

Deep Dive Investigations EN Recording

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Laura Murray: OK. Hi, everyone, and a warm welcome to the Deep Dive into Procedurally Fair Drama-Informed Investigations to Reduce Harm session. I'm so excited to welcome you into this space. My name is Laura Murray and I'm the project coordinator of Courage to Act. Today's training is part of our National Skillshare Series where we feature subject matter experts in conversations about urgent issues, emerging trends and promising practices and strategies to address gender-based violence on campus. Our presenters today are the authors of the toolkit A Comprehensive Guide to Campus Gender-Based Violence Complaints, upon which this training is based. The Guide is now freely available for download via the Courage to Act Knowledge Centre. So please download a copy and share it widely, it's a really good resource.

Before we begin, a quick note on language and accessibility. You can all view captions for this session by clicking on the link in the chat box. You can also listen to this session in French by selecting the French language channel using the Interpretation menu below. Today's session is also being recorded and will be available on our website along with the transcript. Possibility Seeds leads the Courage to Act project. We are a leading social change consultancy dedicated to gender justice, equity and inclusion. With over 20 years experience working with community organizations, governments, private and public institutions, we care really deeply about the impact of our work.

Courage to Act is a multi-year national initiative to address and prevent gender-based violence on post-secondary campuses in Canada. It builds on the key recommendations within Possibility Seeds' vital report, Courage to Act: Developing a National Framework to Address and Prevent Gender-Based Violence at Post-Secondary Institutions. Our project is the first national collaborative of its kind to bring together over 170 experts, advocates and thought leaders from across Canada to address gender-based violence on campus. I also want to take a moment to acknowledge our funders. Our project is made possible through generous support and funding from the Department for Women and Gender Equality, also known as WAGE, the Federal Government of Canada.

This work is taking place on and across traditional territories of many Indigenous nations. The land I'm currently on is the territory of the Anishinaabe, Haudenosauenee and the Leni-Lunaape. The territory was the subject of Treaty 21, also known as the Longwoods Treaty, an agreement between the Chippewas of the Thames First Nation and the British Crown to peaceably share and care for the resources. This agreement was broken by European settlers. The process of

colonization in Canada over the past two centuries has enacted systematic genocide against the Indigenous peoples of this land. We see these acts of colonization and genocide continuing today in the forced sterilization of Indigenous women, the epidemic of missing and murdered Indigenous women, girls and two-spirit people, the over-representation of Indigenous children in care, the criminalization of Indigenous people resulting in overrepresentation in prisons and environmental racism and land theft of Indigenous territories.

As we come together to respond to experiences of gender-based violence we must acknowledge this as a de-colonial struggle. They cannot be separated. Supporting decolonization and Indigenous sovereignty is critical to working towards a culture of consent and accountability. We honour and take direction from the experience and wisdom of Indigenous survivors, activists, frontline workers, writers, educators, healers and artists. Today we will take action by inviting everyone here to read Calls for Justice within Reclaiming Power and Place: The Final Report of the National Enquiry into Missing and Murdered Indigenous Women and Girls. You can also download the worksheet on how your institution can answer these calls to actions through the link in the chat.

Also just a note about self-care, because this work can be really challenging. Many of us may have our own experience of survivorship and supporting those we know and care about who've experienced gender-based violence. A gentle reminder here to please be aware of your wellbeing as we engage in these difficult conversations. We have a couple of resources for you. You can either visit the self-care section of our skillshare webpage or you can visit our self-care room by visiting the link in the chat. So before I introduce our really brilliant speakers today, just a brief note on the format. You are invited to enter questions into the Q&A box throughout the session, and we pose these to our presenters at the end of the webinar. So if you have any question that pops up throughout please type it in and we will try to get to it at the end and we'll try to engage with as many questions as we can in the time we have together.

At the end of this session you will also find a link to an evaluation form. We'd be really grateful if you took a couple of minutes to share your feedback as it really does help us improve. Please know that this survey is anonymous. Following the session we will also email you with a copy of the evaluation form and a link to the recording so you can view it again and share with your networks. Now I'm really excited to introduce you to our speakers today. First is Britney De Costa who leads the Sexual Harassment in Experiential Learning project for Courage to Act and is co-lead of the Courage to Act Reporting, Investigations & Adjudication working group. And then there's Deb Eerkes who is the Sexual Violence Response Coordinator at the University of Alberta and co-lead of the Courage to Act Reporting, Investigations and Adjudication working group. I'm excited to turn it over to our speakers now.

Britney De Costa: Thank you so much, Laura, and good afternoon everyone. We're excited that you're all here with us today. Like all of our Deep Dive sessions we really want today to be a jumping-off point for continued conversations and practice as well as a way to connect with each other as peer support, so as we get started, we invite you to introduce yourselves in the chat. What's your name, what institution do you work at and what's your role there? We also want to know what's a challenge that you face around investigations? We hope today's session will give you some strategies to address those challenges and that you'll also find others to connect with around similar challenges.

