

Optionless: An Exploration of Responses to Gender Based Violence at Brown

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Abstract

This paper evaluates Brown University's resources and policies surrounding gender based violence, in regards to how the institution serves survivors' needs. I first conduct a policy analysis of Brown's Title IX office, specifically focusing on four key policy areas: Timelines, Evidence Collection & Communication, Witness Protection, and Accommodations for Survivors. I then discuss the potential for Transformative Justice processes to be used as an equally valid and effective response to gender based violence at Brown. I conclude that while the Title IX office is doing its best to accommodate survivors' needs, there are infinite conceptions of what justice and healing look like, and the Title IX process is only one conception, primarily suited for individuals seeking punitive measures and who are able to relive their trauma in hopes of achieving justice. I argue that what we need is not reform, but rather, the creation and dissemination of *options* for survivors.

I have read and understood Brown University's *Academic Code* and pledge that this capstone project fully respects the principles of academic integrity defined in the code, including that the research conducted for it was carried out in accordance with the rules defined by the University's Institutional Review Board for research involving human subjects.

I agree that my capstone project can be made available to both the Brown Community and the general public for didactic and research purposes.

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Table of Contents

Acknowledgments	2
Introduction	3
Theory & Research Methods	5
Policy Analysis of Title IX at Brown University	7
Timeline	7
Potential Retraumatization	9
Witness Protection	12
Accommodations for Survivors	13
Creating Options for Survivors	15
Title IX Informal Process	16
Transformative Justice Praxis	18
Transformative Justice as an Alternative to Title IX	21
<i>Survivor Centered Approach</i>	22
<i>Active Accountability</i>	23
<i>Anti-Punitive Approach</i>	26
<i>Systematic, not Symptomatic</i>	27
What Can We Do?	28
Conclusion	30

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1 Introduction

It was early November when I put out a call to action on my Instagram story. I had just been selected as one of the first members of Brown's new Transformative Justice Practitioner Program (TJPP), which is a cohort seeking to address all forms of "harm on campus without relying on the punitive legal system."¹ I was specifically interested in gender based violence prevention work on campus, and wanted to hear from survivors who had made the difficult decision to either report an incident or remain silent.

Among many respondents was a senior from Boston University, who studies journalism and had been working on a story for over a year exposing the ways in which her school's Title IX office is failing students. I sat in a coffee shop as she relayed to me the ugly truths her research and interviews had caused to bubble to the surface. She had heard story after story of seemingly endless timelines, inappropriate emails, arduous appeals processes, and perpetrators walking free. One survivor told her plainly: "If you want to find justice in this process, you will not. You will find no justice here."²

As a survivor myself and a member of TJPP, I am dedicated to cultivating survivor centered healing processes, and discovering ways in which we can hold perpetrators accountable for their actions outside of these punitive systems. However, as a Public Policy concentrator, I was also intrigued by the ways in which the policies

¹ Mara Dolan. "These Students Are Bringing Transformative Justice To Their Campus," *The Nation*, <https://www.thenation.com/article/activism/can-transformative-justice-on-college-campuses-work/>. January 24, 2020.

² Anonymous Boston University Student. Interview by Marie Lachance. Tape recording. November 19, 2019.

themselves, at least at Boston University, worked to retraumatize survivors and keep justice at bay. I wanted a way to hold these two truths in tension with one another. This tension is what has brought me to this work.

When I began my quest to interview survivors about their experience with and relationship to the Title IX Office, I had an odd realization: Unfortunately, I knew many people who were survivors of some form of gender based violence, but I didn't personally know a single person who had reported through Title IX.

This perception is based in a harsh reality. According to the 2019 AAU Campus Climate Survey on Sexual Assault and Sexual Misconduct for Brown University, a survey that explored Brown student's experiences with and perceptions of sexual misconduct on campus, while 24.5% of undergraduate women experienced nonconsensual sexual contact, only 11.4% reported an incident to the Title IX Office.³ Likewise, 8% of undergraduate men and 30.2% of trans and gender queer or nonconforming folks experienced these incidents, only 3.5% reported.⁴

Why is this? Why are so many people falling through the cracks of this system? How are so many survivors continuing to survive on this campus without any form of accountability? How can this lead to effective healing? Camila Pelsinger, a Brown University Sexual Assault Peer Education (SAPE) coordinator, and the student who spearheaded the creation of TJPP, wrote for *The College Hill Independent* that these numbers make it "strikingly clear that the existing avenues for accountability are neither accessible nor desirable for survivors of sexual violence... In order to begin

³ "Sexual Assault Campus Climate Survey," *Title IX and Gender Equity at Brown University*, <https://www.brown.edu/about/administration/title-ix/survey>. Accessed April 11, 2020.

⁴ Ibid.

protecting the safety and needs of those who have experienced violence and seek true accountability and change from those who have caused harm, college campuses are in dire need of a new framework.”⁵

In this paper, I will first evaluate the framework we already have in place for addressing gender based violence on campus: The Title IX process. Interweaving interviews I have conducted with survivors on campus, and Rene Davis, the current Title IX Program Officer at Brown, I will walk through key pain points within the process, and evaluate them from a survivor centered perspective. Then, I will discuss how TJPP is bringing more options to survivors on Brown’s campus, and how expanding the program could fill in necessary holes to the mechanisms of addressing harm we currently have. What it all comes down to is *options*, and the preservation of the survivor’s autonomy to choose the course of action that will allow them to heal, and move forward on this campus feeling the most supported and safe as possible.

