, but there is a piece there that can be used. Yeah, I totally agree with you, Farrah, in terms of options. It's all about options, choice, setting people up.

One last thing I know, I just sort of threw a whole bunch of things out. I have seen some investigators say, look, this is a very complex situation. I appreciate that it's complex, there's a lot of parts, I may have to ask you a lot of questions, I may have to ask you to repeat some things and that might be really hard for you.

And doing that at the beginning of the investigation is really helpful in setting expectations because that limits trauma reactions, when they can expect that this is coming, they can brace for it. But it's when it's a surprise, when you don't see the questions coming that people tend to clam up, shut down or feel attacked and want to leave the investigation. So those are some things that I've seen.

Farrah: I really love those. And I love the fact that you have an example of ways to recognize people's activation. So when people are activated in a session, what are ways to support them from a trauma-informed way that still recognizes procedural fairness and recognizes you need to get this information. Amelia, do you want anything else that you would say in terms of things that you've seen, you're like, "Oh, I really like how that investigator did that or something you've heard from other investigators or things you've instituted for yourself?"

Amelia: I often don't get a chance to see other investigators in action. So it's always a treat to have the opportunity to hear different approaches. There are rules around support people and how they're allowed to contribute but definitely saying if anybody wants to break at any time, anybody can bring that up, including the support person. If you just want to check in, that's fine. If there's anything that I don't ask you about that you still want to share with me, there will be plenty of time for you to do that.

If there's things that you remember after our conversation and you want to let me know, feel free. I just don't want this pressurized environment of an interview, which is so stress producing for somebody that feels like I have to be perfect, I have to be complete. Nobody needs that extra stress in an already very stressful situation.

So I'd like to expand in order to give an understanding that it doesn't all have to come out now. This may trigger a memory of something else, and there will be a chance for you to share it again, compared to the court system, which is you're under oath, you're talking, you're off the stand. That's it, you've had your chance. So to try to differentiate the scene from that. I think people walk into interviews with a very media heavy understanding of what being interviewed is.

Farrah: Yeah, CSI has not done a lot of good things for this work sometimes. People think that they're CSI as well. I want to bring Chandra back. So Chandra, if you want to join us back for the final bits of this panel, because I have a question for all of you. Because Chandra really shone a light on the fact that when we're talking about workplace investigations, we're not always talking about people with positions of power.

So we're talking about people that sometimes are precarious workers, oftentimes in positions where the person that may have harmed them, or the institution themselves has so much power over them. Do you have suggestions, and I'm throwing this out there but I'm going to start with Chandra, what are ways we can make investigations more amenable or supportive or trauma-informed for people with precarious work status such as contract workers at universities I'm really thinking of. Chandra, do you want to give us some suggestions that you have?

Chandra: Thanks for the question. Farrah. I think there's a few things. #1 is make sure that the participants have representation, a union rep or a supportive person so that they know that they're not alone, that there will be somebody who will go to bat for them if they feel that their employment or their livelihood is at stake, making sure that your institution has a really strong conflict of interest policy.

So that somebody who is connected to the perpetrator, for instance, isn't going to be allowed to participate in the investigation or in decision-making or in sanctions after the investigation. And then making sure that you have a really strong retaliation policy so that somebody doesn't feel like if I report this, I'm going to lose my job.

Farrah: I would love to hear more about retaliation policy at a different time. Because I know that there's been some great reports that came out of Time's Up that said, 7 out of 10 women who make sexual violence complaints and go through investigations experience some form of reprisal. So we're seeing that in the research coming out now after people are encouraged to come forward, what's the impact?

Anyone else want to add around precarious workers that they'd like to state?

Angela: I think it comes to flexibility. And I see this even with shift workers outside of the PSI context. I have done evening and even weekend interviews, which may not be appropriate in a trauma-informed context with students, but being flexible to work with them, whether it's around childcare, or shifts or elder care, any sort of personal limitations that they

have to be flexible and amenable and approachable to work with them. I think it's really important for people in precarious work situations.

