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"An Aura of Disbelief:" Rape Mythology and Victim Blaming in the Legal Response to Disclosure of Sexual Violence

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LEGAL RESPONSE TO DISCLOSURES OF SEXUAL VIOLENCE

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ABSTRACT

This research study focuses on sexual violence (SV) in Canada, which one in three women will experience during their lives. Yet, even though the prevalence of violence against women in Canada is so significant, only one in ten survivors will report their experience of SV to the criminal justice system (CJS). Previous literature has identified the limited number of reports to authorities in Canada as being related to rape mythology. Due to the influence of rape mythology, a notion of a "good versus bad victim" is often used to deem which survivors are innocent and credible versus responsible or blamed for their victimization. Canadian legal and feminist scholars, such as Melanie Randall (2010), Elizabeth Sheehy and Holly Johnson (2012), have maintained that survivors do not trust the CJS's response because the CJS dismisses a majority of SV complainants as "unfounded," meaning the responding officer believed the crime had not occurred. Using an intersectional feminist theoretical framework, this study investigates if rape myth acceptance and victim blaming play a role in the Canadian CJS's response to disclosures of SV. Through semi-structured qualitative interviews with five SV professionals, participants discussed their interactions with the CJS and how they perceive the legal responses' impact on survivors of SV. Participant's stressed that CJS was not built to support survivors of SV nor the individuals' most likely to experience violence, which was reflected through participants' discussions around using the term, legal system or "prison industrial complex," rather then CJS. The research findings highlight that the Canadian legal system has not provided justice or support for survivors of SV, but rather survivors' credibility as a complainant has been measured against rape mythology and the construction of the "good or ideal victim." This research study further argues that survivors who engage with the legal system are met with victim blame and self-blame, which has been represented through the prevalence of "unfounded" cases in SV crimes. The Canadian legal system needs to be changed and re-structured in order to provide support for survivors and to uphold a feminist and survivor-centered framework. But until that change occurs, the system will continue to cause harm and oppression against those most vulnerable to violence.

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"It was not difficult for me to get organized around my rape and to understand the broader systemic issues as they presented themselves. It's what saved my life."

Jane Doe (2003)

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INTRODUCTION

The prevalence of sexual and gendered violence in Western society is not a recent occurrence. Susan Brown Miller (1975) stated, "from prehistoric time to the present, I believe, rape has played a critical function…[as] a conscious process of intimidation by which *all* men keep *all* women in a state of fear" (p.15, emphasis in original). Though Brown Miller (1975), along with other feminist theorists, developed an understanding of sexual violence (SV) as an act of patriarchal power in the 1970s, there still remains a lack of understanding of SV as systemic. This has been demonstrated in the Canadian criminal justice system (CJS) response to SV, which individualizes the problem of SV and often fails to understand SV as the result of rape culture (Randall, 2010). Emilie Buchwald, Pamela Fletcher and Martha Roth (1993) define rape culture within a continuum of violence that "condones physical and emotional terrorism against women *as the norm*" (p.1, emphasis in original). Rape culture is prevalent in Canadian society as evidenced by the fact that survivors are rarely believed when reporting to authorities. For example, in Canada police dismiss one in every five cases of SV crimes as "unfounded," which refers to a "formal police classification that [renders] allegations [of sexual assault as] baseless…[and that] a crime was neither attempted, nor occurred" (Doolittle, Pereira, Blenkinsop, & Agius, 2017).

The majority of SV crimes are aimed at women, who represent over ninety percent of police-reported sexual assault complainants (Canadian Women's Foundation, 2016). Though one in three women will experience violence in their lives, only one in ten survivors will report their experience of SV to the authorities in Canada (Conroy and Scassa, 2016). Furthermore, the number of SV survivors reflected in police reports does not provide an accurate representation of survivors because of the low reporting rates, suggesting that actual rates of SV are likely much

higher than reported rates. Rates of SV are four times higher for women who are marginalized in society including Indigenous women, immigrant women, LBGTQ+ women and as well as women with intellectual or developmental disabilities, in comparison to cis-gender women (Canadian Women's Foundation, 2016). Though women are still at a high risk of being sexually victimized, the risk of violence for transgender women or non-binary individuals is five times higher compared to cis-gender women (Alcid, 2014). While the prevalence of violence against women in Canada is high, this does not, unfortunately, translate into an increased reporting rate, which has remained at approximately five percent over the past few years (Canadian Women's Foundation, 2016). The low number of SV reports and the high rates of unfounded cases are *unlikely* to be a coincidence; survivors often do not disclose because of the fear of not being believed by the authorities (Doolittle, et.al, 2017).