2 Theory & Research Methods

All of the research I have done for this paper is grounded in a Participatory Action Research (PAR) framework. In a video explaining PAR, transformative justice activist Shira Hassan explains that PAR “allows communities to build collectively with each other to simultaneously do healing and change work while they’re also doing research.”⁶ Because my research is grounded in communities, and my results are about these communities, I felt PAR was the most effective way to approach answering the

⁵ Camila Pelsinger. “Beyond #MeToo: Transformative Justice on College Campuses,” *The College Hill Independent*, <https://www.theindy.org/1765>. September 21, 2019.

⁶ Shira Hassan. “Participatory Action Research,” *Vera Institute YouTube page*, <https://www.youtube.com/watch?v=6D492AP9JP4>. September 27, 2016.

questions I wanted to ask. It felt more effective than traditional, academic research because while that may have an effect in the long term, it will still feel distant from the very communities that produced the knowledge. PAR, on the other hand, has an “effect on communities *while* you’re doing it. *You’re* holding the data and all of the results in the palm of your hands, so if you have a finding, you can make an immediate change, take an immediate step, instead of waiting for years for the results to come in from an outside source. With PAR, you can start seeing trends immediately, and you can respond to those in *real* time.”⁷ Essentially, while both academic research and PAR may share the same research, they have very different goals: While academic research is grounded in the scientific method and seeks to produce *new* knowledge, PAR takes what a community already has, and transforms it into *actionable* knowledge for the benefit of all.

Using this framework of collective power, I conducted six lengthy interviews with students who had lived experience of gender based violence and / or experience with the Title IX office. All interviews have been anonymized in order to protect the survivor’s identities. I also conducted interviews with both Title IX Program Officer Rene Davis and Dara Bayer, the University’s first Transformative Justice Program Coordinator, who is in charge of TJPP. Although these interviews were difficult at times due to the heavy subject matter, they felt less exploitative of these people’s experiences, and more like we were collectively building and advocating for something that in the end, will hopefully help all of us prevent violence from occurring on this campus.

⁷ Ibid.

I also utilized the 2019 AAU Campus Climate Survey on Sexual Assault and Sexual Conduct for Brown University as well as the Title IX Annual Report from 2017-18 for more quantitative data. I feel as though, overall, I have had a successful and holistic approach to this research that feels incredibly grounded in community. Multiple of my sources are written by my fellow classmates who I love and admire. I feel so grateful for the survivors who were brave enough to share their stories with me, and all we were able to uncover together.

3 Policy Analysis of Title IX at Brown University

Based on my conversation with the journalist from Boston University, in conjunction with common pain points that were brought up in my interviews with students here, I narrowed my research down into four key areas of policy I wanted to evaluate in relation to how well the policies themselves serve survivor's needs: How long the process takes, the retraumatization this process may entail through emails and other forms of triggering communication, protection of witnesses, and accommodations for survivors.

3.1 Timeline

The first concern with the Title IX procedures that was repeatedly mentioned throughout my interviews was the sheer length of the process. I spoke with a student who has been an activist for sexual violence prevention on campus for the entirety of her time at Brown, and she echoed just how draining and time consuming the process can

be. “It just takes so much time away from their lives,” she remarked.⁸ “It’s like, they just went through all of that, and now they have to spend all of this time and energy to hold someone accountable. And then, in most cases, no one is really going to be held accountable anyways.”⁹

Timelines have been of concern throughout the history of Title IX at Brown, most notably after the university was investigated by the U.S. Department of Education’s Office of Civil Rights (OCR) in 2014.¹⁰ The investigation was launched after a complaint was filed claiming Brown had violated policy while handling the alleged rape of Lena Sclove ‘15.5, specifically, that they did not “respond promptly or effectively” to the complaint.¹¹ Because the Obama administration’s “Dear Colleague” letter issued in 2011 declared that all colleges and universities must take “immediate action” to eliminate sexual violence after a report had been filed, this was a clear violation.¹²

Following this investigation, the Title IX Office has gone to great lengths to expedite the process, and respond to students as soon as possible. Brown’s current Title IX Program Officer, Rene Davis, told me in an interview that following this investigation, the OCR came up with a 60 day guideline to complete an investigation, with an opportunity to extend those 60 days if needed.¹³ Although there is no formal,

⁸ Anonymous student survivor. Interview by Marie Lachance. Tape recording. Providence, February 25, 2020.

⁹ Ibid.

¹⁰ Katherine Lamb. “Education Department opens Title IX investigation of Brown,” *The Brown Daily Herald*, <https://www.browndailyherald.com/2014/07/23/education-dept-opens-title-ix-investigation-brown/>. July 23, 2014.

¹¹ Ibid.

¹² Ibid.

¹³ Davis, Rene. Interview by Marie Lachance. Tape recording. Providence, March 11, 2020.

articulated timeline written into Brown's policy, Davis said the office still "really tries to use the 60 calendar deadline... it is our best practice. The goal is to do an investigation as quickly as we can and also as thoroughly as we can."¹⁴

And for the most part, they are successful in doing so. Davis remarked that "it has been my experience that an investigation will normally take anywhere from 60 to 70 calendar days – I mean business or school days – which is pretty much a semester when you think about it."¹⁵ Unfortunately – that is the time this process takes. She explained to me that between "not working on weekends," taking holidays into consideration, and scheduling conflicts with the many parties involved, that is the quickest turnaround that is reasonable for a formal process.¹⁶ Although this may be very discouraging for survivors, it is the reality of what this process entails.

