

# Training in Restorative Practices for Campus Sexual Harm

*Toni McMurphy and  
Kaaren M. Williamsen*



# Training Flow

## *Format:*

- Presentations
- Circles
- Large group discussions
- Small group discussions
- Case studies
- Role plays

Session 1: Introduction to RJ Philosophy & Practice

Session 2: Justice, Restorative Questions, Talking Piece Circle

Session 3: Circles continued; Case studies

Session 4: Conferences; RJ in sexual misconduct policies

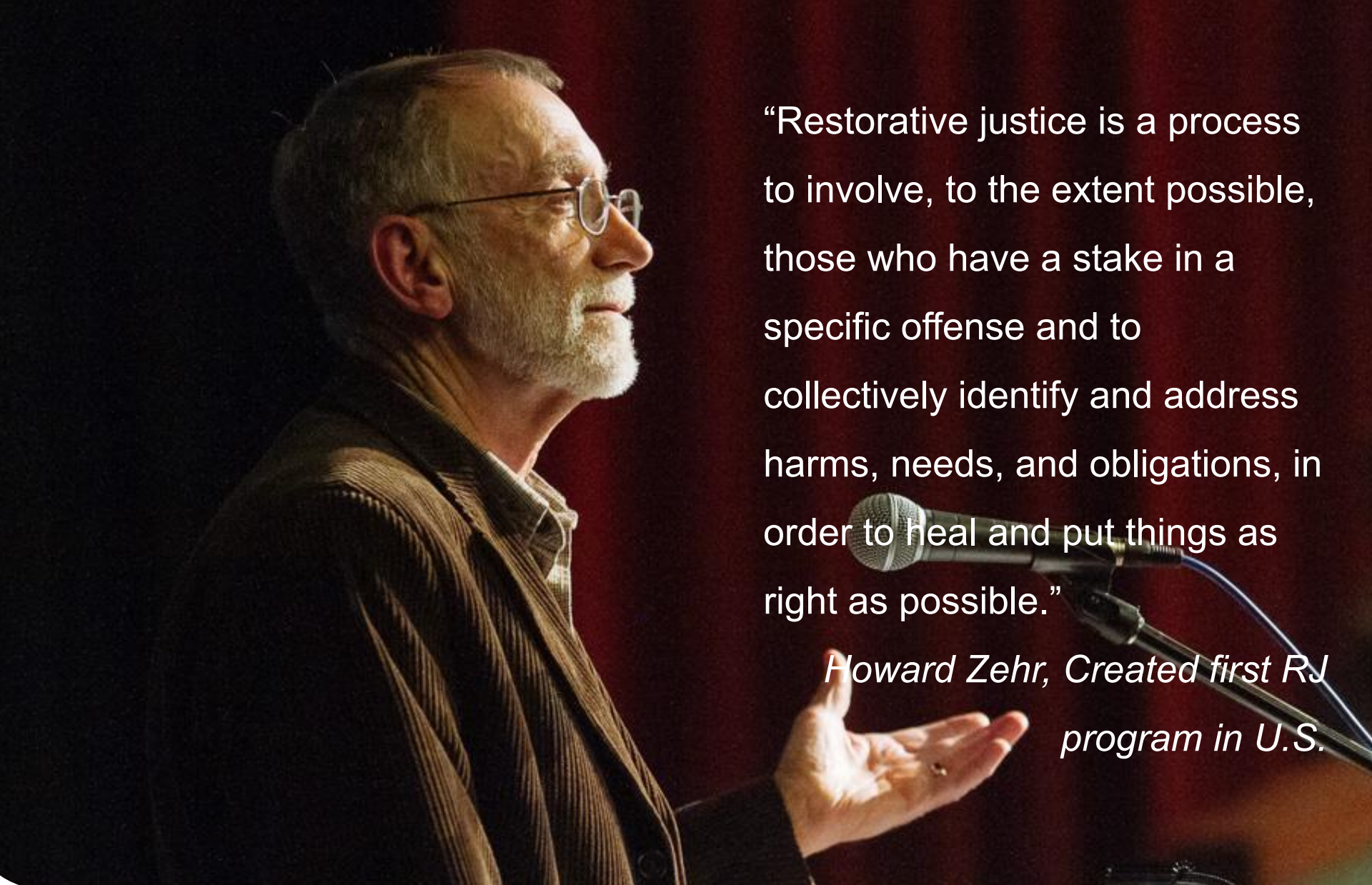
Session 5: Restorative Case Management; Role Play

Session 6: Accountability & Guest Speaker: Carrie Landrum

Session 7: Role Play Continued; Restorative Agreements

Session 8: Wrap Up and Implementation Next Steps

# What is Restorative Justice?

A photograph of Howard Zehr, an older man with glasses and a beard, speaking at a microphone. He is wearing a dark jacket over a light-colored shirt. His right hand is raised in a gesture. The background is dark and out of focus.

“Restorative justice is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible.”

*Howard Zehr, Created first RJ program in U.S.*

# Restorative Justice

- **Philosophy and set of practices**
- **Crime is a violation of people and relationships**, not just laws, creating needs and obligations. Restorative justice aims to involve, as much as possible, the parties most impacted by the crime.” (Zehr 2002).
- **Four key principles:** inclusive decision making, active accountability, repairing harm, rebuilding trust (Karp, 2015).
- **Restorative justice for sexual offenses requires adaptation** (Koss, 2010).