Rape myths are commonly-held beliefs which "consistently follow a pattern whereby, they *blame the victim for their rape, express a disbelief in claims of rape, exonerate the perpetrator, and allude that only certain types of women are raped"* (emphasis in original, Harding, 2015, p.22). Rape myth acceptance allows individuals to engage in victim blaming, which holds a survivor responsible for a sexual victimization. The impact of victim blaming and rape myths on a survivor of SV can be extremely damaging, especially when a survivor is disclosing their experience to someone in an authoritative position (Hayes, Lorenz, & Bell, 2013). If it is the case that a CJS response is guided by assumptions related to victim blaming and rape myths than justice for survivors may not been achieved. The response from CJS representatives to survivors has the "potential to re-victimize someone who has been sexually assaulted [especially] when [victim blaming and rape myths are] endorsed by professionals such as lawyers, doctors or law enforcement officials" (Hayes et.al, 2013, p.207). A negative response

can significantly impact survivor's perception of their victimization and if handled poorly, could result in self-blame (Hayes et. al, 2013, p.208). Advocates and professionals of SV, those who support survivors' engaging with the CJS, can provide an outlook on whether the CJS's response to survivors has been supportive or harmful. This research will analyze how SV professionals interpret their experiences with CJS professionals through an intersectional feminist framework. Specifically, this research will focus on the role of rape myth acceptance and victim blaming through the CJS response, and how SV professionals understand the potential impact on survivors of SV.

LITERATURE REVIEW

Sexual Assault Law

The Canadian Criminal Code defines sexual assault crimes as "the crimes of rape and indecent assault [and divided] into a three-tiered structure of sexual assault focused on the level of violence used" (Randall, 2010, p.401). Section 265 of the Criminal Code (1985) uses sexual assault, sexual assault with a weapon, aggravated sexual assault, as well as the application of consent, to outline sexual assault offences and perpetrator punishment. The Criminal Code (1985) defines sexual assault as applying force without consent or "attempts or threatens, by an act or gesture, to apply force to another person…or causes that other person to believe on reasonable grounds that he has, present ability to effect his purpose" (S.C 265.1 (A)(B). Aggravated sexual assault refers to "committing a sexual assault, [that] wounds, maims, disfigures or endangers the life of the complainant" (Criminal Code, 1985, S.C 273.1). The definition of consent is also included in regards to sexual assault crimes in the Criminal Code, which outlines offences when consent is not obtained (S.C 273.1). For example, within section 273, the argument of "the accused believed that the complaint consented to the activity" cannot

be used as a defence for the perpetrator, especially if there was alcohol or drug use (Criminal Code, 1985, S.C 273.2).

The Rape Shield provisions in the Criminal Code were created to protect complainants from commonly-used arguments by the defense, such as focusing on the complainants' choices and behaviour rather than the perpetrators' violence. The provisions work to ensure "evidence of a complainant's past sexual history is not admissible to support the 'twin myths,' often found in sexual assault discourse" (Randall, 2010, p. 402). The 'twin myths' refer to use of a complainant's sexual histories or drug and alcohol use to undermine their credibility, casting them into the "bad victim" category (Randall, 2010). Though the Criminal Code maintains a detailed explanation of sexual assault law, there has been a vast difference between law in legislation, and law in practice. Some key Canadian feminist and legal scholars, such as Melanie Randall (2010), Sherene Razack (2002), Elizabeth Sheehy (2012), Teresa DuBois (2012) and Holly Johnson (2012), and investigative journalist, Robyn Doolittle (2017), have helped guide the critique of the Canadian CJS response to survivors of SV. The work of these authors will be discussed in more detail below.

Rape Culture

Brownmiller (1975), and Buchwald, Fletcher and Roth (1993) provided a feminist understanding of how patriarchal power and control has been exercised through violence against women. Through the work of feminist academics, such as Brownmiller (1975), as well as online feminist communities, the concept of rape culture has been used to explain the various aspects where male dominance and control through violence has been maintained. Not only does rape culture persist through the increasing rates of violence against women, but rape culture also denies a woman's right to "bodily autonomy and self determination, [and] the role of women in society, and the construction of the family" (Filipovic, 2008, p.14). Therefore, the role of rape

culture has expanded to all aspects of women's livelihoods, for example: street harassment (cat calling or sexist comments,) and the traditional role of a wife (the expectations of domestic duties or sexual intercourse.) Andrea Dworkin[1], as cited in Buchwald, Fletcher and Roth's (1993) work, associates the existence and consistency of rape culture to:

> the kind of power that men have over women. That power is real, concrete, exercised
> from one body to another body, exercised by someone *who feels he has right to exercise
> it*, exercised in public and exercised in the private. It is the sum and substance of
> women's oppression (emphasis added, p.14).

The power exercised through rape culture has normalized violence against women in society, not only through media representation of women but how women are treated on a daily basis. Not only do women experience rape culture in both, the public and private sphere, but Dworkin (1993) also argues that rape culture "is power that is institutionalized…[and] protected by law" (p.14). As represented through the low reporting rates of SV in Canada (approximately six to five percent of all instances are reported), rape culture also persists in systemic responses to violence against women (Johnson, 2006, p.14). Harding (2015) argues that women's experiences of violence are minimized because of rape culture, where "rape culture encourages us to scrutinize victims' stories for any evidence that they brought violence upon themselves" (p.4). While academic scholars have provided theoretical definitions of rape culture, the rise of social media and online feminist communities have promoted larger anti-violence and anti-rape culture frameworks to understand this phenomena, especially on college and university campuses.