Our session today is focused on strategies from Chapter 9 of the Comprehensive Guide. You can find the entire Guide posted in four separate sections. This chapter, Chapter 9, is in Section 3 on the Courage to Act Knowledge Centre. We encourage you to review that chapter for more detail than what we are able to cover today. We'll be highlighting key concepts and principles underpinning the work as a way to think through complex and potentially harmful situations.

Deb Eerkes A couple more resources that could be useful for this group are from the Courage to Act Communities of Practice. From the Work community of practice we have the Key Principles of Gender Based Violence Investigations at Post-Secondary Institutions written for both workplace investigators and for those who hire them, have received their reports and make decisions about allocation of resources related to complaints. The Complaints Processes Community of Practice collected an amazing list of supports and resources to address gender-based violence complaints against students at the, in the Institutional Complaints Processes Learning Hub.

And we should note that while investigations might differ in some of the details and outcomes, the principles of procedurally fair, trauma-informed investigations with harm reduction measures should look pretty much the same whether the subject of the investigation is a student or an employee. So we do encourage folks not to limit themselves in their resources and training when they seek additional training based on the narrower scope of their work. Those who work with students and those who work with employees have much to learn from each other as well.

Britney De Costa: We also want to be clear that this session will not qualify anyone to conduct campus GBV investigations. Training in workplace and/or human rights investigations is an essential starting point. We also recommend that anyone investigating GBV have specific training in trauma-informed interviewing. This is also not that. Our hope in this session is to bring together the foundational standards and remind investigators that these three standards work together and reinforce each other. We encourage investigators to seek out training in these areas and to enhance existing credentials, not replace them.

Deb Eerkes: So as you might know, the Courage to Act tools are designed to be used by any post-secondary across Canada. And, of course, you can imagine this has posed some logistical challenges for us as we try to provide detailed advice. So we've done our best to design our strategies in the Guide so that no matter where you work you can find a way to apply it. But if you can't see how this might apply in your PSI, please don't hesitate to ask questions. So in this session we'll be talking about conducting investigations, discussing their purposes and suggesting specific strategies to apply the foundational standards to investigations.

In addition, we'll be using the Deep Dive case study that we started on the Intake webinar and applying some of the strategies to that case. Because we also recognize that not all post-secondaries have internal investigators and that there is a good chance that external investigators will be brought in for gender-based violence complaints, we've designed this session not just for those investigators, but for those who hire them, who give them their instructions and who receive their reports. It's equally important for these folks to understand what a trauma-informed investigation looks like and to ensure harm reduction measures are also incorporated into any process.

Just to clarify again that we are talking about a campus policy complaint and not a criminal complaint, and while there may be times when an incident is reported to both the police and campus where the processes unfold concurrently, they should look and feel very different from each other to the parties involved. We also want to acknowledge that the complaint process is going to be difficult, no matter what, and it may not be the preferred option for everyone. Allowing a survivor voice and choice is a key trauma-informed and survivor-driven way to respond, and it respects cultural differences as well as intersectional experiences.

And a note on language – we use the terms complainant and respondent as a form of shorthand for the individual who was subjected to gender-based violence and the individual under allegation respectively, and parties when we refer to both of them. So your own campus policy might not acknowledge a complainant as a party to the matter but for reasons outlined in the Guide we believe they should be. We also use the term interviewee to refer to anyone who is being interviewed by an investigator, recognizing, of course, that anyone, whether they're a party or a witness, can come to the process with their own trauma.

And finally, we use terms like fact-finding or findings of fact when we describe the investigator's role. Making a finding of fact is not the same as determining what happened, or establishing the Truth. It is making a determination of which facts are supported by evidence, on a balance of probabilities. And this is an important distinction for reasons we will touch on throughout the presentation. We'll also remind you in the presentation that evidence includes the parties'

statements, as well as witness statements, social media and photo, video or other documentary evidence.

Britney De Costa: So in the Comprehensive Guide we made the case that sexual and gender-based violence is a human rights issue to be remedied, not a criminal-type offence to be punished, and that the three foundational standards work together and reinforce each other, if applied to both parties. So a quick refresher here. Procedural fairness involves the right to be heard and the right to an unbiased decision-maker and invokes the procedures to ensure those rights. Trauma-informed practice is acknowledging and accounting for the potential effects of trauma and taking steps to avoid retraumatizing anyone involved in the process. Harm reduction is a recognition of the inherent harm in our processes and incorporating measures to mitigate that harm. And all of the strategies we put forward in this webinar are grounded in these three standards.

Deb Eerkes: It's important to articulate things that sound perfectly simple. We all know what an investigation is for, but this is precisely why we need to talk about it. People have internalized assumptions about investigations from the media, from TV, social media, popular culture. The purpose of an administrative investigation is to collect all available information and make a determination as to whether there has been a policy violation. Information comes from various sources but the most important source for a sexual violence or gender-based violence investigation comes from the statements provided by the complainant, the respondent and the witnesses, if they're any.

An administrative investigator should be seeking information to corroborate the information they receive from the parties. The investigator then assesses the totality of the evidence using a trauma-informed lens to make findings of fact. For example, the evidence collected supports the fact that a respondent was in a particular place at a particular time. That would be a finding of fact. The investigator may also be required to assess credibility when there is no way to reconcile two conflicting accounts and make a determination on a balance of probabilities, that is, what is 50 percent plus a feather more likely.