3.2 Potential Retraumatization

The next major pain point I wanted to investigate was the retraumatization this process entails, specifically through evidence collection and triggering communication from the Title IX office. It is important to recognize that this characteristic is not unique to the Title IX investigation process – *all* investigations search for the "truth" through evidence collection. However, because of the inherently sensitive nature of investigations of gender based violence, there is an added dynamic for survivors – the burden to feel as though they must *prove* their trauma in order for it to be valid. In one of my interviews, a student acknowledged this truth, that this is just the nature of

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

investigations. “The underlying assumption is that you’re going to have to prove that you’re not lying,” she says.¹⁷ “Being worried that people aren’t going to believe you is so disempowering. And so delegitimizing. A core part of all the legal systems in this country is starting from the base assumption that you have to prove you’re not lying.”¹⁸

The Title IX office recognizes being a complainant is a troubling position, and does its best to fully inform parties that the road ahead will not be easy, necessarily. Davis told me, “One of the things I name for them is that the process itself is pretty straightforward and not hard. But because you are bringing an incident that you kind of put behind you to the center of your consciousness, and then it’s being interrogated – that to me is the part that makes this process seem so laborious.”¹⁹

One of the elements that makes the process this laborious is evidence collection, which a survivor can complete within 120 hours of an incident of sexual violence.²⁰ Although this exam is meant to both provide immediate care for survivors, as well as collecting evidence necessary for the investigation, it can also be incredibly invasive and retraumatizing for survivors. Not only does the survivor have to provide the medical provider a verbal account of the assault, a physical exam follows in order to assess, document, and treat any injuries.²¹ Samples are also collected from the survivor’s mouth,

¹⁷ Anonymous student survivor. February 25, 2020.

¹⁸ Ibid.

¹⁹ Davis, Rene. March 11, 2020.

²⁰ “The Sexual Assault Exam and Evidence Collection Kit,” *Forensics for Survivors*, <https://www.surviverape.org/forensics/sexual-assault-forensics/rape-exam>. Accessed April 11, 2020.

²¹ Ibid.

vaginal and / or anal cavities, and fingernails.²² A toxicology kit may be collected as well, along with any clothing and undergarments that could serve as evidence.²³

For one student I spoke with, the process of evidence collection was worse than the assault she experienced itself. “It was by far worse than what had actually happened. It was the worst experience of my life,” she said.²⁴ “The evidence came back negative, anyways,” she continued, “so there was no evidence it ever happened,” which only compounded her feelings of internal doubt and blame.²⁵ Although she had been debating filing a complaint with the Title IX office beforehand, her evidence collection experience made her give up on the prospect of accountability entirely. “After that, there was no way in hell I could tell another person” she told me solemnly.²⁶

As I said earlier, unfortunately evidence collection and proving your case are inherent to any form of investigation – sexual assaults are no exception. However, there are other ways students told me filing a complaint had been retraumatizing for them, namely, through repeated and upsetting communication with the Title IX office. Many students told me that after they had reported, there were never ending emails with the office, most containing triggering information, serving as a constant reminder of the trauma they had endured. When they wanted comfort and assurance it was all going to be okay, all they got was cold, hard facts.

When I shared this information with Davis, she nodded, acknowledging this was a difficult position her job often puts her in. She affirmed that “the way I talk to

²² Ibid.

²³ Ibid.

²⁴ Anonymous student survivor. Interview by Marie Lachance. Tape recording. Providence, March 4, 2020.

²⁵ Ibid.

²⁶ Ibid.

someone in a space is very different than how I communicate in emails,” alluding to the fact that while in person she may appear kind, friendly, and comforting – in emails, she must be impartial.²⁷ And this formality is in the student’s best interest. “The email is a part of the complaint process and the complaint process has to be impartial.”²⁸ She seemed like this tension within her is something she has struggled with in the past, saying, “I feel like it’s very important I maintain the integrity of the process. Because if I screw that up, someone can go to court and get that overturned. And I would hate for someone to go through the process, get an outcome, and then have that outcome be thrown away because an email seemed prejudicial in any way.”²⁹

However, we discussed potential ways to make the communication easier for survivors. I suggested she have a conversation with each complainant discussing their communication preferences, like how often they wanted to be updated, and the language they prefer she uses. Davis seemed enthusiastic about the idea. “I’m going to make a note that each complainant should specifically say how they want to communicate with our office, so we can set boundaries at the beginning,” she said, jotting down the idea on a blue sticky note.³⁰ Although this process can bring up a lot of difficult emotions for survivors, Rene’s dedication to their needs made me trust her actions were in their best interest.

3.3 Witness Protection

²⁷ Davis, Rene. March 11, 2020.

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid.

Throughout my interviews, I also spoke with two students who had been witnesses in cases, but had never filed themselves. My conversations with them made me realize this process affects far more individuals than the complainant and the respondent – there are very real consequences for witnesses as well.

At Brown, witnesses are not required to participate in the process – it is entirely voluntary. However, if an individual does decide to participate, their identity remains anonymous – to a certain extent. Davis comments, “We are honest about the fact that we are not going to use their name in the report, yet, based on what a person says, you might deduce who they are. So your identity is anonymous, but to a certain extent... it is not. And we’re honest about that.”³¹ So although a witness will not be named, given the context of what is said, that individual’s identity occasionally becomes clear.