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[1] Though Dworkin (1993) has provided an understanding of patriarchal power in regards to rape culture, she remains a controversial figure in feminism because of her stance towards sex work and pornography, which does not align with intersectional feminism.

Feminism has gained new momentum through social media and post-secondary platforms, specifically demonstrated in responses to rape culture and everyday sexism. In early 2013, the highly popularized story of two Steubenville, Ohio high school students sexual assault was exposed as proof of rape culture. The two high school football players, Trent Mays and Ma'lik Richmond, photographed, videotaped and shared via social media their sexual assault of a sixteen-year-old Jane Doe and were only sentenced to one and two years in juvenile detention centers (Rentschler, 2014, p.66). The online feminist communities response to the Steubenville case casted a larger light on rape culture and exposed "a snapshot of youth culture" revealing "a network of teens sharing provocative, explicit, sexual and misogynistic thoughts' that legitimate rape [and rape culture]" (Rentschler, 2014, p. 67). But the case also helped grow an online resistance to rape culture, sexism and misogyny, which Rentschler (2014) defined as a "'feminist response-ability' to rape culture via social media that blends testimonial, advice giving, and cultures of support" (p. 68).

Social media sites have provided platforms for users to create networks of feminist communities, such as Twitter hash tag campaigns, Facebook groups or Tumblr pages. One example of resistance to rape culture via social media Rentschler (2014) provided was the Tumblr page, *STFUrapeculture (shut the fuck up rape culture)*, which shares "young women's testimonials of sexual assault, invasive behaviors by men, and difficult conversations they have had with rape-supportive friends" (p.69). The site operator offers trigger warnings and responses to each post, in hopes to provide support and advice on how to respond to daily sexism, misogyny and rape culture. Another example of online resistance to rape culture described by Rentschler (2014) were Twitter hashtag campaigns, such as #safetytipsforwomen. Rentschler (2014) described how users demonstrated sarcasm and humor to respond to rape culture, for

example one user posted "[#safetytipsforwomen and] suggested women leave their vaginas at home when going out" (p.70). Various online social media users respond through humor to emphasize the consistency of rape culture and to "challenge the ways other [people] continue to place primary responsibility for sexual assault and harassment on girls and women" (Rentschler, 2014, p. 70).

Feminist and anti-violence groups have re-energized in public discourses on the topic of rape culture in general, but especially on post-secondary campuses where students use their "collective experiences to name sexism and its causes, and taking action to reform their campuses through social norm transformation, policy development and strategic resistance" (Lewis, Marine & Kenney, 2016, p.1). Resistance to campus rape culture grew through post-secondary institutions' failures in protecting survivors of SV. SV on post-secondary campuses has continued to persist where one in four women will experience SV, which in 2014 "a Presidential commission initiated by Barack Obama declared campus rape a national emergency" (Lewis, Marine & Kenney, 2016, p.2). Lewis, Marine and Kenney (2016) used the term, "institutional betrayal," to describe the systemic role of rape culture. "Institutional betrayal" occurs when survivors of sexual assault "experience a breach of trust in the institution when their victimization is made difficult to report and/or is inadequately responded to" (Lewis, Marine & Kenney, 2016, p.2). Similar to North American post-secondary campuses, rape culture has fueled the UK campuses presence and rise of "lad culture." As Lewis, Marine and Kenney (2016) discussed rape culture on post-secondary campuses has created an understanding of lad culture on UK campuses, which refers to misogynic or sexist attitudes and actions maintained through patriarchal power and rape culture (p.3). "Lad culture" has been connected to the prevalence of fraternities and male sports team on post-secondary campuses. Though Lewis, Marine and

Kenney (2016) discuss the growth of campus rape culture and lad culture, it has also allowed feminist "students [to] fight back against sexual victimization, against the oppressive ubiquity of male-dominated social systems, of the dismantling of women's centers and women's studies, and the unquestioned primacy of male sport" (p.4).

University and college campuses have allowed spaces for student collectives to challenge administration, faculty and student populations to recognize the harms of rape culture. Students have engaged in, what Rentschler (2014) describes as "feminist response-ability", in concrete ways to respond to campus rape culture, such as challenging sexist and misogynic views upheld by classmates, professors, friends and/or family members and joining feminist or anti-violence student groups. Lewis, Marine and Kenney's (2016) discussion of students' resistance in their personal lives, but also through challenging institution administration, exemplifies what Rentscheler (2014) defined as "feminist response-ability." For example, the documentary, *The Hunting Ground* (2015), released by Kirby Dick and produced by Amy Ziering, provided a snapshot of campus rape culture. Over twenty students and survivors of SV in the USA are interviewed on their experiences of "institutional betrayal" through their attempt to report a sexual assault to university or college administration (*The Hunting Ground* Film, 2015). The documentary follows two students, Andrea Pino and Annie Clark, who demonstrated what Rentschler (2014) defined as "feminist responsibility," through filing a Title IX complaint against their institutions for its response to complainants of SV. A Title IX complaint refers to sex-based discrimination by an institution, which Pino and Clark used to file a complaint against University of North Carolina on the handling and response to their sexual assault reports (*The Hunting Ground* Film, 2015). Pino and Clark were the first students to file a Title IX complaint against a major university and to receive a positive result; it initiated a federal investigation into

campus rape culture (Perez-Pena, 2013). Both, Pino and Clark, exemplified Rentschler's (2014) understanding of "feminist response-ability" because they actively worked against rape culture on their campuses and promoted a community of care for survivors of sexual assault on post-secondary campuses.