# Origins



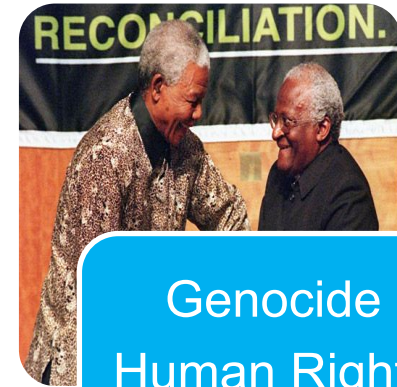
# Expanding RJ Movement



Schools  
Workplaces  
Families



Juvenile  
Justice  
Criminal  
Justice

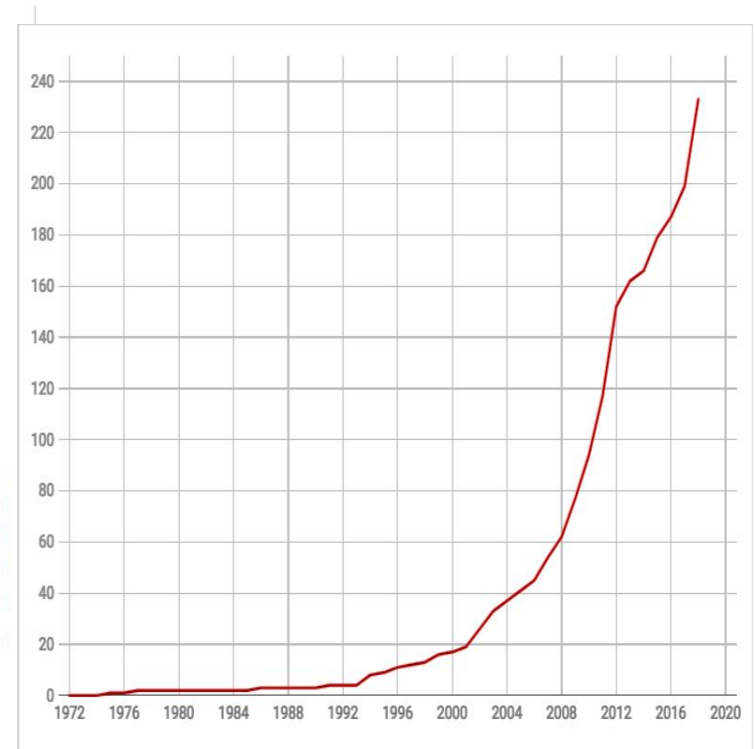
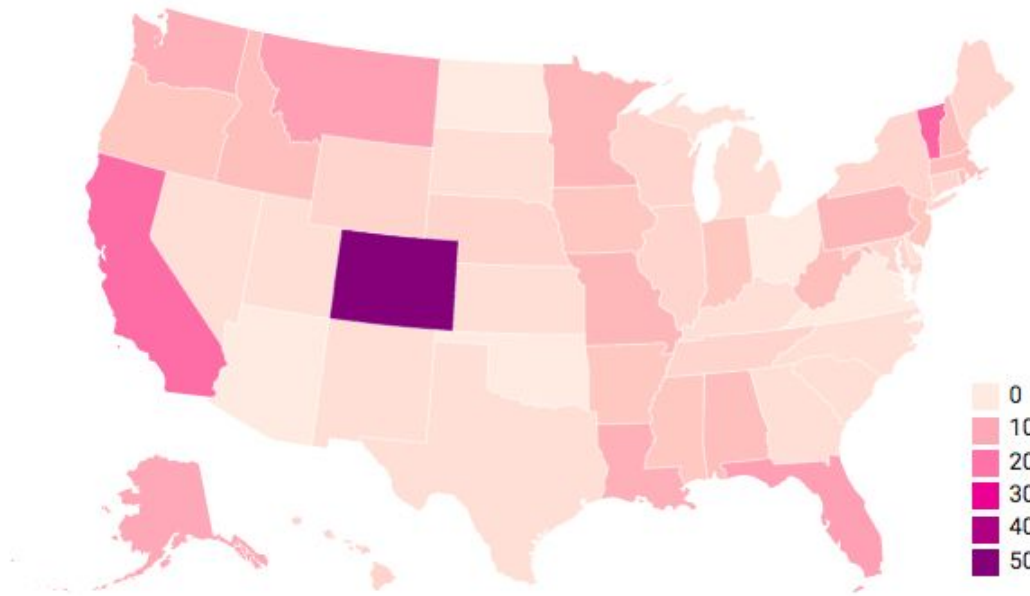


Genocide  
Human Rights  
Violations  
Historical  
Harms



# RJ Legislation in the United States

RJ laws by state



González, Thalia (2020) "The Legalization of Restorative Justice: A Fifty-State Empirical Analysis," Utah Law Review



# Campus PRISM

Promoting Restorative Initiatives for Sexual Misconduct on Campus

21 || A SURVIVOR AND HER PERPETRATOR FIND JUSTICE

12/3/2018



Reckonings

#21 || A survivor and her perpetrator find justice



Cookie policy

THE CHRONICLE  
of Higher Education

STUDENTS

## Why More Colleges Are Trying Restorative Justice in Sex-Assault Cases

By Katherine Mangan | SEPTEMBER 17, 2018

The New York Times

## Sexual Harassment Charges Roil Elite University Department

By Vivian Wang

Sept. 15, 2017

## Campus Sexual Misconduct: Restorative Justice Approaches to Enhance Compliance With Title IX Guidance

TRAUMA, VIOLENCE, & ABUSE  
2014, Vol. 15(3) 242-257  
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DOI: 10.1177/1524838014521500  
tva.sagepub.com



### TRAINING

#### Training in Restorative Conferencing for Cases of Campus Sexual Harm

March 29-30, 2019

Rutgers University - New Brunswick



Online Learning Community

BROWSE COURSES

HOME / CATALOG / SEXUAL AND RELATIONSHIP VIOLENCE EDUCATION

## Using a Restorative Justice Approach to Sexual Harm and Misconduct

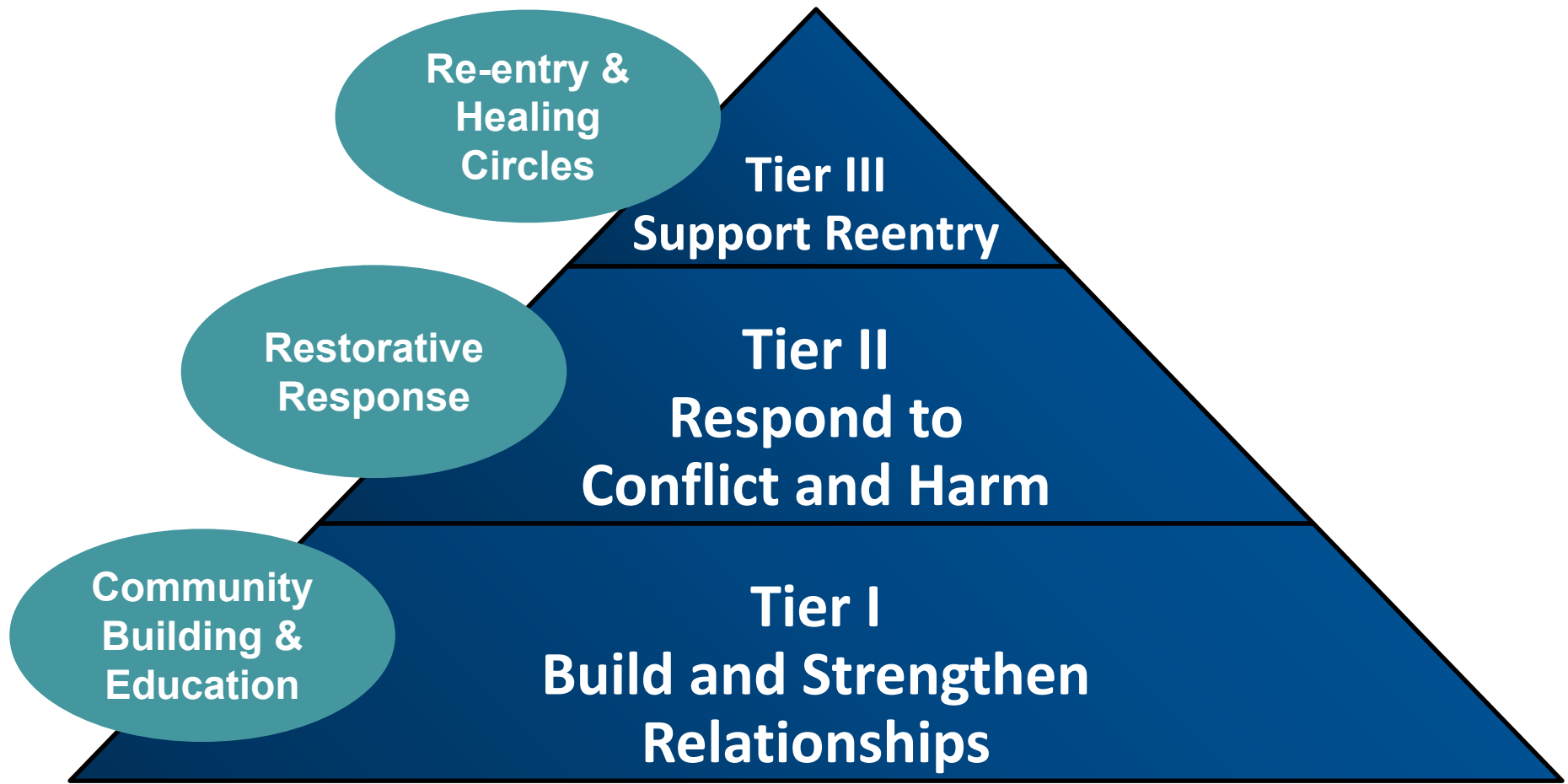
with David Karp, Jasmyn Elise Story, Jordan Draper