So this is a very different investigation from, for example, a police investigation, which has to deliver evidence to convince a judge or a jury beyond a reasonable doubt. As a tactic, then, police investigators might rely heavily on the element of surprise to catch interviewees in a lie in order to create or establish that reasonable doubt. In an administrative investigation the right to respond means that there should not be any surprises for the parties. They should know what's being alleged, what is being contested and what evidence has been introduced that might not accord with their own account, and to respond to those things. This is not only procedurally fair, it also reduces harm for those involved.

And I want to come back to that point about the most important sources of information, the people, the parties and the witnesses. It's the investigator's job to make sure that the information that comes from them is as complete and reliable as possible, and, as we hope to establish, a trauma-informed investigation with harm reduction measures in place should do just that.

Britney De Costa: So we're going to start off with a quick refresher of our case study. We first introduced this case study in our Deep Dive into Intake, and we followed our complainant, Sara, and our respondent, Alexei, through the application of interim measures. Today we'll see how this case moves through an investigation. I want to add a quick note here that as we get into the case example we may be discussing details about incidents of violence. Please remember to check in with yourselves and, if you need to, step away from your computer or visit the self-care room Laura introduced earlier. The link is in the chat.

So our case study centers around Sara, a first-year student living in residence. Sara reached out for support and to make a complaint because she no longer felt safe in her residence room because of an incident and an ongoing pattern of behaviour by another student who lives on her floor, Alexei. The initial incident occurred at an off-campus party where, Sara has shared, Alexei was drinking heavily, became physical with her and made a sexual comment. Since this incident Alexei has been harassing Sara by invading her personal space, her dorm room, and sending inappropriate text messages. Sara has explained that Alexei only acts this way when he drinks.

As a first step, you implemented a set of interim measures to support Sara's feeling of safety. Following a series of breaches the interim measures were reassessed and consequently Alexei was moved to a different residence and his card access to the residence where Sara lives was revoked. Throughout today's session we'll be introducing additional pieces of information relevant to an investigation into Sara's complaint and using this example to illustrate how to apply strategies in practice. You'll also see that we've left a lot of information out so that we can explore how the strategies might apply in different contexts.

Deb Eerkes: So we start with strategy number one. When a campus community member makes a complaint they have certain expectations about what will happen and usually that includes they will get an investigation. And there may be times when a matter won't be investigated, for example, where there's no clear link to the educational environment or the workplace, so the institution doesn't really have authority to act or the allegation doesn't constitute a violation of policy. It might be inappropriate behaviour but it might not rise to the level of a violation. Or the respondent might agree to the facts as alleged and there is no need for an investigation. It's important to be transparent about these possibilities with the complainant. But if the policy or collective agreements promise an investigation, there must be one. And

following a policy or collective agreements – and/or collective agreements – is a way to avoid appeals or grievances, which are time consuming and expensive, and typically also not trauma-informed and could cause significant harm. So carefully following policy is actually a harm reduction measure in that it makes the process more predictable and more transparent.

Britney De Costa: In addition to transparency about the process itself, it is trauma-informed to manage expectations throughout the process. Clarify the role of the investigator, the parties and witnesses – what is expected from each of them? Be explicit in the expectations for privacy and confidentiality and what that means for the parties. We'll go into more detail on this in a few minutes. It's also important to be clear on your reasons for what you are doing, for example, why are you pursuing a particular line of questioning? Especially if the question could be interpreted as dismissive of the individual's experience, or blaming, it's important to be clear about what information you're looking for, and why.

And recalling, again, that the standard of proof is on a balance of probabilities, so the goal isn't to find the truth, but to make a finding of fact based on the evidence. It is important for the investigator not to claim to have the final say on what happened. The only people who will ever really know what happened are the ones directly involved in the incident. To claim the investigator is the final arbiter of what happened invalidates and ignores the experience of the person who was subjected to GBV. Instead, make it clear that the investigator's role is to collect evidence and make findings of fact, which the decision-maker will use in coming to a conclusion as to whether the policy was violated and deciding what form of correction might be warranted.

So let's take a look at an example of what managing expectations might look like for Sara. Part of Sara's complaint is that Alexei texts her late at night when he's been drinking. The texts are sexual in nature and not welcome by Sara. She tells you that she has received eight text messages from Alexei and she hasn't responded to any. You ask Sara to share the text messages with you as evidence. Now, if you only ask Sara for the text messages and that's all you say, you aren't providing her with enough information about the process, what will happen with the text messages, and why they are needed. She may later learn that the text messages were shared with Alexei and that he has, he was asked to verify her account.

Without proper warning this could be invalidating and confusing to Sara who thought only the investigator would see the text messages. She may feel angry, frustrated and defeated because she now believes that she isn't considered to be credible – like she'll never be believed. But what happens if you take a different approach, a trauma-informed approach? When you ask Sara to share the text messages with you as evidence, you tell her that the text messages will be included in the

information shared with Alexei so that he has a fair opportunity to respond. You tell her that she will have a similar opportunity to respond to any information that Alexei brings forward that might challenge her account of what happened.