This is what happened to one of the witnesses I interviewed. She was a freshman when she agreed to be a witness in a rape case involving two students who both lived in her hall. When she made a statement against the respondent, a large male football player who lived a couple doors down the hall from her, he deduced who she was and became “physically and mentally aggressive,” toward her in her own living space. “I didn’t feel safe at all,” she told me, recalling the incident.³²

When I asked Davis about circumstances like these, and if there was any protection for witnesses in similar living situations, she shook her head no. “Not for

³¹ Ibid.

³² Anonymous student survivor. Interview by Marie Lachance. Tape recording. Providence, November 11, 2020.

witnesses,” she said, reminding me there were only protections for “complainants in a formal process.”³³

Although in this case, the respondent *had* demanded that the respondent stopped using the bathroom on her half of the hallway, once he was found not guilty, he stopped respecting this boundary, putting both the complainant and witness at risk of running into him at any time. The complainant eventually became so uncomfortable, *she* had to switch dorms, not him.

“I really thought my friend would get justice,” the witness told me.³⁴ Looking down at the ground, she told me the respondent is a repeat aggressor, and is still on this campus today. In this case, not only did the Title IX process fail the survivor, they also failed to ensure a vulnerable witness felt safe in her own living quarters, illuminating the harsh consequences this process can have for all involved.

3.4 Accommodations for Survivors

Of course, I was also interested in learning more about protections and accommodations for the survivors themselves – not just the witnesses. According to the Title IX Annual Report, from between July 2017 and June 2018, there were 92 total incidents reported, 15 of which utilized Brown’s informal or formal procedures to address the potential violations.³⁵ Out of these 15 cases, only three aggressors were found responsible.³⁶ Meaning, that for many individuals seeking justice and

³³ Davis, Rene. March 11, 2020.

³⁴ Anonymous student survivor. November 11, 2020.

³⁵ “Annual Outcome Report: Academic Year 2017-18,” *Office of Title IX and Gender Equity*, https://www.brown.edu/about/administration/title-ix/sites/brown.edu/about/administration/title-ix/files/uploads/106390_OIED_Title%20IX%20Annual%20Outcomes%20Report_0419%20FNL_0.pdf. June 30, 2018.

³⁶ Ibid.

accountability on campus, it was not achieved through this process, and due to the nature of college campuses, are still subjected to seeing them anywhere.

For many students, just having a person who has caused you harm remain on campus is traumatizing. In one interview, a student told me they used to have a panic attack every single time she ran into her perpetrator. “I was stuck in this cyclical loop of like, constantly feeling unsafe to leave my room,” she told me.³⁷ “Every time I ran into him, I had a panic attack. A lot of my friends were friends with him, which was really hard because they were the only friends I had before it happened. And then I had a really hard time making friends after it,” she confessed, proving how invasive having a perpetrator on campus can be.³⁸

The Title IX office does its absolute best to be accommodating to survivors, regardless of the outcome of their case – but *only* if the incident is reported through the formal process. “If there is no formal process, then I can ask, but I can’t make demands,” Davis says of the informal process, which I will discuss later on.³⁹ If the survivor does choose the formal process, then the most sought out measure is the No Contact Order. Davis tells me that the No Contact Order is “very global – it just says you can’t have any direct or indirect contact. And we put bullets in there to give examples. But what a No Contact Order *doesn’t do* is require either party to leave a space.”⁴⁰

³⁷ Anonymous student survivor. February 25, 2020.

³⁸ Ibid.

³⁹ Davis, Rene. March 11, 2020.

⁴⁰ Ibid.

She tells me that if there is a formal complaint process and the finding allows the respondent to remain on campus, then they tend to “enhance the terms” in order to “mitigate any incidental contact between the parties.”⁴¹ These provisions can get extremely specific, which is incredibly helpful for the peace of mind of the complainant, knowing they won’t accidentally run into the respondent on campus. In the past, examples of these provisions have included designating specific floors of the library as either the complainant’s or respondent’s, or negotiating hours at the fitness center. “I’ve even worked with coaches to make sure specific teams don’t overlap lifting hours,” Davis told me. “We’re trying as best as we can to mitigate incidental contact.”⁴²

4 Creating Options for Survivors

Based on what I had heard about the Title IX process before beginning my research, I went into this project expecting to uncover much harsher truths. But through my conversations with Rene, I have come to the realization that the Title IX office truly is doing their best to prioritize survivor’s needs. Learning about the ways in which she has made such unique accommodations for survivors and truly is open and receptive to feedback made me confident that the office takes student complaints seriously, and investigates them thoroughly.

The problem then becomes not the office *itself*, but the very nature of *investigations* themselves. Although an investigation absolutely can help survivors achieve a sense of justice and accountability, it simply is not a process that every survivor wants or needs in order to heal. Following gender based violence, every

⁴¹ Davis, Rene. March 11, 2020.

⁴² Ibid.

situation is unique in regards to an individual's wants and needs on their healing journey – there are infinite conceptions of justice and what healing looks like. And the Title IX process is only one of these conceptions – only suited for individuals seeking punitive measures, and able to relive their trauma in the hopes of achieving justice. What we need is not reform, but rather, *options*.