JOURNAL OF SEXUAL AGGRESSION  
<https://doi.org/10.1080/13552600.2018.1507488>

Addressing individual and community needs in the aftermath of campus sexual misconduct: restorative justice as a way forward in the re-entry process

Sheila M. McMahon<sup>a</sup>, David R. Karp<sup>b</sup> and Hayley Mulhern<sup>c</sup>

# Campus PRISM: Whole Campus Restorative Approach



# Growing interest in RJ for campus sexual misconduct

**Unwanted sexual attention** includes sexual coercion, quid pro quo harassment, groping, sexual assault, relentless pressure for dates

**Gender harassment** includes sexist insults, gender slurs, sexual teasing, graphic sexual images at work, obscene gestures, vulgar name calling, crude comments about bodies, insulting comments about pregnancy

NASEM, 2018



## Concerns about traditional criminal justice approach

“

*The wishes and needs of victims are diametrically opposed to the requirements of legal proceedings...Indeed if one set out intentionally to design a system for provoking symptoms of traumatic stress, it might look very much like a court of law.*

*J. Herman, 2005, p. 574*

# Searching for Alternatives

It's hard not to wonder now, from my perch of more than a quarter-century later, staring at the pinched look on my face in the photos from that rainy graduation morning, why there hadn't been a third option besides either pressing charges or doing nothing, neither of which felt like an appropriate reaction to what had happened to me in that bed.

Deborah Copaken Kogan, *The Nation*, 2015



OP-ED CONTRIBUTOR

# I'm a Campus Sexual Assault Activist. It's Time to Reimagine How We Punish Sex Crimes.

By Sofie Karasek

Feb. 22, 2018

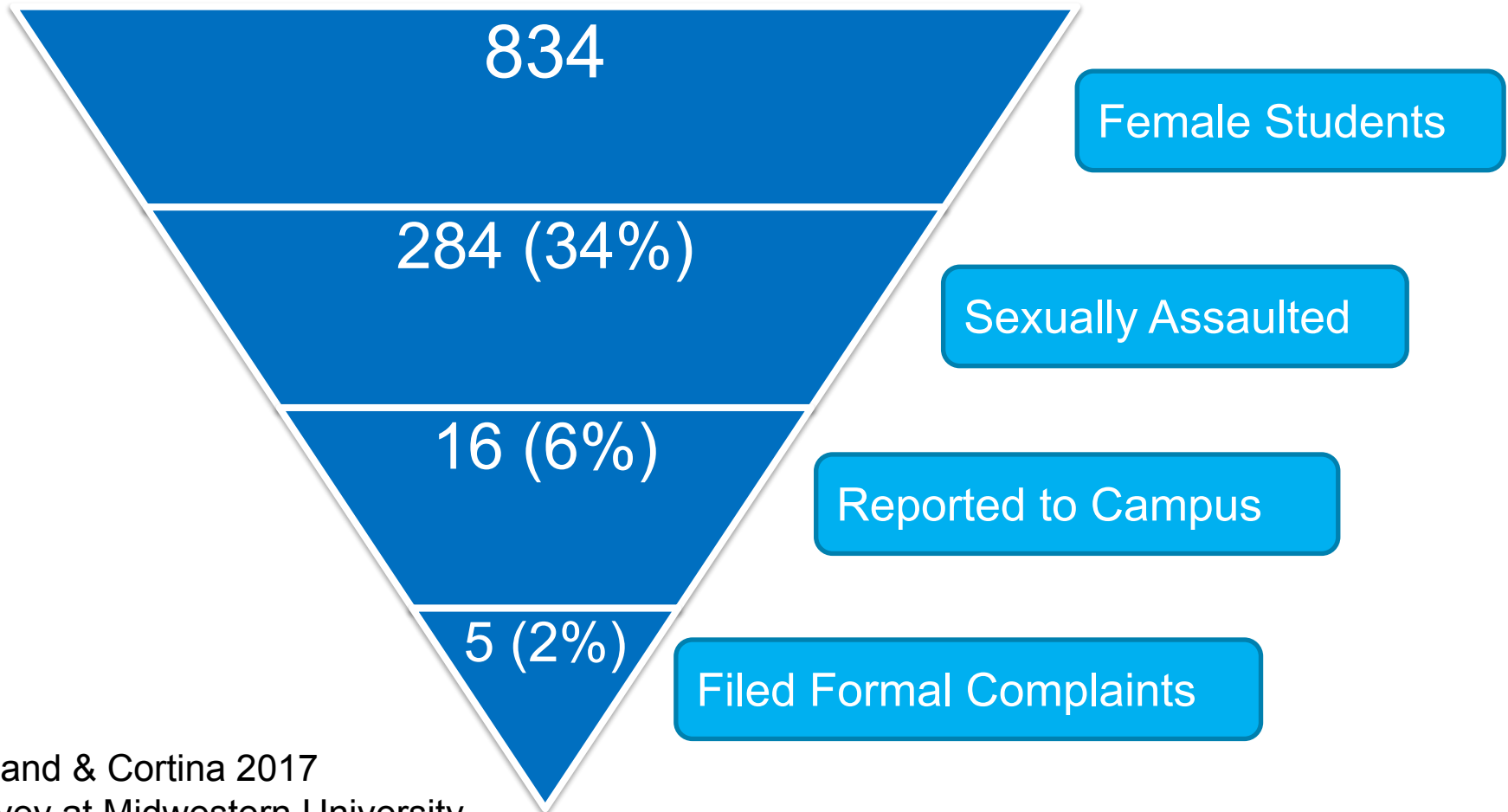
“

*Over time, many student activists have become disillusioned with an emphasis on punitive justice — firings, expulsions and in some cases, prison sentences. We've seen firsthand how rarely it works for survivors. It's not designed to provide validation, acknowledgment or closure. It also does not guarantee that those who harmed will not act again.*

*As the campus sexual assault movement, and now #MeToo, has made clear, sexual injustices, from harassment to rape and assault, are deeply ingrained in American society, involving people from all walks of life. We cannot jail, fire or expel our way out of this crisis. We need institutional responses to sexual harm that prioritize both justice and healing, not one at the expense of the other.*



# Reporting and Adjudication



Holland & Cortina 2017  
Survey at Midwestern University

“

*What are administrators' goals for campus sexual misconduct responses?*

# STAFF GOALS FOR THE CAMPUS PROCESS TO ADDRESS SEXUAL MISCONDUCT (Williamsen, 2017)

## Qualities of the process

- Educational and distinct from criminal justice system
- Fair and balanced
- Transparent
- Trauma informed

## Outcomes of the process

- Stop, prevent, remedy
- Meaningful accountability
- Making students whole and healing

*To undo 18 years of [socialization]... This stuff is deep-seated. So, unless we're going to get serious about that, the response has to be as comprehensive and as intense and as permeating as the socialization that got them here. (Debbie, Title IX administrator)*

# Administrator Concerns

## **Retraumatizing for the survivor/victim**

*Is it a forgone conclusion that any process that requires a review of the event and a review of other people's recollections of the event and other people's assessment of your behavior and your credibility in light of this event, is it possible to do that in a way that's not retraumatizing? My experience is no. Even though that's fair. That's the fairest way to have a fair outcome, right, is everybody has access to all of the information that we're gathering. We're trying to figure out what happened and make sure that both parties have full access to all of the information... and they have a right to rebut and expand and clarify and respond. That in and of itself does damage.*

Carol, student conduct administrator

# Administrator Concerns

## **Education for respondent not possible**

*Okay, we want you [the respondent] to walk on these hot coals, and while you're walking on these hot coals, we want you to reflect on and think about [your behavior]. And both [walking and reflecting] can't happen at the same time. I don't know of many people that have the capacity to do that.*