You explain that giving Alexei the opportunity to respond does not mean that the text messages aren't valid or useful evidence, or a sign that he is considered to be more credible than her. You remind Sara that you are not trying to poke holes in her story or to challenge her experience. You tell her the text messages will help you establish facts, such as the fact that Alexei texted eight times, or the nature of the text messages. Giving Sara all of the information can help her to better understand the process and mitigate some of the feelings she may have that she's the one being investigated. It can give her some sense of control back and may make her more willing to share information when she knows how it will be handled and what it will be used for.

Deb Eerkes: So our next strategy is about creating the conditions that support the integrity of an investigation. And when we talk about the integrity of an investigation, it almost stands in as shorthand for some of those procedural fairness rights. An unbiased process requires an independent, impartial investigator who acts in good faith, without ulterior motives or seeking a specific outcome. Investigations also have to be timely, thorough, confidential. These elements of procedural fairness are also trauma-informed and reduce harm, but they're not quite enough. We want to make sure that we adhere to the integrity of an investigation and then weave in those trauma-informed practices and other harm-reducing measures.

And we did promise to go a little bit deeper into confidentiality. Because this is often an area of confusion both for the parties to an investigation, but sometimes also to the investigators, we wanted to dive into the confidentiality question. It is important to remember that it's only the institution that is subject to information and privacy legislation and it governs the collection, use and disclosure of personal information. One of the permitted uses of the information in an investigation is to disclose the evidence collected – usually including names, so we're talking about personal information – to the parties and allow them to respond. As Britney mentioned in the case study, not informing parties of how their information will or may be used, for example not telling them that it will be provided to the other party, can feel like disbelief.

The individuals are not subject to information and privacy laws and must be able to speak about their experience. To deny them that is to prolong the harm and the trauma that they might have experienced. But individuals should also be alerted to the consequences of making the matter public and note the difference between being able to speak about their experiences on the one hand and making the matter public on the other, for example posting about it on social media or

inappropriately sharing confidential documents. Going public could, for example, jeopardize the integrity of the investigation. It could make the person going public also vulnerable to civil action like a defamation lawsuit.

And as a brief aside, I just want to note that public disclosures sometimes indicate a failure of the institutions that are supposed to address gender-based violence. It can be the case that a survivor has tried to engage the systems and been dismissed or disrespected, dehumanized, but it can also be a distrust based on how others have been failed by society's institutions. Post-secondaries have a lot of trust-building to do before many of our community members will even feel safe coming forward with a complaint, especially those who have been repeatedly harmed or have witnessed harm by the very institutions that purport to protect them. So we need to always be aware of that, that we are not approachable, we are not always a safe place.

In fact, we are rarely a safe place to come forward with these kinds of matters, and so we need to make sure that we respect the people coming forward and that we respect their right to be able to process their own experiences. OK, so applying this to the case study, then, when explaining confidentiality, both Sara and Alexei have concerns about what that means for them. So Sara tells you that she feels like her voice is being taken away and that she doesn't think she can stay silent about her experiences. She asks you if that means that she can't tell her friends or family what's going on. She's confused about who she can talk to and about what and asks you what it means for her if she's already told her friends and family what's been happening?

Here it's really important to validate Sara's feelings of being silenced and to be clear that she owns her experience. You can explain to her that she's allowed to talk to her friends and family about her experience and that she can talk to them or other support persons like a counsellor, as she needs to. You clarify that the process itself is confidential, which means that she's expected not to share about the complaint or investigation publicly. She shouldn't be posting about the investigation on her social media, for example, or talking about it with other people outside of her circle of support, like those who live in residence with her. You explain, though, that she is allowed to share about the existence of the complaint and her experience going through the process, with her support circle. And finally you tell Sara that she can contact you if she is ever unsure about what and with whom she is allowed to share.

Alexei, on the other hand, is concerned about who will know he is a respondent and that he is being investigated for sexual violence. He doesn't want his friends or other students to know, and he's especially worried about how this will impact his academics if his instructors were to find out. You can help to alleviate some of Alexei's concerns by letting him know that only he and Sara will receive information

about the process and each other's experience of the incident. You should be clear though, that this doesn't mean that no other person will receive any information about the complaint. Confidentiality is not the same as secrecy.

You tell Alexei that information may be disclosed on a need-to-know basis only to those who have a legitimate need to know, but that when or if you do need to share information with others, you'll tell Alexei which information you're sharing, who you're sharing it with, and why. You also at this point want to acknowledge that this process is difficult for him and to encourage Alexei to be in touch with his own circle of support. You want to caution him, however, that support for himself does not include encouraging any adverse actions like harassment or social isolation of Sara.

Britney De Costa: So now our next strategy is on conducting a thorough and skilled interview. And we could do an entire session on just this slide, so, again, we want to encourage folks to seek additional training on this. A trauma-informed investigator recognises that if an interviewee was traumatized by the incident that is the subject matter of the complaint, it is very likely that an interview about that incident will retraumatize them. And when that happens, not only will they experience additional harm, but it becomes more difficult for them to process and answer questions, to recall specific details, to put the incident in any specific order or to provide a consistent account of what happened.