Feminist resistance to rape culture on university and college campuses has expanded feminist communities, in both physical and online spaces. Though Rentschler's (2014) term, "feminist response-ability" and resistance on campuses has generated more awareness about rape culture, there still remains a concentration on cis-gender and heterosexual women's experiences of rape culture and sexism. The examples Rentschler (2014) and Lewis, Kenney and Marine (2016) discuss focus on cis-gender and heterosexual aspects of rape culture, such as male violence and harassment against women. Sara Alcid (2014) of *Everyday Feminism,* highlights how rape culture should not only be seen through a violence against women lens, but also connects "with all systems of oppression; rape culture is a beast with tentacles and spores across countless other facets of inequality and systems of oppression." Whereas Alcid (2014) highlights these intersections, campus responses to rape culture sometimes fail to recognize the connections to homophobia/transphobia, heterosexism, racism, colonialism, ableism and other oppressions based on violence against bodies deemed as "the other." For example, online feminist communities, such as *stfurapeculture*, do not necessarily create space for LGTBQ+ individuals because there remains a focus on traditional gender norms, such as women receiving catcalls or sexist comments by cis-gender men. Additionally, platforms similar to *stfurapeculture* often do not provide awareness of the disproportionate effects of rape culture on differently identified individuals, including that transgender women who are twenty times more likely to experience sexual assault compared to cis-gender women (Alcid, 2014).

Rape culture has become an umbrella term to discuss violence against women, from daily experiences of sexism and sexual harassment to the systemic responses to survivors of SV that reinforce rape culture. Rape culture allows rape myths and victim blaming to persist systemically and socially. Thus, the concept of rape culture provides a deeper understanding of how attitudes based on rape mythology and victim blame continue to be upheld in responses to survivors of SV, although a limitation of the current understanding of rape culture is that it does not take into account the intersections and experiences of those most vulnerable of being victimized. Figure 1 provides a visual representation of the literature review, which explains how rape culture has persisted through the systemic response and has influenced rape mythology and victim blaming. The remainder of the literature review will focus on providing further explanations of this figure.
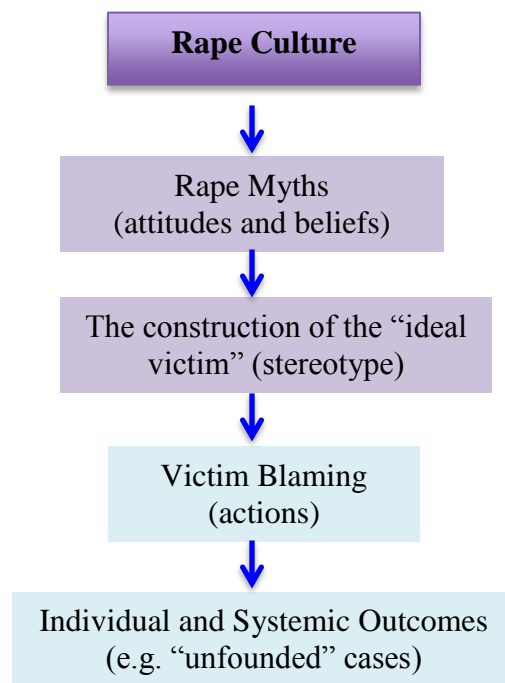

Figure 1. The Results of Rape Culture

Rape Myth Acceptance

Martha Burt (1980) was one of the first theorists to provide a definition and feminist analysis of rape myths, which she defined as "prejudicial, stereotyped, or false beliefs about rape, rape victims [and] rapists-in creating a climate hostile to rape victims" (p.217). Burt's (1980) contribution created a path for further research into the role of rape myths, especially the impact those beliefs have on survivors of SV. Burt's (1980) own research concentrated on the likelihood of men versus women in upholding rape myth acceptance, as well as connecting an individual's acceptance of rape myths to their personal stereotypical attitudes and assumptions. Burt (1980) found men were more likely to adhere to rape myth acceptance and other stereotypes around SV, in comparison to women. Though Burt's (1980) understanding of rape myth acceptance is limited in regards to the impact on survivors and how oppressions based on social location are connected to those attitudes, she helped break ground for future research on rape myth acceptance.