Ruth, advocate/advisor

# Administrator Concerns

## **Adversarial process not meeting needs**

*I see people move from this place of... “I just want this person to understand what they did was wrong” to this place of really being mad because... the other person is saying it is not true and not accepting any responsibility at all. Which is kind of like the opposite of what they had originally wanted.”*

Eva, advocate/advisor

# Administrator Concerns

*In theory, when we think about the outcome of a case, there's a winner and a loser. [But] actually... there aren't winners really.... We've created this oppositional experience [where no one wins].*

Ruth, advocate/advisor

# RJ – Potential to Meet Needs

*In cases where survivors are like, “I just want the person to understand what they did to me...” I would much rather offer RJ to that person than a hearing process. Because if people are like, “I just want the person to accept responsibility and hear what they did was wrong,” that is never the outcome of a hearing process. People dig their heels in. If they are found responsible, they appeal.... They get lawyers involved. It immediately becomes this thing where the very last thing they will ever do is accept responsibility for their behavior or admit they caused any harm....*

Eva, advocate/advisor



# RJ – Potential to Help Healing

*One of the things that survivors are wanting the most is acknowledgement of the fact that they were wronged, that they were harmed. For a respondent to say "I did this and I was wrong, and I am sorry." That would be the most ideal thing for... any almost any survivor to hear.... [Respondents] don't realize – in certain cases they don't know what they did was wrong or they deny or minimize the impact. Once they learn that – and if they are able to articulate that to anybody and the survivor is interested in hearing that – it can be enormously healing and transformative for that survivor to hear that because it's validating and it can be the key to a healing process.*

Cindy, student conduct administrator

# RJ – Potential for Accountability


*I think that [restorative justice] could be really helpful in terms of potentially having a more meaningful outcome for our respondents. Like, we don't even get to the place where respondents could acknowledge that they had committed harm. We don't have a space for that. And I don't know that many of them would, but there's just not even a space for that here.*

Isabel, advocate/advisor

# DAY 2

# What is Justice & RJ Facilitation for Justice


# What is Justice?

A portrait of Fania Davis, a woman with curly grey hair, wearing a white top with purple patterns and large colorful earrings. She is looking upwards and to the right with her hand near her chin. The background shows a brick fireplace and a bookshelf.

**Fania Davis**

Co-founder, Director

Restorative Justice for Oakland Youth (RJOY)

A close-up shot of a woman with voluminous, curly dark hair. She has a bright, happy expression, with wide eyes and a slight smile. She is wearing a red and white patterned top. The background is a kitchen with white cabinets and a countertop. On the counter, there is a red funnel and some other items. The lighting is soft and indoor.

oh yes he can actually





# Restorative Facilitator Role

- Multi-partiality

“All in for everyone.” - D. Fisher

- Hold space & trust the process
- Put the people and the harm in the center
- It is not about you – you are providing a process for the people most connected to an issue to address it
- Goal: to clarify harms & needs and explore methods & strategies to meet needs, repair harms

# Guiding Questions

## Traditional Discipline

- What rules were broken?
- Who did it?
- What do they deserve?

*Offender-focused/  
punitive*

## Developmental Discipline

- What was the lapse in judgment?
- How did they get in this mess?
- How can they make better future decisions?

*Offender-focused/  
Supportive*

## Restorative Justice

- What harm has been caused?
- What can be done to make things right?
- What can be done to rebuild trust?

*Balanced focus/  
Supportive*

# Restorative Questions

## **For person who has been harmed:**

- What happened?
- What impact has this incident had on you?
- What has been the hardest thing about this?
- Is there anything that could help meet your needs?
- What could the other person do to repair the harm?

## **For person who has caused harm:**

- What happened?
- At the time, what were you thinking about?
- What have you thought about since?
- Who has been affected by this incident and in what way?
- What can be done to address the harm and rebuild the trust?

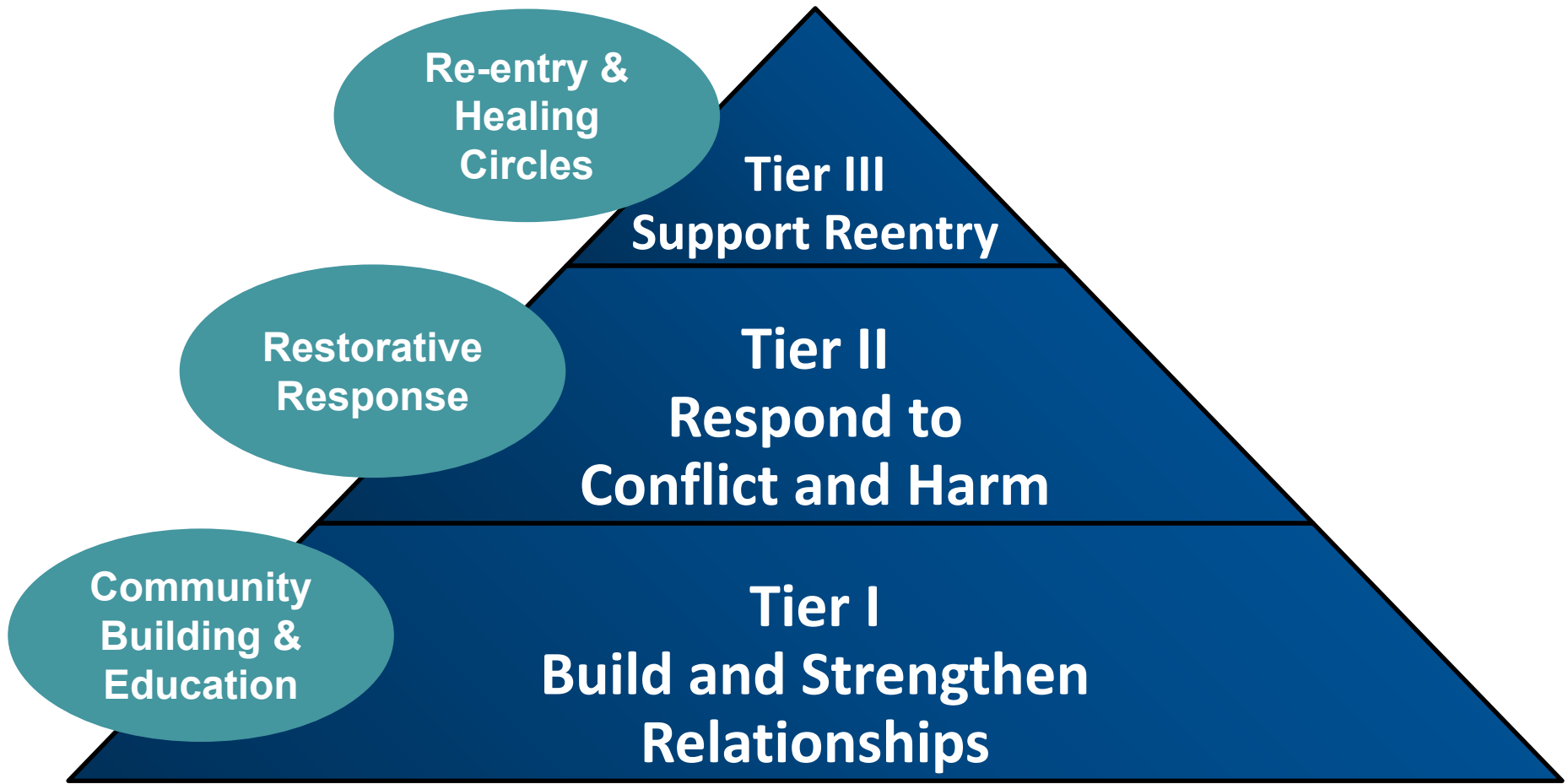
# Quotes from Participants

The cosmos is within us.  
We are made of  
star-stuff. We are a way  
for the universe to know  
itself. - Carl Sagan.