The key here is that it is up to the investigator to know what kinds of questions to ask and how to ask them in order to allow the interviewee to retrieve the necessary information, and it is also up to the investigator to put the pieces together and in order, not the interviewee. In the initial interview an investigator can start with questioning that, instead of the typical who, what, why, where, when approach, focuses on the memories central to the person who was harmed and ask follow-up questions to get at that more concrete information. Start with a broad open question such as, "What are you able to recall about the incident," and then use the cues provided in that response for progressively more detailed questions, asked in neutral language that avoids blame, or humiliating or belittling the interviewee. An interview that feels unsafe and humiliating tends to prevent participants from fully processing, understanding or answering the questions put to them.

Memory and recall can be significantly affected by trauma, and an investigator should expect inconsistencies in the information they receive and should reassure interviewees and provide opportunities for them to think about the questions and come back if they remember something new, or differently. Other ways of making the interview space feel safer, such as allowing the interviewee to choose where they sit, adjusting lighting, and allowing a support person also create the conditions to get better information from the interviewee. It's not

just about being kinder, it's about doing everything we can to get the best quality information from the participants.

Finally, it's important to say that even where trauma-informed practices have been applied meaningfully throughout an investigation there is no guarantee that an interviewee will not be triggered. All we can do is implement harm-reduction techniques wherever possible and be ready to take breaks, or take steps to re-ground an interviewee as necessary. So critics of the concept of trauma-informed practice fear that it would mean shying away from a thorough and meaningful investigation as a way of protecting a participant from trauma. This is simply not the case. Excuse me, folks, I just got logged out. Can I – can you still hear me? OK, wonderful.

Deb Eerkes: Do you want me to take over this one, Britney?

Britney De Costa: No, I just need to close this. Maybe – I've got it. Sorry about that, everyone. [Laughs] So people can be concerned that if we apply trauma-informed practice to our interviewees, that we're not going to be conducting a thorough and meaningful investigation because we're busy protecting our participants from trauma. But that's really not the case at all. As we know, most incidents of sexual violence or gender-based violence happen with only two people in the room, and those two people can give very different accounts of what happened. An investigator still has to make sense of the information they receive and try to find corroboration wherever possible. When two accounts of an incident can't both be true, the investigator needs to ask more questions to ascertain which is more likely.

The way those questions are framed can have a real effect on the quality of information they elicit. So you can see a couple of examples on the screen of how a question could be moved away from blaming and belittling – and you can see it comes across that way even if you don't intend it to be – to questions that are more about curiosity and openness to hear the interviewee's experiences and interpretations. For example, asking "why didn't you do X" could be reframed as "what was happening for you when this happened?" Or "what were you thinking" could be changed to, in retrospect, "what do you think you were reacting to?" These help you get at the information you want to get without those blaming and belittling questions.

So you want to be careful to avoid asking a complainant or witness to justify or rationalise their behaviour during and following a traumatic experience. You are not investigating the behaviour of the complainant or witnesses, and we know that trauma can also affect post-incident behaviour. At the same time it is important to understand the whole picture, and so the way questions are framed can either alienate the participants or invite them to provide good information. So let's look at some questions that might come up in your interviews with Sara and Alexei. On the night of the first incident both Sara and Alexei were at an off-campus party where there was drinking. You

may think to ask Sara how many drinks she had in order to rule out, or rule in, a lack of capacity to consent.

But Sara could easily interpret this question as blaming, even if that's not your intent. If you're looking at capacity to consent you would get much more reliable information from other witnesses about visible signs that Sara would have been unable to give consent, such as vomiting, slurred speech, trouble walking, passing out, etc. The number of drinks alone doesn't provide enough information to ascertain capacity to consent. But let's take a step back here. Aside from coming from a place of victim blaming, is this line of questioning even relevant in the particular case? In this case, consent, or lack thereof, doesn't need to be established. Alexei has not claimed that there was consent for the incident at the off-campus party, but rather that he doesn't remember becoming physical with Sara.

Now, in our example, we know that after the incident Sara's been avoiding Alexei. She stays distant from him, doesn't respond to his text messages, and otherwise doesn't engage. But when you speak with Alexei he tells you that Sara has been engaging with him. One time she did reply to his text message, and she would talk to him in the halls of their residence And when they saw each other. To Alexei, this is an indication that Sara was OK with his advances. So you may be inclined to ask Sara to explain why she responded to the text message and continued to speak with Alexei in the hallways. Maybe this is just a misunderstanding and Alexei was just misreading her signals. However, this is not recommended in a trauma-informed investigation. This is another example of a victim blaming questions that can not only be harmful, but are entirely irrelevant to the investigation. How Sara behaved leading up or following the incident has no bearing on whether she experienced sexual violence.

Deb Eerkes: So this next strategy is especially important, as I say with all of them, they're all important strategies. A trauma-informed investigation means that the assessment of the evidence includes that recognition of where trauma might have affected the information collected. So where there's no corroborating evidence available, it's easy to forget that the statements themselves are evidence to be weighed and that they should never be dismissed simply because they're contradictory. This second point on the slide bears repeating because it can be particularly challenging for an investigator who comes with a law enforcement background. We're not looking to expose reasonable doubt or deceit, we are trying to determine what was more likely than not. And from that perspective, it's more effective to seek out evidence that corroborates the information you gather, in all of the statements, rather than trying to find the holes in them or make a case for dishonesty.