4.1 Title IX Informal Process

The Title IX office does offer another option – the informal procedure. The informal procedure does not require the complainant to engage with the respondent at all. Davis explained, “It gives them the option of saying I don't want to go through a formal process. But because of what you did to me, I need all of these things so I can start to move forward on this campus and heal.”⁴³

The process is similar to handling a No Contact Order, except it is much more tailored, and, more importantly, the Title IX Office cannot do anything to enforce the conditions. Essentially, the complainant gives Davis a list of requirements they would like from the respondent (i.e. floors of the library, times at the gym like I mentioned before,) and then Davis gives that list to the respondent to look over. “We say, ‘Because you did this thing, and it is documented in my office, instead of a formal process, the complainant wants you to look at these terms and see if there's something you agree to.’”⁴⁴ The respondent then decides whether they can agree to some, or all of these terms. Although the Title IX Office has no power to assure the respondent agrees to the terms, Davis goes out of her way to ensure the respondent really understands what these

⁴³ Ibid.

⁴⁴ Ibid.

requests symbolize. “If the respondent says ‘I don’t want to do these terms,’ I’m going to say ‘Can you think about the spirit of what they’re asking for here? And could you propose some alternative terms for them to consider?’ So at the end of the day, the reporting party is the person who seals the deal, all on their terms.”⁴⁵

Clearly, some previous concerns with the formal process are addressed here. Throughout the informal process, the respondent has more autonomy in deciding what they want the solution to look like, and there is less of a burden to relive the traumatic experiences they have survived. However, there are downsides as well. In this process, the Title IX office can only ask a respondent obeys guidelines, not demand. Additionally, because the Office is not investigating, only asking for a resolution, this resolution cannot then be used to establish a pattern of behavior with subsequent complaints, another potential flaw of this system.

Furthermore, many students believe a legal and punitive procedure is simply not what will aid them on their journey for healing and justice. As one survivor explained, “A lot of people just want to move forward. And the idea of undergoing this really emotionally intensive process that you have no control over is just terrible. The experience itself is terrible. But what makes it worse is all of the disempowerment that happens after the emotional labor, how triggering this process can be for people. And it just compounds the harm so many times. It makes them doubt themselves and the kind of respect they deserve.”⁴⁶

⁴⁵ Ibid.

⁴⁶ Anonymous student survivor. February 25, 2020.

So then what options are these students left with? If they want their perpetrator to recognize what they have done and the impact it has created, and to ensure they will never do it again, but without engaging in punitive, and legal measures?

4.2 Transformative Justice Praxis

This is exactly what Camila Pelsinger '20 noticed throughout her work as a SAPE organizer, and she decided to do something about it. In an article written by another Brown student, Mara Dolan, for *The Nation*, Pelsinger said, "Most survivors I worked with had no desire to report the incident and go through a hearing and investigation, knowing the defense would likely deny the incident happened, or, even worse, blame the survivor for what happened... if they didn't want to use the legal system, survivors across campus were just forced to share spaces and communities with the very people who assaulted them, with no opportunity to get any semblance of justice."⁴⁷ And thankfully, she decided to do something about it. After her own investigation of students' experiences of harm on campus, she advocated for the university's first transformative justice program, TJPP, a program I am now proud to be in the first cohort of.

TJPP is built on a transformative justice (TJ) framework. According to community organizer Mia Mingus, TJ is a "political framework and approach for responding to violence, harm and abuse. At its most basic, it seeks to respond to violence without creating more violence and/or engaging in harm reduction to lessen the violence."⁴⁸ Essentially, TJ is a way of responding to harm within communities that

⁴⁷ "These Students Are Bringing Transformative Justice To Their Campus."

⁴⁸ Mia Mingus. "Transformative Justice: A Brief Description," *Leaving Evidence*, <https://leavingevidence.wordpress.com/2019/01/09/transformative-justice-a-brief-description/>. January 9, 2019.

does not rely on the state or punitive measures, while simultaneously seeking to transform the very conditions that bred the violence to begin with. As an abolitionist framework, what this often means is dismantling all systems of oppression that continuously reproduce violence. TJ's Theory of Change would look something like this: If you critically examine the systems of oppression that are influencing a community in terms of the harm it is reproducing *as a community*, the community builds up a capacity to not only *respond* to harm when it occurs, but also transform the conditions that caused that harm to happen in the first place, thus making it a safer and more harmonious community altogether.

It is critical to recognize that TJ is not anything new, and to name where it has emerged from. For centuries now, “indigenous, Black, queer and trans, low-income, undocumented, disabled, and sex working communities have built these networks of mutual support in order to survive and transform state and interpersonal violence,” says Pelsinger in *The College Hill Independent*.⁴⁹ Because all of these communities have been disproportionately harmed and incarcerated by the state and other institutions, they have needed to form alternative measures for handling harm within their communities, without relying on punitive or legal measures that would simply compound the harm. Dara Kwayera Imani Bayer, a Brown alumnus and former Boston public school teacher who now serves as the head of TJPP, told *The Nation* that “Transformative justice exists for communities to solve problems on their own terms, in ways that aren’t punitive. That is where this work lives.”⁵⁰

⁴⁹ “Beyond #MeToo: Transformative Justice on College Campuses.”

⁵⁰ “These Students Are Bringing Transformative Justice To Their Campus.”