Following in Burt's (1980) footsteps in providing a feminist analysis of rape myth acceptance, research by Lonsway and Fitzgerald (1994) delivered a deeper analysis of rape myth acceptance and its impact on SV crimes. Lonsway and Fitzgerald's (1994) research critiqued the different tools that scholars used to measure rape myth acceptance and how those tools can impact an individual's perception of SV and survivors. Through an analysis of previous studies on rape myth acceptance, Lonsway and Fitzgerald (1994) created a detailed definition of rape myths, as "attitudes and beliefs that are generally false but are widely and persistently held, and that serve to deny and justify male sexual aggression against women" (p.134). Lonsway and Fitzgerald's (1994) definition provides a more thorough explanation of rape myths as compared to Burt (1980), but both represent the "continuum of threatened violence" against women in their analyses of rape myth acceptance (Harding, 2015, p.2). The "continuum of threated violence"

refs to the various aspects in women's lives where the threat of male violence extends to and has a consistent presence, such as street harassment, sexist jokes, sexual coercion, sexual assault and femicide.

Rape myth acceptance is used to further justify beliefs based on rape culture and victim blaming. Some of the most common rape myths are based on the idea that only certain women get raped (Lonsway & Fitzgerald, 1994, p.134.) This rape myth works to undermine a survivor's experience by deeming only certain women as survivors of sexual victimization. Another common rape myth held is based on false accusations and has become commonly upheld in the CJS as represented through the "more than five thousand allegations of sexual assault closed as unfounded by Canadian law enforcement every year" (Doolittle, 2017). The rape myth of false accusations works to blame survivors for a sexual victimization, claiming their complaint as false or a lie (Lonsway & Fitzgerald, 1994, p.135). Not only do rape myths work to justify stereotypes based on the survivor, but they also work to justify victim blaming by shifting the blame to the survivor, rather than on systemic and structural issue embedded in the CJS or society more broadly. The purposes of rape myths are to undermine the notion that SV against women is highly prevalent social phenomena. Thus, similar to the purpose of rape culture and victim blaming, rape myths are used to justify male violence against women and deny the systemic impact of rape and SV.

Not only do rape myths surrounding certain types of women as survivors and false accusations deny the impacts of rape culture, but they are further used to blame the survivor for their *failure* to self-govern (Cormack & Peter, 2005). Survivors who meet the criteria of rape myth stereotypes are deemed as "reasonable, rational and responsible and demonstrates that she can make the right choices in her own self-governance" and, therefore, at fault for their sexual

assault because they should have been able to prevent it (Cormack &Peter, 2005, p.298). Other

rape myths focus on a survivor's reaction or choices in regards to the SV crime, such as if she

"fought back hard enough" or if she had been drinking alcohol or using drugs, as well as

judgments based on "the relationship of victim and offender, the violence of the assault, the

resistance of the victim, emotional response of the victim, and sexual history of the victim"

(Lonsway & Fitzgerald, 1994, p.136).

Holly Johnson (2012) also calls attention to the role of rape myths in the CJS response to

sexual assault complaints. Johnson (2012) quotes former Justice L'Heureux-Dube (2001), who

maintains that various stereotypes based on rape myths have persisted within the Supreme Courts

handling of sexual assault cases, which "[has] skewed the law's treatment of sexual assault

claimants" (Johnson, 2012, p. 624). L'Heureux-Dube (2001) analyzed the role of stereotypes and

rape myths in rulings of the Supreme Court, specifically in cases of SV. L'Heureux-Dube (2001)

argued rape myths and stereotypes in cases of SV work to "[maintain] the status quo because

they, [myths and stereotypes], are often so firmly entrenched in the collective cultural conscience

that even victims of the stereotypes are apt to believe in and to accept responsibility for their

victimization" (p.89). Both, L'Heureux-Dube (2001) and Johnson (2012) reported similar

findings of rape myths in the Canadian CJS, such as the perpetrator needing to be a stranger,

assumptions based on "no means yes", the likelihood of consenting based on prior sexual

relations or prior relationship with perpetrator, and the amount of resistance and violence of the

assault.

Construction of the "Ideal Victim"

Randall (2010) argues the CJS has maintained an "ideal victim" stereotype based on

assumptions of what a sexual assault should look like and how the victim should respond, act

and cooperate with the CJ process (p.408). Within assumptions based on the "ideal victim,"

Randall (2010) has claimed that the CJS response has created a category of a "bad or good victim" in SV crimes. A "good or ideal victim" refers to survivors who cooperate with the CJS and are deemed as "blameless and worthy of legal protection" (Randall, 2010, p.408). In comparison to "bad victims," survivors are deemed *bad* if they fail to meet the expectations of the "ideal victim." This categorization refers to survivors who deviate from traditional gender norms and stereotypes, such as "women engaged in prostitution [who] are perceived to be 'unrapeable' by virtue of their work" (Randall, 2010, p. 409). When survivors of SV do not meet the "ideal victim" stereotype, they are often blamed for their victimization "because of preconceived notions regarding what defines a 'real' sexual assault versus a regrettable sexual experience" (Hayes, Lorenz, & Bell, 2013, p.207). As represented in Figure 1, the influence of rape culture and rape mythology has created a stereotypical category of who can be deemed as "good or ideal victim" in cases of SV.