For example, an investigator could prefer one account over the other because there were other pieces of evidence that supported that account, despite the fact that that person might not have been able to remember whether they did something with their right hand or their

left hand. So you want to approach all interactions with a sophisticated understanding of how those signs of trauma can be mistaken for indicators of dishonesty and then work to challenge those underlying assumptions associated with those indicators. So a prior relationship or subsequent contact, even if it's friendly contact, or inconsistencies in the details should not immediately be interpreted as signs of deceit. A trauma-informed investigator also understands that the apparent presence or absence of trauma is not itself evidence that an incident happened or didn't happen. Instead, evidence of potential trauma should act as a prompt to follow up with additional questions or a different approach to accessing the information. And finally, it's the investigator's task to take all of the seemingly disjointed information and create that cohesive picture after the fact. We should not be relying on our complainants and witnesses to do that for us.

This is a strategy you won't find in the Guide but one of the most helpful strategies I've learned in my work in the past, investigating human rights complaints. I send a summary of the statements that I received back to the folks that provided them, for their approval. So I would hold the investigation interview, I would summarise it myself and send it to them. And this actually has a number of benefits. Number one, they can make corrections or add details if I got something wrong. But you can also ask them to clarify if there are areas that need more explanation, and it minimises the chance of appeals on the basis that their statements were not heard or misunderstood because they know exactly what is going into your report, as the investigator. It also provides them with some control over how they will be represented in the investigation report and it forces the investigator to keep their language completely neutral.

And some worry that this might allow the parties to tailor their evidence to the situation, and I guess this is partly true. They are reviewing only their own statement, though, and not everyone else's, but they can take the opportunity to try to gain the upper hand by changing their statement at this point. However, should they choose to do that, it would also form part of the report by noting the significant corrections requested by the individual, and that would highlight potential credibility concerns. But it really does meet a level of procedural fairness that goes above and beyond and makes people feel heard, which I think is the trauma-informed part of this. Another critique, though, is that this might add to the already considerable workload of the investigator. But I would say that the investigator has to summarize statements no matter what for their report and so while it may take a bit of extra time to send it to the person and get a response back, it significantly strengthens the report when you can actually say that the interviewee reviewed and approved, or corrected your summary.

Britney De Costa: And the final step now that you have those summaries is the written report. It includes a synopsis of the allegations, the statement summaries, description of any evidence collected, and the assessments

made by the investigator. To underscore the thoroughness of the investigation it should also include a description of any efforts to find evidence that may not, ultimately, have been available, or contact witnesses who chose not to participate. The report should explicitly set out where contradictions existed and the investigator's efforts to reconcile them or find additional evidence to support what was said. Then the investigator may indicate that they prefer a particular statement and make the case as to why that is so, providing reasons that take into account the potential presence of trauma, an intersectional analysis where needed and any other credibility or reliability assessments

The language used in the report is incredibly important. It must be neutral, not blaming or diminishing. It should describe the findings of fact without value judgements. For example, "the evidence supports a finding that the respondent placed their hand on the complainant's upper thigh," instead of, "the respondent groped the complainant." It should avoid words like guilty or victim, perpetrator or other similar words imported from the criminal legal system. The report should be uncomplicated and written in plain language, free from jargon or confusing rhetoric. It needs to hit that sweet spot between including enough detail for a decision-maker to rely on it but not so much that it becomes overwhelming or obscures the important pieces of information.

Finally, unless you find evidence that the complaint was malicious or vexatious – beyond a respondent's claim that it was – avoid any language that implies a false report. We work in an environment where there may not be evidence to support all claims, but it is important to note that a lack of evidence does not necessarily mean the allegation is false. Remember, we are not truth-seeking or holding ourselves as the final arbiter of what happened. That is not our place. And before we wrap up we also want to acknowledge the importance of taking care of yourselves as investigators, or others involved in facilitating the complaints process. In your roles you'll be exposed to stories and experiences of trauma, and this can be really heavy and triggering for you.

Taking care of yourself is important for your own well-being and also for the people you are engaging with in these spaces. Take some time to reflect on how you recognise the signs in yourself, what practices do you engage in to prevent trauma exposure response? What practices do you engage in to respond to it? What resources are available to you to support your well-being and self-care? And don't forget the necessity of community care here. Find your people and connect with them often.

Deb Eerkes: So the purpose of investigations is to corroborate information from both parties for a finding of fact. We're not trying to poke holes in anyone's story or the information they provide, but to look to this information to make findings of fact. Like every other part of the

complaint process, procedural fairness and trauma-informed practice apply to both parties and are necessary for the integrity of the investigation. Withholding procedural fairness from the complainant or not taking a trauma-informed approach with the respondent will only hurt your ability to gather the most complete and accurate information to make your assessment. And finally I want to reiterate the importance of building your own skills and knowledge by seeking out training on workplace or human rights investigation, trauma and trauma-informed interviewing, and anti-oppression, anti-bias inclusion training.