This Fall, the first cohort of TJPP was recruited by Pelsinger, Bayer, and Xochi Cartland '21, another student activist working primarily in disability justice. Twelve students came together from all across campus to build a community, learn about transformative justice in order to bring the practices back to their own communities. Now near finished with the first year of the two year pilot program, we spend 3 hours a week together. Most of that time is spent building community, reflecting on our experiences, and holding “Circle,” a facilitation technique that centers connection and each individual’s voice.

But most of all, we are learning how to become *practitioners* – students who are doing this work *outside* of the time in cohort, combining the skills we are learning with our own values in our everyday life. Each individual student has a PAR project – this just happens to be mine. But other members of the cohort, like my friend Kuno Haimbodi, began holding conversations with fellow Black student organizers on campus. For Leah Shorb, it meant working with her athletic team to unlearn the toxic masculinity that she felt was fiercely intertwined with athletics at Brown. But all of us are working in their own communities – teams, groups, clubs, friends, and communities they live and learn and organize with, the idea being that in order to address harm, we first must truly understand what the needs for our communities are, and what kind of harm occurs.⁵¹

Harm, of course, exists on a spectrum. It could be underhanded sexist comments on Leah’s athletic team, or it could mean the assaults I am discussing throughout my

⁵¹ Ibid.

Capstone. And regardless of where incidents fall on the spectrum, harm occurs in all communities because according to TJ's abolitionist political framework, we live in a society that continuously reproduces harm. Therefore, we must seek to understand the conditions of this harm, before we seek to treat the symptoms of these violent structures.

4.3 Transformative Justice as an Alternative to Title IX

However, TJ processes are also used to address incidents of harm directly. In order to understand how this model could be used as an alternative to the Title IX process specifically, Bayer gives an example of what this model would look like in addressing an instance of gender based violence on Brown's campus. "In response to a situation where someone was assaulted or harmed, a Transformative Justice process would invite the survivor and their network of friends and community members to come together and, depending on how much the survivor wants to be involved in the process, invite them to design a plan to address the harm. One component of TJ involves developing a plan of safety for someone who has experienced harm, while the second involves mapping the relationships of the person who has caused harm and working with them to stop ongoing violence, recognize the impact of their actions, and hopefully repair the harm in whatever way would be appropriate."⁵² Bayer makes it clear that this process is not easy, nor is it straight forward, but "it is rooted in coming together in community with shared values and developing action plans that ensure safety."⁵³

⁵² "Beyond #MeToo: Transformative Justice on College Campuses."

⁵³ Ibid.

After investigating survivor's experiences with the Title IX process, and being a TJ practitioner for several months, I firmly believe that the TJ process can serve as a sound, non-punitive alternative to the Title IX process for many survivors. Throughout my interviews, when asked how they would have *ideally* handled their incidents of harm, survivors repeatedly mentioned the TJ process. "Being able to do a TJ process would have been so helpful for me," one mentioned.⁵⁴ "I think part of what was so hard about it was he didn't realize he had done anything wrong. And at the time I just didn't have the language or skill set to talk about it," said another.⁵⁵ But rather than confronting the incident and seeking accountability, her lack of options made it so they "never interacted after that. We walk in separate directions when we see each other because he's still on campus."⁵⁶

Again, based on my interviews and research, there are four main ways TJ addresses the concerns that I raised with the Title IX process, and illustrate why I believe it is necessary for TJ to remain and expand on Brown's campus: It is survivor centered, there is active accountability, it follows an anti-punitive approach, and it addresses harm on a *systematic* level, rather than a *symptomatic* level.

4.3.1 Survivor Centered Approach

First, TJ offers a much more survivor centered approach than the Title IX process. In a formal process, the survivor has such little autonomy in deciding how the case proceeds, and the finding is quite literally out of their hands, which as we have

⁵⁴ Anonymous student survivor. February 25, 2020.

⁵⁵ Anonymous student survivor. March 8, 2020.

⁵⁶ Ibid.

discussed, can be incredibly disempowering. Additionally, pressure is applied on the survivors themselves in order to *prove* a traumatic experience happened to them in the first place. One of the core tenants of TJ, on the other hand, is ensuring that the survivor has full autonomy in shaping the process. Pelsigner reminds us that these processes are “uniquely equipped to address harm in a way that prioritizes the needs of survivors and transfers the labor of holding perpetrators accountable for changing their behavior onto the community.”⁵⁷ She also says that college campuses are actually a perfect environment in order to achieve this autonomy, due to the “high incident rate and communal nature” of them.⁵⁸

Again, there is no clear one-size-fits-all way to do this work. One survivor may need to write a letter to their perpetrator, and have another person read it to them in order for them to understand the impact of their actions, while another person may need to have a much longer community accountability process in order to achieve their conceptions of justice. But regardless of what they need, the TJ process is designed to ensure the survivor has the tools to figure out what they need, and center these needs throughout the entire process, which is something the formal Title IX process simply cannot offer.

4.3.2 Active Accountability

The next element of TJ I want to highlight is the difference between *active* and *passive* accountability. In theory, the entire idea behind a Title IX proceeding is that the perpetrator of an assault is able to take *accountability* for their actions – to recognize the

⁵⁷ “Beyond #MeToo: Transformative Justice on College Campuses.”