Randall (2010) notes that there are successful changes in sexual assault law, such as Bill C:127, that provided reform to "spousal immunity within sexual assault [law] in 1983" and the inclusion of rape shield provisions (p.401). However, similar to many feminist legal scholars, Randall (2010) argued that "these legal protections have proven, in far too many instances, to be wildly inadequate in practice" (p.405). Rather, the CJS response has continued to be based on stereotypes of the "ideal victim," which Randall (2010) stated has influenced police responses and the outcomes of sexual assault charges. Randall (2010) analyzed how the CJS uses the "victim" category as a "practice of objectifying women's experiences of male violence, [which] serves to deny the commonality among sexually/ and or physically assaulted women" (Randall, 2010, p.408). In other words, the CJS attempts to respond to each complaint of SV as an individual separate event, which fails to recognize how common and normalized SV has become.

SV can be the result of varying oppressions based on a survivor's social location and experience, and the CJS response needs to understand the connections amongst survivors of SV in order to recognize the problem of SV as systemic. Randall (2010) noted the disproportionate rates of violence against certain populations, where women in sex work, members of the LGBTQ+ community, women with disabilities, Indigenous women and minority women complaints of sexual assault credibility has been measured against assumptions based on rape mythology and the "ideal victim" construct.

SV cannot be understood without emphasizing an individual's postionality because this can significantly determine how CJS responds to a complaint. As Randall (2010) outlines through the "ideal victim" category, certain populations are disproportionality affected by SV and CJS negligence: "the state's criminal neglect against prostitutes, often [Indigenous] women struggling with addictions and living in poverty, has been well documented" (p.410). Thus, based on the "ideal victim" category, certain women are deemed the "bad victim" because of their social location. Sherene Razack (2002) discusses how the category of "good or bad victim" stereotypes affect women who are more likely to experience higher rates of SV. Though Razack (2002) does not make the explicit connection to "ideal victim" stereotypes, her analysis of the murder of Pamela George directly aligns with Randall's (2010) understanding of the "ideal victim" that has been upheld in the Canadian CJS response to SV crimes.

In April 1995, Pamela George, a mother of two, of Saulteaux (Ojibway) nation was brutally murdered in Regina, Saskatchewan, by two white men. George occasionally did sex work in downtown Regina, which Razack (2002) connects to how CJS deemed George as "undeserving of full personhood" (p.126). The trial of George's death was heavily influenced by colonialism, racism and the "ideal victim" stereotypes; the perpetrators were only convicted to

manslaughter for six years and both only served half of their time. Throughout the trial, the perpetrators were referred to as athletes, students and outstanding citizens, whereas George "remained simply 'the prostitute' or 'the Indian'" (Razack, 2002, p. 144). Razack (2002) investigated the role of George's social location, which not only determined the violence committed against her, but also the results of the trial. The judge of the trial, Justice Malone upheld assumptions based on the "ideal victim" stereotype in George's murder trial, where her "status as a prostitute, hence not as a human being, and her belonging to spaces beyond universal justice, that limited the extent which the violence done to her body could be recognized and the accused made accountable for it" (p.150). Since George did not meet the criteria of the "ideal victim" and was deemed as the "racialized other," the violence enacted against her was claimed as the result of her own choices (Razack, 2002, p.155). Individuals deemed as "bad victims" or who do not meet criteria of the "ideal victim" stereotype are more likely to be sexually victimized, and less likely to receive a positive response from the CJS. As further evidence, both Razack (2002) and Randall (2010) referenced the increasing rate of missing and murdered Indigenous women, TwoSpirited and girls (MMIW2SG) and lack of CJS response. Though many feminist scholars have called attention to this issue, it took the Canadian government another six years after Randall's (2010) article to implement a public inquiry into the over one thousand cases of MMIW2SG and begin to recognize the failures in police responses (Blaze Baum, 2016).

As Randall (2010) highlighted, the notion of the "ideal victim" has been used to cast certain individuals as problematic which creates "doubt or [a] disqualification of a [survivor's] report" of SV (p.411). The stereotype of the "ideal victim" has been heavily influenced by assumptions of *good moral character*, meaning individuals who self-regulate and make *good* choices. Randall (2010) argues police officers and crown attorneys stereotype women who "are

assumed to be highly sexualized, such as prostitutes or so-called promiscuous women" and

blame them for their sexual victimization because their choices deviate from stereotypical

femininity norms (p.414). In comparison, survivors who are deemed as credible and the "ideal

victim," tend to meet the standards of traditional gender stereotypes about sexual activity, in

which women are expected to be submissive to male dominance but also "accurately assessing

and avoiding risk" in their sexual choices (Randall, 2010, p.409) Similarly, Lisa Gotell (2008),

noted "the performance of diligent and cautious femininity grants some women access to good

citizenship, while women who fail to follow the rules of safekeeping can be denied recognition"

(Gotell, 2008, p.878). In sum, survivors who meet the responsible and "ideal victim" stereotype

get deemed as worthy of the CJS intervention and support, whereas survivors, who do not meet

the criteria, receive dismissal as illegitimate claimants.