And just a plug for what we're doing next in the project, our next and final Deep Dive session is on procedurally fair, trauma-informed and harm-reducing gender-based violence adjudication and appeals, and that's coming up in April. In the meantime you can watch recordings of the Introduction to the Foundational Standards and the previous Deep Dive webinars on Harm Reduction, Intake and Interim Measures on the Courage to Act website on the Skillshare page. Is that right? Skillshare. Yes. And you can also register for these upcoming sessions on the Skillshare page.

OK. And there are a couple other things on the horizon you'll want to stay tuned for. The first is our next Unsettled Questions whitepaper. So Section 4 of the Guide explored three what we called unsettled questions for those issues for which there isn't any clear case law or best practice but they are issues that are vexatious to all of us. So following the publication of the Guide we identified two further unsettled questions. Our first whitepaper examined the unsettled question of how post-secondaries should address student-instructor relationships. And that one is currently available on the Courage to Act Knowledge Centre. Now, after holding roundtable discussions with a panel of experts, we are finalizing our second whitepaper.

And in this next whitepaper – which will be available this spring – we get into the thornier issue of information, privacy and disclosure between institutions. So the proverbial passing the problem when we have information about an individual who has committed gender-based violence at our own institution and we know that they're moving onto another one. We're also excited to promote our final event of the year, a keynote address on one of our key messages and foundational beliefs that complaints processes are inherently harmful and we should be looking for alternatives if we want to better meet the needs of survivors and build accountability for safer campuses. So this We Can Do Better keynote with Sarah Wolgemuth will be in May.

Laura Murray: Well, thank you so much, Deb and Britney. I always learn so much from both of you. And now I'd like to invite everyone here to share any questions and comments. You can do so by either typing these in the Q&A box at the bottom of your screen or if it's easier you can also put them in the chat. So if you have any questions, ask away. Okay,

our first question is can you please repeat where to find the whitepapers?

Deb Eerkes: Yes. Those are on the Knowledge Centre of the Courage to Act website, so www.couragetoact.ca/knowledgecentre. You can see it on the screen at the bottom, which is where it says to download the Guide, those whitepapers are there as well.

Laura Murray: Maybe while we're waiting I'll just flag another resource. I noticed that somebody raised a challenge with bouncing, or around the limitations of being survivor-centred in terms of related legislation, especially privacy law. And I would just suggest looking at chapter – I may get this wrong – it's in Part 4 of the Guide, and we do have a chapter on Information Sharing within an Institution. So ensuring that complainants are also afforded the same chance to respond to information or given complete investigation reports and decisions and that sort of thing. So there may be some helpful guidance in there. I also shared the link to our Knowledge Centre if you're either looking to download the Guide or any of our whitepapers. We have another question in the chat – one thing I struggle with is reconciling the advocacy on believing victims and the position of gathering facts and impartiality. Any advice or recommendations?

Deb Eerkes: I love that question, that's great. So, yes, I think this is something that is going to be a bit of a challenge for investigators. The whole idea of the belief campaigns is that traditionally survivors have simply been disbelieved and have not sought out the support that they need. And so universities have – and post-secondary institutions across the country – have been signing onto this We Believe You campaign, and this is to counter-balance that, and it is super important. So on the one hand you have that. When it comes to things like receiving disclosures and offering support there's no room for disbelief, there is no reason for disbelief. People are coming forward because they've been harmed and they need help.

On the complaint side where we talk about the need for neutrality, I think you express it differently. It's not that you believe one and not the other, it's that you're working to corroborate both statements and so you are – you're not coming from a place of disbelief to either one – you're approaching both statements with the task of reinforcing that what they said is true. And you might not find that evidence, but if you approach it that way instead of approaching with, "Well, you're probably lying, so I'm going to ask you questions that reinforce that assumption," that's how this can play out in the realm of being neutral and procedurally fair, is that you offer the same level of neutrality or belief to both parties. And so it's not believing one over the other, it's not disadvantaging someone who's under allegation or disadvantaging a respondent, it is about finding evidence that supports the elements of the statements before you and then making an assessment on a balance of probabilities as to which is more likely. Is that helpful?

Britney De Costa: And I think to add to that, the piece about transparency and managing expectations with interviewees is really important there as well. So if you're speaking with a complainant, being very clear about what your role is in the process, meaning exactly what Deb just spoke to, and also reinforcing that you are not trying to find the truth, you're not trying to tell them what their experience was. So ensuring that that's very clear could be one way to at least mitigate some of the harm of feeling like someone may be disbelieved.

Deb Eerkes: And I would also add making sure that they're connected to supports where they get that unmitigated belief where someone is there for them who says I believe everything about what you say, I believe you. That's really important. And being able to describe why you, as an investigator can't necessarily do that, but making sure that they do have that kind of support from someone, is very important.

Laura Murray: Thank you, Deb and Britney. Those have been great questions and you both answered them brilliantly. I'm just wondering if anyone has any other questions that you would like to ask these two? OK, we've got another one. So any thoughts on sharing of final investigation reports with parties in terms of what and how much is shared, and when, including from a trauma-informed perspective?