Amelia: I find that when people have made the decision to step forward with a complaint, they're aware of the precariousness of their situation, and they've made a decision as to what risks they're willing to take. I think this really also comes to the fore though with witnesses, because whether witnesses want to share their experiences when they're afraid that they're going to get identified and they don't have as much protection, as let's say the parties do.

I make it very clear about how anonymized my reports are, how I try to amalgamate information, aggregate information as much as possible. So I'll say three out of five witnesses said they saw the respondent act in a certain way. I try to anonymize as much, as much as possible and give that information to the witnesses.

Also, in some institutions, the parties see the reports, and some institutions they don't. So I make sure that that's very clear. And also at what level the reporting structure, somebody will actually see the report. So if it's somebody supervisor, well, they know me really well, too. But I'll say no, we'll bump it up to a provost, we'll bump it up to somebody so that there's enough separation between you that the information that you give me will allow you to remain anonymized. It's not always perfect.

Sometimes there's three people in a room and everybody knows who the person talking is. But I do try to give the witnesses who are often in precarious positions, especially in post-secondary institutions where so many of the positions are part time or student based that they can get some solace from that or feeling of protection.

Amelia: Anything you want to add Jiaqing from the side of supporting someone through that process?

Jiaqing: Yeah. I really appreciate what everyone said beforehand, especially in terms of the retaliation and the reprisal piece. That's definitely a big one that we come into, especially when I'm working with staff or people with the sort of blurry boundaries that Chandra was explaining earlier on, like TA who are also employees who may be supervising other TAs but are still students. And the careers that they're building are very much dependent on the people who are supervising them.

And coming forward with a complaint even if it's not about their direct supervisor, if it's about someone else, supervisor getting wind or being a decision maker really impacts the way people are sharing information and willing to share information. There's definitely been more than a handful of situations that I've seen since I started, where people are like, "I would like to come forward, I would like something to be done about this, I would like this to change. But I know that if I do this, it's going to impact me, it's going to impact the one other woman in our department", things like that.

So when I think about reprisal and retaliation, for me, it really pulls into the ways that the university is structured and what kind of policies are in place, because there are systems that create and allow for situations of sexual violence, right. There's such a common cultural standard of people dating their TAs or dating their grad students like it's alluded to in so many different movies, films, books, whatever. And we know what happens in real life.

So having things in place that stop that, I think are really important ways to be combating gender-based violence on campus. Like yes, the investigation piece is key. And I know that's what our focus is today. But I think Chandra's presentation really highlighted for me the systemic ways that gender-based violence is allowed to thrive in PSIs and PSIs in general as a site. PSIs has so many little holes and places and overlaps where sexual violence and gender-based violence can flourish, which is why we're here. It's great.

Farrah: Yeah, that's a great way to kind of end our kind of conversation. Thank you for reminding us that it's not about individuals, it's also the systems that uphold and create the spaces for where this happens. I want to really give a big thank you to Chandra, Angela, Amelia, Jiaqing for sharing your knowledge and expertise with us today.

I'm so excited about this tool. There's so many people that have worked on it. I really want to take a moment to also thank the Work Community of Practice for their contribution to the tool. [This includes...] Our deepest thanks to the consultants, Stephanie Togus, Elizabeth Tuck and Rebecca Akong and Angela Bradley for collaborating on this tool with us, lots of people were working on it.

Also, I'd like to also say thank you to the complaint process folks, Deborah Erks, Zanab Jafry and Brittany, who've been working also on this. As you can see on Anna-Lee from Drawing Change has been creating a beautiful illustration to represent the conversation we're having today. That final graphic with a video recording and transcript will be available on our website in the coming days.

If you're interested in learning more about this tool, or learning more about the opportunity to pilot some of these tools and your post-secondary institution, please follow the Courage to Act project and you can sign up for piloting opportunities for the fall 2021 and this will be one of the piloted projects. Don't forget the registration, open and sign up for more training sessions. Please fill out your evaluations and tell us what we could do better and we did really great. And also know that you can sign up for more things.

And I want to thank you all for attending. I know we went a little bit over but it's so great to see everybody stuck around and the conversation was so full. So have a great day. Take a deep breath, take a break and this is such a beautiful illustration. I love it so much. I hope everybody has a great day. Thanks so much. Bye, everyone.



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