Victim Blaming

Victim blaming is holding a survivor "partially or fully responsible" for being victimized

(Loughan, Pina, Vasquez & Puvia, 2013, p.456). Though victim blaming may be present in all

crimes, it's especially prevalent in SV crimes because of stereotypes based on the "ideal victim."

Victim blaming is an aspect of rape culture that works to deny the prevalence of SV crimes,

especially against women (Grubb & Harrower, 2009, p.63). As Figure 1 exemplified, within the

context of this research, victim blaming has been conceived as an action in the legal response

that is influenced by beliefs and attitudes based on rape mythology and the construction of the

"ideal victim." Victim blaming in sexual assault cases minimizes a survivor's experience

because it works to "shift the burden of responsibility for the assault away from the perpetrator

and mitigate the severity of the crime" (Loughan et.al, 2013, p.456). Not only does victim

blaming diminish the survivors' experience of sexual assault, it also reduces the likelihood of a

survivor reporting because "of the perceived negative connotations associated with [sexual

assault]" (Grubb & Harrower, 2009, p.64). Research studies have shown that these assumptions are largely upheld in the CJS, which has resulted in a majority of survivors choosing to "keep their victimization hidden" (Grubb & Harrower, 2009, p.64). Victim blaming has left a profound impact on the responses to SV crimes, especially when CJS professionals uphold these attitudes, and it translates into survivors' blaming themselves.

In her analysis of the *Jane Doe v. Metropolitan Toronto Commissioners of Police* case in 1998, Sheehy (2012), a University of Ottawa professor, showed that the Canadian CJS failed to ensure protection for women from sexual assault and "has quite successfully resisted women's just demands for equal protection of the law" (p. 7). The *Jane Doe* case represents a victory for advocates, allies and survivors of SV, wherein the Toronto police were held accountable for their ignorance and lack of response to SV crimes. The *Jane Doe* case brought attention to lack of systemic response that has allowed SV to continue, which "the way the individual officers behaved was determined not only by pre-existing experiences and prejudices but also by the inherent sexism of police culture, which [was] built into the department's formal and informal rules, procedures and practices" (Doe, 2003, p.57). The case began with Jane Doe, who made a complaint of sexual assault to the Toronto police and after she learned that previous to her attack, four women had the same experience of SV (Sheehy, 2012). The Toronto Police had been aware of the "balcony rapist," who committed similar acts of SV against women in Jane Doe's community, but Toronto police failed to warn potential victims and community members. In response to the police's lack of action, *Jane Doe* filed a complaint against the Toronto Police for their "failure to direct adequate resources to investigating and apprehending rapists because the targets are women" (Sheehy, 2012, p.29). Not only were the Toronto Police disciplined for their failure to investigate and protect women and potential survivors of SV, the systemic failures of

the CJS were brought to light as well. In response to the case, Justice Jean MacFarland (1998) released a one-hundred-page document of judgments outlining the failures of the Toronto Police in responding to SV and protecting survivors or potential victims. Sheehy (2012) states that Justice MacFarland's judgment and *Jane Does'* victory was the "first time in Canadian law that police were found liable for failing to warn a potential victim of a crime…[and] the first time that they were held accountable for systemic sex discrimination in their enforcement of the criminal law" (p.33). Though the outcome of *Jane Doe (1993)* was victorious, almost twenty years later in 2017, it appears that the same problems continue to persist in the Canadian CJS's response to survivors of SV (Doolittle, 2017).

The *Jane Doe* case may have represented success in Canadian sexual assault law, but it also highlighted the consistent systemic problems in responses to SV, especially in police forces. If a survivor of SV decides to disclose or report to someone in the CJS, they are most likely to disclose to a police officer (Regehr, Alaggia, Lambert & Saini, 2008, p.104). This may be a survivor's first time disclosing, meaning the police officers response can have a significant impact on the survivor. Sheehy (2012) explained the harm of police officers' responses where the common response has been heavily guided by victim blaming and "myths of so-called 'false allegations'" (p. 36). The *Jane Doe* case brought public attention to the discrimination and misogyny present in CJS response to sexual assault, where complaints were unlikely to be believed (Sheehy, 2012).

"Unfounded" cases

The prevalence of rape culture in Canadian society has allowed the influence of rape mythology and the construction of "the ideal victim" to persist within the legal response. As Figure 1 depicts, the presence of rape mythology has allowed CJS representatives to respond through a victim blaming lens that has resulted in the classification of a large number of sexual