Deb Eerkes: Yeah, I think when we talk about procedural fairness and making sure that both parties have procedural fairness, that means disclosure to them. That means they should get the information. The final investigation report is the final thing that goes to a decision-maker, so it is a hugely, enormously important piece of information that both parties should see and that both parties should have an opportunity to respond to before a decision is finally made. So I think that's a really important question. From a trauma-informed perspective, it's also important that they, both parties have support when they receive these reports, because these are very hard to read.

If you're reading about, for example, allegations against you that you dispute in significant detail, or having to detail and read on a page things that you have experienced that you find deeply, deeply personal and difficult to digest, super-important from a trauma-informed perspective to make sure that there is support when that report is given to these folks so that they have some sense of support and can keep it in perspective, understanding that here's how this fits into the whole process.

Laura Murray: Thanks, Deb. And we have another question. Can you elaborate on the distinction between institutions being governed by post-secondary institutions and obligations flowing from this versus individual parties, example, for whom there is no gag order?

Deb Eerkes: Yeah, this is a tough one because I think we've all kind of assumed that everybody is subject to privacy law and so we should really just punish people who don't keep things quiet when they're involved in an

investigation. And what we've learned is that, for survivors, especially, that feels like a gag order, that feels like being silenced, and that means that they don't have the opportunity to move on from their trauma. We know that talk is one way to move on from trauma. So we have to recognise our institutions are the ones who are governed by these, by the law, and individuals are not.

And I would say not just students, students are not, at all, ever, but even employees. If they are the complainant or a respondent in a situation in a complaint, they should not be considered as subject to privacy laws for the purpose of this. You know, being in the middle of an investigation on sexual or gender-based violence should not be part of their job duties, and so they should not be considered – they should be considered private individuals for the purpose of that process. So, what does this mean? Well, the university or the post-secondary is not allowed to release or talk about any personal information, any ongoing case. That doesn't mean individuals aren't allowed to, and, in fact, they need to be able to.

But this is part of – again, Britney was talking about that business of setting expectations – it's yes, you can speak to whoever you need to, this is your experience, you own it, you can talk about it. But that's not always consequence-free and it might interfere with the investigation. If you're talking to people who are witnesses to the investigation, it might interfere with that. It might even mean that the investigation ultimately has to be dropped because we don't have good witness statements anymore. That's a really important piece of information for individuals who are involved in an investigation. But the other piece is that difference between talking to your friends and seeking support versus making something public.

And that's a different risk to individuals and, again, one that I would say is not something that should be dealt with by the post-secondary, that is now a risk between these two people. So someone who has disclosed publically, put on social media information about, let's say, an ongoing investigation against another person and put that person's name on it, is really opening themselves up to civil litigation, defamation claims. And we see those getting more and more numerous out there as a way to silence people. So it's really important that someone who is trying to navigate how much can I put out there, how much can I talk about this, what am I allowed to say, what am I not allowed to say, just has a really good sense of here are the potential risks of disclosing information, and especially in terms of making it public. That's a really important piece.

Laura Murray: Thank you, Deb, for answering that question. I know that it can take some time to ask, type in some questions, so I'll give you all some time. In the meantime I actually have a question for Britney and Deb. I just saw a comment in the chat that while they're not investigator, they attended as an opportunity to develop knowledge of this field – so what of folks who aren't investigators who've attended today and

were like, "Wow, I learned a lot, I want to share this with other stakeholders and investigators" – how might they be able to present this in a way that investigators might want to learn how to be trauma-informed?

Britney De Costa: That's a very, very good question, Laura. I think one thing that comes to mind is really this point that we, I think, keep coming back to a lot. So if you've heard it a lot and you're like, "you need to stop saying this," [laughs], my apologies, but I think it's really important that when we're thinking about procedural fairness we think about trauma-informed practices and harm-reduction measures as enhancing procedural fairness, as necessary to procedural fairness. So for investigators who – if you're trying to convince someone that this is the route to go, really making that case that if they want to have, gather the information, the most thorough information, the most accurate information, the most complete information from interviewees – if they are looking to do that, the best way to go about that is to put a trauma-informed lens on. On how they're approaching their interviews, how they're approaching the entire complaints process, the investigation process, all of those pieces. So that's just one, I'm sure there's others. [Laughs]

Laura Murray: Thank you, Britney, so much, for answering my question. I don't see any other questions, but I do want to just say a big, big thank you to both Deb and Britney. You both are brilliant, I learned so much from you, so thank you so much for sharing your knowledge and expertise with us today. And I did post in the chat the Knowledge Centre link where you can download the Guide and the whitepapers. I also want to thank everyone here who came out today, for joining with us and sharing with us today.

We appreciate you and we take inspiration from your commitment to addressing and preventing gender-based violence on your campus. We're really lucky to be able to work alongside each and every one of you. Thank you for joining us and a kind reminder to please complete the evaluation form which I will share in the chat for you all. We would really appreciate it if you could fill that out for us so we know how we can always improve. So thank you so much, and thank you so much to the interpreters and the captioner for making this webinar so accessible to a wider audience. Have a good day, everybody.