⁵⁸ Ibid.

harm they had caused, in order to prevent it from happening again. In her article on sexual violence on college campuses, Dr. Julie Shackford-Bradley told the *Daily Californian* that accountability is a *critical* part of healing and of justice, and all too often, it fails to take root. “The fact is that most cases don’t get reported or sufficiently addressed through formal reporting structures, limiting people’s options for taking accountability or making amends,” she said.⁵⁹ “The stress of unresolved harm and conflict that results can fracture communities, further exacerbating trauma,” she continued, explaining that without accountability, harm can only be reproduced for all parties – both the survivor *and* the perpetrator.⁶⁰

An important aspect of TJ is that it is not just about seeking justice for the survivor – it is also about finding ways to support the perpetrator of harm. This is based on the underlying theory that with a strong foundation of support, an accountability process can change people’s actions, and reduce harm. And that if they were instead simply cast out of their communities after committing harm, the lack of support and the inability to actually *engage* in the harm they had caused would only lead to more violence. It is this dangerous cycle that TJ processes attempt to break.

The Title IX process often excludes accountability in its truest form – “the ability to recognize, end and take responsibility for violence.”⁶¹ This is because the punitive nature can feel like a *threat* to perpetrators – like they have to disprove their actions, or

⁵⁹ Julie Shackford-Bradley. “What can restorative justice offer in this #MeToo moment?” *The Daily Californian*, <https://www.dailyca.org/2018/02/13/restorative-justice-uc-berkeley-sexual-harassment/>. February 13, 2018.

⁶⁰ Ibid.

⁶¹ “Taking Accountability: How Do We Change Violence?” *Creative Interventions*, http://www.creative-interventions.org/wp-content/uploads/2018/04/Section-4F_FINAL.pdf. Accessed April 11, 2020.

face harsh consequences – accountability can often become something happening *to* them, rather than a process they can engage with without fear. As one student survivor told me, “It’s really difficult to change behavior. And the entire Title IX process is just the perpetrator trying to get off the hook, rather than trying to understand what they did wrong, and wanting to do better.”⁶²

Sure enough, I spoke with a student who had conducted a community accountability process with a perpetrator and a survivor, and had a very moving conversation with the perpetrator afterwards that confirmed that sentiment exactly. “I cannot explain to you how different my life would be right now if I had gone through a Title IX process,” he explained. “I would have been so focused on defending myself, like I had to prove I was right and she was wrong. I would have never stopped to think, ‘Oh gosh, what *is* the impact I have had on her?’ because I would have been so preoccupied making sure I didn’t get kicked out or whatever the consequences would have been,” he said.⁶³ For this perpetrator, the process of engaging with the harm he had caused truly helped him change his actions. He said that if he had gone through a punitive process instead, he “would have never done the very difficult of thinking – now I have to reframe everything: How I see hook up culture, and my relationship to women in general. The community accountability process was the only thing that could have forced me to confront that.”⁶⁴

⁶² Anonymous student survivor. Interview by Marie Lachance. Tape recording. Providence, February 3, 2020.

⁶³ Anonymous student survivor. February 25, 2020.

⁶⁴ Ibid.

One common critique of TJ and other alternatives to the Title IX process is that these options are too *lenient* – that they aren't "hard enough" on people who have committed atrocious crimes. But the truth is that for most perpetrators, this is the hard work. For this student, looking in the mirror and *knowing* that he has hurt someone is much more difficult than defending yourself and escaping the truth at all costs. The student that ran the community accountability process told me that this isn't always an outcome of these processes, but because of the difficult reflection it entails, perpetrators are often able to connect the dots themselves. "No one put that on him, right?" she said. "That's just him finally making the connections between these things, because he was *actually* taking accountability. And that is the hard work. The Title IX process only offers *passive* accountability. But this process is entirely rooted in *active* accountability."

⁶⁵

Even Davis agreed that because this process is entirely voluntary – meaning all parties have consented to the community accountability process, unlike the Title IX process in which a respondent must engage – the accountability is usually coming from a more genuine place of *want* rather than survival. "If all parties are coming to the table and listening to each other, even if there's no agreement about the outcome will be, I love that. I think that the transformative justice process allows a respondent to be more engaged. And I think that's great."⁶⁶

4.3.3 Anti-Punitive Approach

⁶⁵ Ibid.

⁶⁶ Davis, Rene. March 11, 2020.

Next, I want to address that identity plays a very important role in an individual's relationships with punitive and state systems. In America, we know it to be true that marginalized folks are far more likely to be incarcerated than people in positions of power. This is particularly true along racial lines – although Black and Hispanic people make up approximately 32% of the United States population, they comprise 56% of all incarcerated people.⁶⁷ Black people are incarcerated at more than 5 times the rate of white people.⁶⁸ Meaning, that based on your identity and relationship to the state, engaging in these systems will look very different.

Remaining outside of state and punitive systems is a core tenant of TJ for exactly this reason. As I previously mentioned, TJ is a *product* of folks avoiding engaging with state processes, so it makes sense that far and wide, TJ practitioners believe that “state and systemic responses to violence, including the criminal legal system and child welfare agencies, not only fail to advance individual and collective justice, but also condone and perpetuate cycles of violence.”⁶⁹

For some, Title IX is simply not a choice, or it represents a system they feel uncomfortable contributing to. I spoke with one student who decided not to report her assault to Title IX because her perpetrator “is a man of color and it would have destroyed his life,” she said. “And I wasn’t willing to do that. I just wanted it to be over.

⁶⁷ “Criminal Justice Fact Sheet,” NAACP, <https://www.naacp.org/criminal-justice-fact-sheet/>. Accessed April 11, 2020.

⁶⁸ Ibid.