If you have come here  
to help me, you are  
wasting your time. But  
if you have come  
because your liberation  
is bound up with mine,  
then let us work  
together. - Lilla Watson

# DAY 3

# Campus PRISM: Whole Campus Restorative Approach



# The Why of Circles



- To build community and strengthen relationships
- To create a safe container for difficult dialogue
- To address harms and concerns in community
- To collaborate on next steps for response

Circles intentionally create a sacred space that lifts barriers between people, opening fresh possibilities for connection, collaboration, and mutual understanding. The process works because it brings people together in a way that allows them to see one another as human beings and to talk about what matters.

Kay Pranis

*The Little Book of Circle Processes: A New Approach  
to Peacemaking*



# Balance in the Process

Excerpted from:  
*Peacemaking Circles:  
From Conflict to  
Community* by Kay Pranis,  
Barry Stuart, and Mark  
Wedge. © Living Justice  
Press.

Images available:  
[http://www.livingjusticepress.org/index.asp?Type=B\\_BASIC&SEC={B158346E-2E21-48C6-94DC-A71301BE3D0F}](http://www.livingjusticepress.org/index.asp?Type=B_BASIC&SEC={B158346E-2E21-48C6-94DC-A71301BE3D0F})

## Balancing Relationship-Building and Problem-Solving

**Developing**  
a plan  
of action

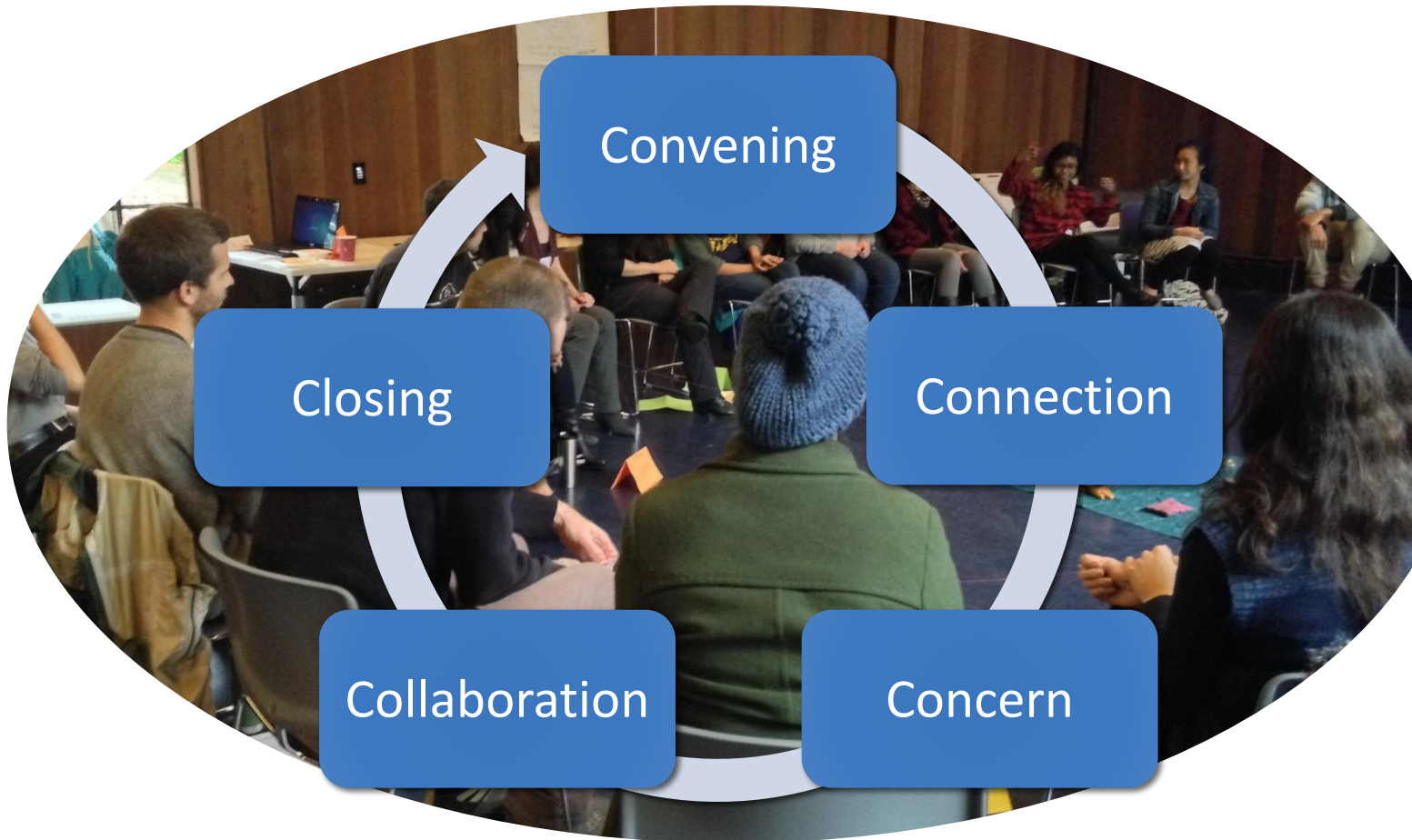
**Getting**  
acquainted

**Addressing**  
issues and  
visions

**Building**  
understanding  
and trust

Restorative practices, including Circles, are derived from and build on Indigenous teachings and other wisdom traditions. Excerpted from *Peacemaking Circles: From Conflict to Community*, by Kay Pranis, Barry Stuart, and Mark Wedge. © Living Justice Press. Permissions: ljpress@aol.com Photo: Rock cairns, Lake Constance, Germany; in public domain. For educational and training purposes only.

# The 5 C's of Circles





# Seven Core Assumptions

Excerpted from *Heart of Hope* and *Circle Forward*, by Carolyn Boyes-Watson and Kay Pranis.

Image available:  
[http://www.livingjusticepress.org/index.asp?Type=B\\_BASIC&SEC={B158346E-2E21-48C6-94DC-A71301BE3D0F}](http://www.livingjusticepress.org/index.asp?Type=B_BASIC&SEC={B158346E-2E21-48C6-94DC-A71301BE3D0F})

## Seven Core Assumptions *What We Believe to Be True*

1 The **true self**  
in everyone is  
**good, wise, and**  
**powerful.**

6 Human beings  
are  
**holistic.**

2 The **world is**  
**profoundly**  
**interconnected.**

7 We need **practices**  
to build **habits**  
**of living** from the  
**core self.**

5 **Everything we need**  
to make positive change  
**is already here.**

3 All **human beings**  
have a **deep desire**  
to be in a  
**good relationship.**

4 All **human beings** have **gifts,**  
and **everyone is needed**  
for what they bring.

The assumptions are derived from and build on Indigenous teachings and other wisdom traditions. Excerpted from *Heart of Hope* and *Circle Forward*, by Carolyn Boyes-Watson and Kay Pranis. © Living Justice Press. Permissions: ljpress@aol.com Photo by Loretta Draths: Lake Superior, Minnesota. For educational and training purposes only.

# Climate Circle



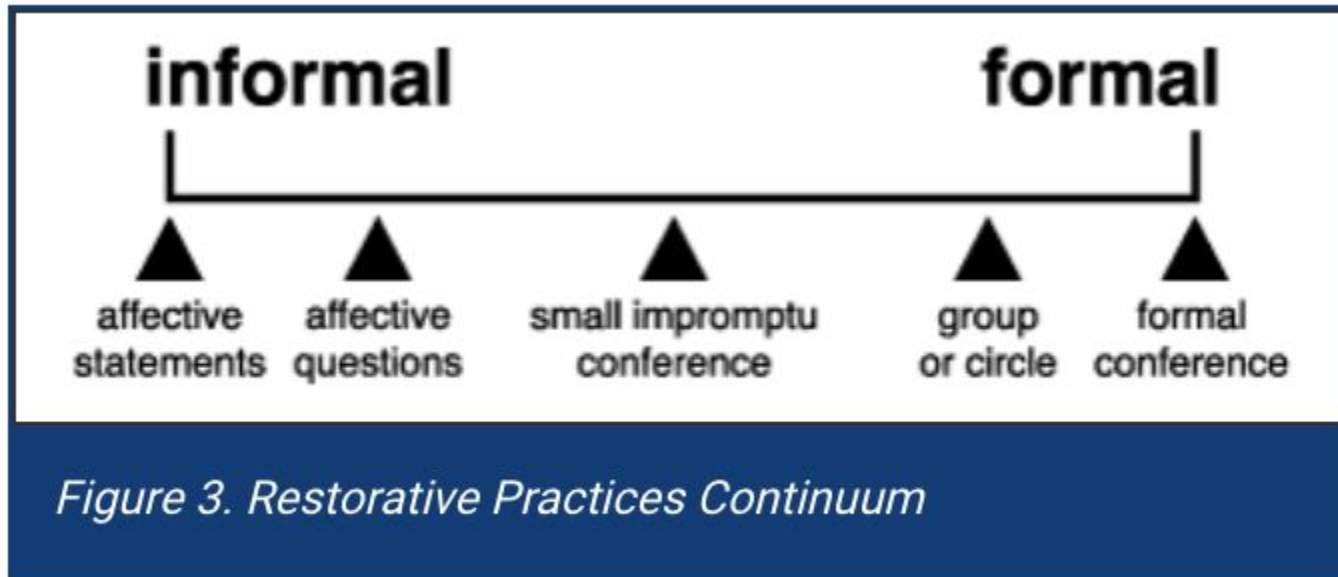
# Essential Elements for Constructing a Circle (K.Pranis)

- Seating
- Opening
- Centerpiece
- Talking Piece
- Guidelines/Values
- Guiding Questions
- Closing
- Facilitator role
- Focus on Dialogue



# Day 4

# Restorative Practices Continuum



<https://www.iirp.edu/defining-restorative/restorative-practices-continuum>



# CIRCLES

- Facilitator(s)
- Sit in a circle, usually no table
- Talking piece & centerpiece
- Questions guide process; participants speak in circle
- Can be used for community building or group learning, problem-solving response to harm, or re-entry
- Can be used when participants are both harmed and responsible parties
- Preparation can vary depending on the situation

# CONFERENCES

- Facilitator(s)
- Sit in a circle, occasional use of a table
- Script guides the process
- Questions asked per person (per role)
- Used as a response to harm, with clear harmed party/responsible party roles
- Significant preparation for all parties
- Responsible party acknowledges causing harm

# Fundamental RJ Conference Process



# RJ Conference – The Basics

## Key Elements:

- Voluntary
- Diversion or supplement to formal process
- Trained co-facilitators
- Preparation and assessment
- Includes harmed parties, responsible parties, & support people
- Post-conference support and supervision



Preconference

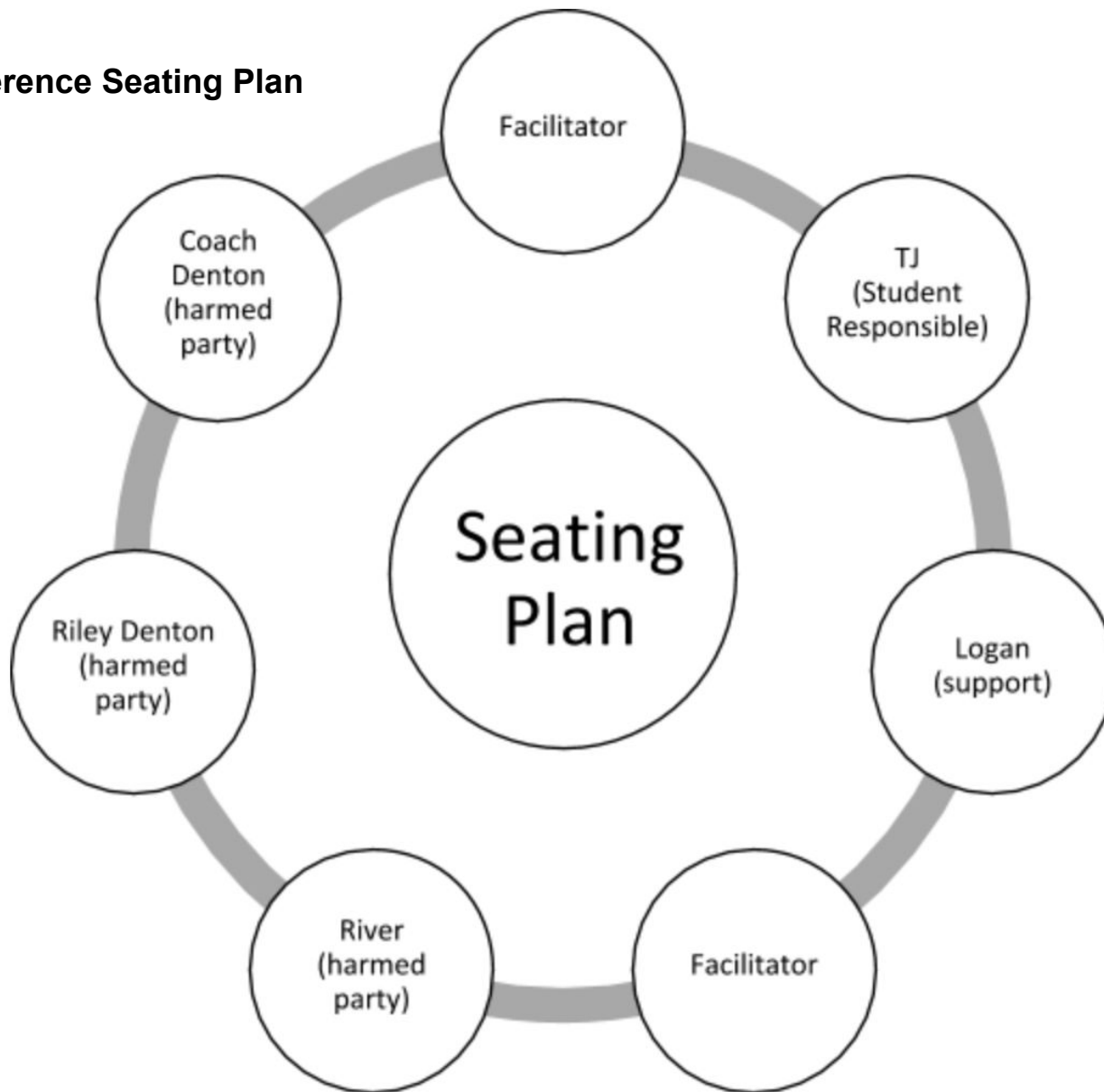


Conference



Agreement  
Mentoring

## Example: Conference Seating Plan



# Voluntary and Confidential

People worry that RJ will be required or coerced.

Voluntary participation is a core to RJ.

People worry that RJ will be used to gather evidence for conduct hearing or criminal prosecution.

The process needs to be safeguarded and confidential/private.