⁶⁹ “What are Community Accountability & Transformative Justice?” *Transformative Justice Kollektiv Berlin*, <https://www.transformativejustice.eu/en/what-are-ca-and-tj/>. Accessed April 11, 2020.

Like, I really wanted it all to be over.”⁷⁰ For some, seeking accountability outside of punitive systems is essential – yet another element that TJ offers that Title IX does not.

4.3.4 Systematic, not Symptomatic

The final key distinction I want to make between the Title IX process and TJ is that while Title IX cases are treating the *symptoms* of the culture of violence we are currently living in, and have persisted for so long, TJ seeks to dismantle that very system from the bottom up. Rather than dealing with violence on a case by case basis, TJ seeks to first identify and name what types of harm are occurring within any given community, and investigate what the root cause of the harm is. Activist Mia Mingus reminds us that a core tenant of TJ work is “building community members’ capacities so they can build skills to prevent violence from occurring, and supporting community members’ skills to interrupt violence while it is happening.”⁷¹ She urges us to leverage our abolitionist imagination, and “move towards true transformation of violent behavior and conditions.”⁷²

The very systems that produce violence are reinforced through the Title IX process and other punitive measures. Rather than relying on these procedures as our only hope for any form of accountability on college campuses, Pelsinger urges us to remember that “Dismantling a culture of violence that has persisted for so long requires an approach grounded in the notion that humans are constantly changing and evolving, replicating the systems and structures that are projected onto them. Transformative

⁷⁰ Anonymous student survivor. March 8, 2020.

⁷¹ “Transformative Justice: A Brief Description.”

⁷² Ibid.

Justice revolutionizes the very ways in which we build community with each other in a manner that honors our humanity and keeps us accountable.”⁷³

4.4 What Can We Do?

In all of my interviews, the last question that I asked was, “In an ideal world, how would this have happened differently?”

Aside from the obvious answer – that the harm would have never occurred in the first place – one student told me something that has stuck with me ever since. She told me that in this ideal world, there would have been something to “streamline the options available” to her in addressing the harm.⁷⁴ “I would have never known what to do if I didn’t have a CAPs therapist,” she said, citing him as the only reason she knew about key resources like SHARE advocates and the Title IX office.⁷⁵

I keep on thinking back to this key intervention point – when an incident of gender based violence has just occurred, whipping a survivor into a sort of frenzy, coated in guilt and shame. The last thing they should be worried about is figuring out what options are available to them – especially at a place like Brown, where we *are* lucky to have more than one option to begin with.

This is why, in conjunction to my research paper, I have decided to make a pamphlet explaining not only what Transformative Justice is and how it can help survivors, but also include *all* of the options that are available to survivors, to at least grant them peace of mind in this troubling time. Hopefully, this pamphlet, or a version

⁷³ “Beyond #MeToo: Transformative Justice on College Campuses.”

⁷⁴ Anonymous student survivor. Interview by Marie Lachance. Tape recording. Providence, January 31, 2020.

⁷⁵ Ibid.

of it, can be distributed everywhere on campus – at CAPS, Health Services, through SHAPE, at the Title IX office – everywhere. I also hope that it can spill outside of the confines of this university and into the Providence community.

As a practitioner of transformative justice, and a student of engaged scholarship, my work has a much broader goal than simply helping Brown students – I seek to build authentic relationships with Providence community members in order to engage in these practices off campus as well. This is a critical way in which the program seeks to “redistribute resources in ways that support self determination of communities impacted by historic and current harm,” and given Brown’s all-too-often harmful relationship with Providence, ensuring this knowledge and these resources are not confined to elite, privileged spaces is ingrained in the very nature of this work.⁷⁶

I know that every single member of TJPP is incredibly dedicated to the longevity of this work. We all recognize just how critical it is in order to create and uphold healthy, happy communities at Brown, and beyond. “I hope to just be that drop in the water, causing a ripple,” said Bayer of her hopes for the program.⁷⁷ “It’s these small interventions. When I can support individuals in engaging with their communities and healing from harm, and then *they* can do the same in their own relationships... it’s a ripple effect. That’s powerful.”⁷⁸

6 Conclusion

⁷⁶ “These Students Are Bringing Transformative Justice to Their Campus.”

⁷⁷ Ibid.

⁷⁸ Ibid.

When I was finally coming to terms with the assault I had experienced my freshman year, I felt as though I had no options available to me. I wanted so badly to hold my perpetrator accountable in a meaningful way – for him to acknowledge the harm he had caused me and not harm anyone else again. But I felt as though the Title IX process wouldn't center my healing, and ultimately would cause more harm than good.

If while waiting in a Health Services, or CAPS, or Title IX office waiting room, I had read a pamphlet that showed me all of my options, and had introduced transformative justice and all the ways it could potentially help me, I would have felt like I had a chance at justice on my own terms – a chance at healing. Over the course of my interviews, I have come to the realization that unfortunately, I am far from alone. That this truth is shared with too many survivors.

I hope that through making this knowledge more accessible, and through expanding TJPP on Brown's campus and within the Providence community, we can help our communities understand how to effectively respond to harm when it occurs. This is the most important and meaningful work that I know.

I find it beautiful that so many of the sources used throughout this paper have come from people I am proud to know and love personally – that so many of the words and experiences on these pages are not my own. They are ours. And together, we are envisioning a more robust and equitable conception of justice on this campus and beyond. I am proud of the work we have accomplished together, and I am proud to know it will continue long after we are all gone.

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