# RESTORE

# RESTORE

## “The RESTORE Program of Restorative Justice for Sex Crimes”

- Mary Koss 2014 *Journal of Interpersonal Violence*
- 2003-2007
- 22 cases, 109 participants
- 50% of cases, participants were acquaintances
- 46% of cases, responsible party was drinking before offense

## Demographics

- Survivor/Victims
  - 73% female
  - 36% aged 18-25
  - 88% white
- Responsible Party
  - 100% male
  - 50% aged 18-25
  - 77% white
  - 14% college students
  - No one with prior history of sex offenses, IPV, or other violence

# RESTORE: Adapting RJ

## *Adaptations of conferencing model for sex offenses:*

- Psychosexual forensic evaluation to assess responsible party readiness to participate
- Trauma-informed preconference process for survivor/victims
- Safety protocols for conference
- *Redress Plan* (e.g., apology, restitution, service, treatment, safety planning)
- Post conference supervision of responsible party (12 months)
- *Community Accountability and Reintegration Board* (survivor/victim may attend and/or kept updated)
- *Final Reflection and Clarification Letter* by responsible party



# RESTORE: Motivations to Participate

## Survivor/Victims

- *Participation Rate*
  - 63% felonies
  - 70% misdemeanors
- Making offender accountable
- Understand what happened
- Say how I was affected
- Hear an apology
- Prevent reoffending
- Put this behind me
- Take back my power

## Person Responsible

- *Participation Rate (after survivor/ victim consent; must have accepted responsibility)*
  - 90% felonies
  - 100% misdemeanors
- Taking responsibility to make things right
- Explain my side
- Apologize
- Participate in an alternative to court

# RESTORE: Conference Experience

| Agree/Strongly Agree         | Survivor/<br>Victims | Person<br>Responsible |
|------------------------------|----------------------|-----------------------|
| Felt safe                    | 100%                 | 95%                   |
| Felt listened to             | 100%                 | 100%                  |
| Felt like I was (NOT) blamed | 100%                 | 79%                   |
| Was treated with respect     | 100%                 | 100%                  |
| Satisfied with redress plan  | 100%                 | 100%                  |
| The conference was a success | 100%                 | 100%                  |
| Felt justice was done        | 83%                  | 94%                   |
| Would recommend RESTORE      | 100%                 | 100%                  |

# RESTORE: Post Conference Outcomes



## Redress Plan Completion

- 66% felony cases
- 91% misdemeanor cases



## Comparison Group

- 75% closed without any consequences
- (13% of reported rape cases lead to court convictions in the U.S.)

“

- *Mary Koss argues that after an assault survivor/victims have survival needs and justice needs. Justice needs “involve an innate motivation to right wrongs” (Koss, 2010, p. 221)*

# Survivor Needs & Justice

According to SVs [survivor/victims], satisfying their justice needs rests on the extent to which they:

- (1) contribute input into key decisions and remain informed about their case,
- (2) receive response with minimal delay,
- (3) tell their story without interruption by adversarial and sometimes hostile questioning,
- (4) receive validation,
- (5) shape a resolution that meets their material and emotional needs,
- (6) feel safe.

*Koss, 2010, p. 221*

# Harms → Needs → Actions

## Identify Harms

- What happened?
- What impact did this have on you?
- What was the hardest thing?

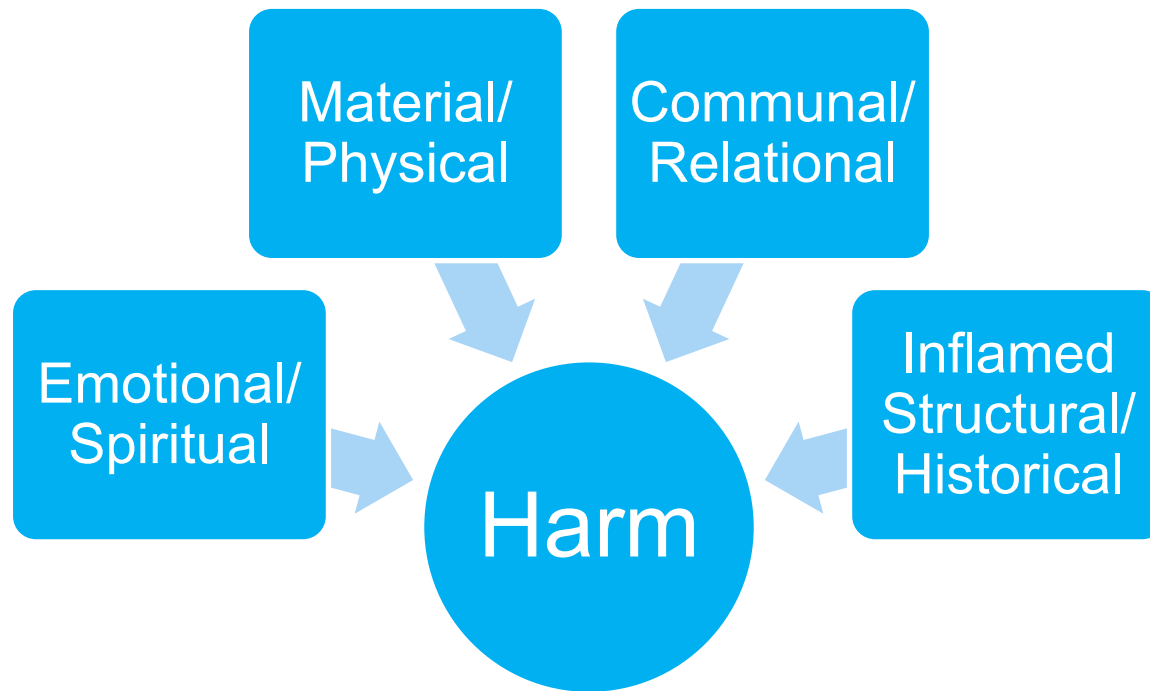
## Clarify Needs

- Because of this harm, do you have a need for...?

## Action Steps

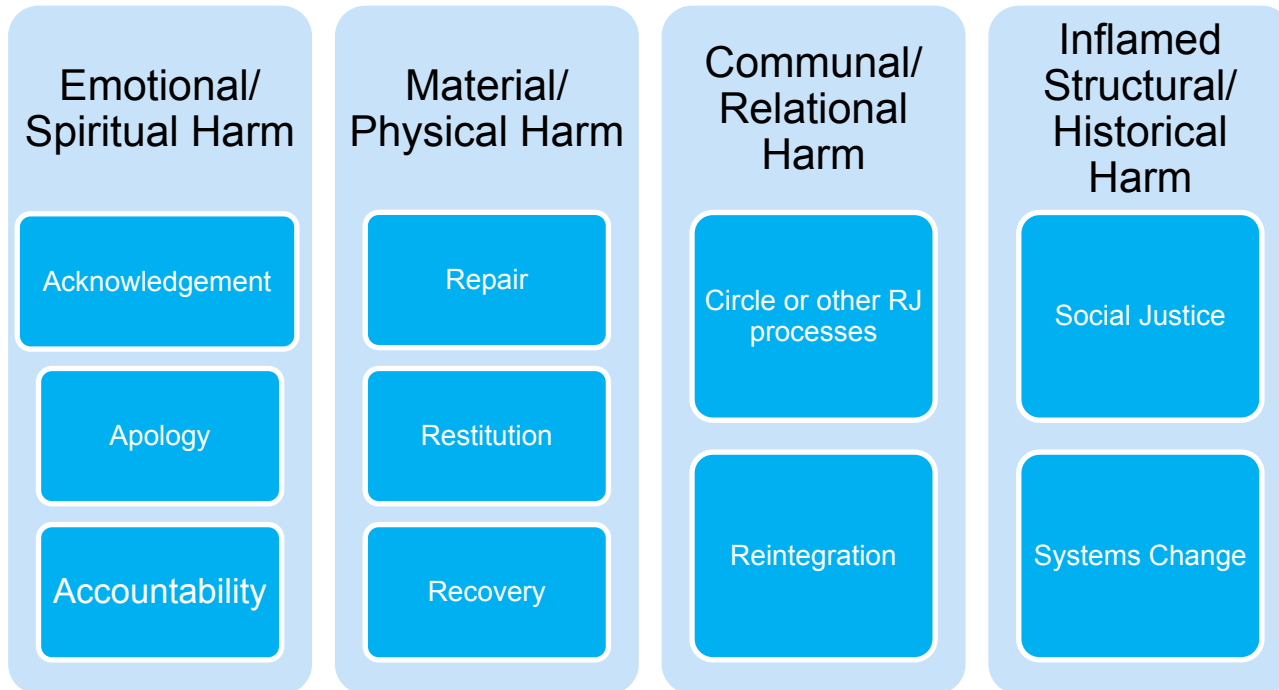
- What can be done to meet this need?
- What else?

# Types of Harm



# Repairing Harm

What can be done to repair the harm?





# Paula's Story: Identifying Harms and Needs



# Beyond Face-to-Face: Still Meeting Needs

Video  
Conference

Video  
Exchange

Writing  
Exchange

Victim  
Impact  
Statement

Surrogate  
Participation

Victim  
Support  
Circles

# Regulations & Policy

# OCR Regulations – “Informal Resolution”

The Final Rule allows a school, in its discretion, to choose to offer and facilitate informal resolution options, such as mediation or restorative justice, so long as both parties give voluntary, informed, written consent to attempt informal resolution. Any person who facilitates an informal resolution must be well trained. The Final Rule adds: A school may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to a formal investigation and adjudication of formal complaints of sexual harassment. Similarly, a school may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed. At any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint. Schools must not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

<https://www2.ed.gov/about/offices/list/ocr/docs/titleix-summary.pdf>

# OCR Regulations – Quick Summary

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- Voluntary
- Requires formal complaint
- Both parties give “written consent”
- May not require participation in informal resolution
- May not offer informal resolution unless a formal complaint is filed
- “Any person who facilitates must be well trained”
- Any time prior to agreeing to a resolution, must be able to withdraw from informal and resume formal process
- Cannot offer informal resolutions in cases with employee respondents and student complainants.

## Restorative Resolution

- Focus on harms and needs
- Storytelling and listening
- Finding collaborative solutions
- Improving learning climate

## Investigative Resolution

- Focus on fact-finding and sanctions
- Determination of responsibility
- Credibility
- Separating students

# Harms, needs, and justice

“Harms create needs. Justice is meeting needs. True justice is healing.” (Oudshoorn, 2015)

## Needs include:

- Safety and care
- Support and education
- Information and options
- Grieving and expression
- Voice and empowerment
- To be believed, absolved, and vindicated



# Day 5



A woman with glasses and a blue shirt is speaking, with her hands raised in a gesture. The text "WHAT IS ACCOUNTABILITY?" is overlaid in large white letters.

**WHAT IS  
ACCOUNTABILITY?**



**WHAT ARE  
OBSTACLES TO  
ACCOUNTABILITY?**

# The Compass of Shame

Adapted from D.L. Nathanson, Shame and Pride, 1992

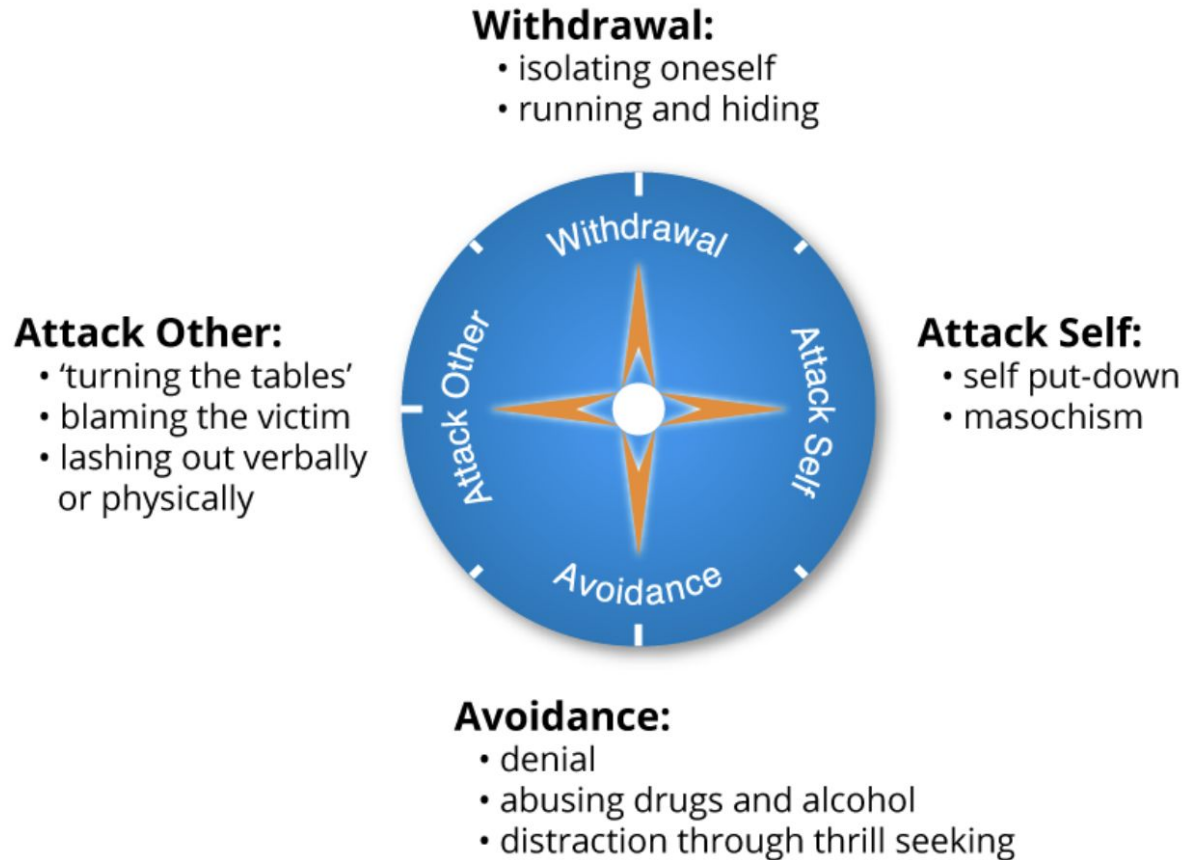


Figure 5. The Compass of Shame (adapted from Nathanson, 1992)

<https://www.iirp.edu/defining-restorative/compass-of-shame>

# A Restorative Case Management Approach

# Restorative Flow

1. First Meeting (Taking Report)

2. RJ Intake and Assessment

3. Preconference/Prep Meetings

4. Restorative Intervention

5. Follow-Up

# 1. First Meeting with Complainant

- Take Report
- Explain options if complainant wishes to file a Formal Complaint
- Restorative options:
  - Initiated by the complainant
  - Approved by the TIX or designee (explain limitations if there are any)

# First Mtg

1. Role Play – How would you explain the options?

2. Debrief



# Restorative Flow

1. First Meeting (Taking Report)

2. RJ Intake and Assessment

3. Preconference/Prep Meetings

4. Restorative Intervention

5. Follow-Up



## 2. Intake and Assessment

When a case gets to an RJ facilitator, they need to do their own intake and assessment This is a **voluntary** process for all -- including the facilitator.

- If the facilitator feels that the process is not being entered into voluntarily by the parties (ex. coerced) they should pause and check in.
- If the facilitator feels that parties are not entering in good faith, they should pause and check in.
- If the facilitator feels that the process is likely to cause additional harm, they should pause and check in.
- Facilitators can stop the process.
  - These assessment instincts are honed and developed over time;
  - Handouts/checklists here to help you.

# RJ Intake & Assessment Case Study