assault cases as "unfounded", meaning that the police dismiss a complainant of sexual assault. DuBois (2012) used one of Justice MacFarland's judgments in the *Jane Doe* case as her main arguments in assessing the response by police officers to survivors of SV. Judge MacFarland found through her judgment "that police act as a filtering system for sexual assault cases, by determining that certain complaints are 'unfounded'"(DuBois, 2012, p. 192). Amy Conroy and Teresa Scassa (2016) provided a definition of "unfounded" in their analysis of collaborative strategies to improve Ontario police responses, where "there is a significant gap between what is reported to the police and what the population experiences when it comes to sexual assault" (p.5/6). "Unfounded" refers to a police classification for a complaint of a crime that did not occur and used "to determine through investigation that no violations of the law took place at that time or location" (Conroy and Scassa, 2016, p.14). But the "unfounded" classification has been misused; rather, police deem cases as "unfounded" based on their own assumptions and beliefs of "rape mythology, the belief in certain false assumptions, usually based in sexist stereotyping" (DuBois, 2012, p.193). In addition to police departments not using "unfounded" properly, Statistics Canada also does not require police forces to provide their rates of "unfounded cases," only the classification of a crime and number of charges laid (DuBois, 2012). As a result, information from Statistics Canada only relates to percentages and rates of police charges and the criminal offences, such as sexual assault, aggravated sexual assault, or sexual assault with a weapon rather than the number of cases that were dismissed (DuBois, 2012). Without a regulation of the rate of "unfounded" cases, police have the ability to rely on their own personal beliefs and assumptions on deeming if a crime happened or not (DuBois, 2012, p.196).

In comparison to other violent crimes, sexual assault has one of the highest dismissal rates by the CJS (Doolittle, 2017). DuBois (2012) outlines the detrimental impact this has on

survivors of SV, whereas survivors who are dismissed by police "have been found to suffer more severe symptoms of post-traumatic stress disorder and depression than do other victims of sexual assault" (p.193). Though DuBois (2012) points to the impact of police dismissing complaints of SV, the "unfounded" rate in the CJS response fails to represent the number of survivors who do not disclose to the CJS and experience ignorance from other individuals in their lives. Therefore, evidence shows that responding police officers use quick judgments based on their assumptions of the "good or ideal victims," an issue that Johnson (2012) has also investigated through the rate of Canadian "unfounded" cases in sexual assault complaints.

Holly Johnson, an Ottawa-based feminist criminologist, has extensively studied the CJS response to sexual assault in Ottawa and the surrounding areas. In Sheehy's (2012) collection, Johnson (2012) conducted a critical analysis of the CJS response to survivors of SV. The current rate of convictions of sexual assault charges in Canada sits at approximately "0.3 percent of perpetrators . . . whereas fully 99.7 percent are never held accountable for their crimes" (Johnson, 2012, p.613). The low conviction rate has been attributed to the high rates of "unfounded" cases. In other words, the literature supports the idea that police are using personal beliefs to measure sexual assault complainants' credibility. Johnson (2012) argued that sexual assault law reform in 1983, as well as the 1998 *Jane Doe* case, has led to change in legislation, but the past "twenty five years after law reform [has shown] evidence that simply eliminating the formal expression of bias in the law has not made a real difference in the treatment to sexually assaulted women throughout the justice system" (p.614). Johnson's (2012) findings support the claims of DuBois and Sheehy (2012) through outlining the systemic problems of how the Canadian CJS has framed and responded to sexual assault and survivors. Not only has the CJS failed to understand the complexities of sexual assault, but their responses have discouraged

survivors to report; according to Johnson (2012), "between 1993 to 2004, fewer than 10 percent of sexual assaults were reported to police" (p.617). The reporting rate has dropped even lower since 2014, so as of 2016, it sits at approximately five percent (Canadian Women's Foundation, 2016).

Johnson (2012) discusses that responses to disclosures can severely impact survivors, regardless of who a survivor discloses to: "reactions from others in the woman's social world contain both explicit and implicit messages about how to make sense of what happened" (p.622). In other words, responses from people in a survivor's social world can severely impact their understanding of their sexual victimization and whether they take responsibility for it. Disclosing an experience of SV can be extremely difficult for a survivor, whether it is to a CJS professional, family member or friend. When a responding police officer deems a survivor's complaint of sexual assault as "unfounded," survivors often interpret this to mean the assault is their own fault. Johnson (2012) further discusses these impacts from people in a survivor's daily life, which can have "a direct impact on [their] ability to interpret the experience as a violent act for which [they are] not responsible" (p.622). This interpretation means that when a survivor's complaint has been judged as "unfounded" or met with disbelief by loved ones, survivors transfer the blame and responsibility for their sexual victimization onto themselves, rather than the perpetrator.

Robyn Doolittle, Micheal Pereira, Laura Blenkinsop and Jeremy Agius (2017) conducted a 20-month long investigation of over eight hundred Canadian police forces and examined how they responded to complaints of sexual assault. Similar to DuBois' (2012) argument, Doolittle and her colleagues (2017) found that police forces in Canada were more likely to not believe a survivor in their disclosure of SV. Doolittle (2017) discussed what "unfounded" really means:

"what does unfounded mean to you? What does unfounded mean to anybody? It means 'you're lying'… [It] reinforces damaging myths that women lie about sexual victimization, and could act as a deterrent to already low reporting." Both Doolittle (2017) and DuBois (2012) reflected on the harm of police dismissing complainants of SV; not only are survivors being denied justice, but they are also being discouraged to reach out for support and report a sexual victimization.

Self-blame and Just World Belief

Self-blame occurs when a survivor is not believed or is blamed during the disclosure of sexual victimization, which can lead to the "potential to re-victimize someone who has been sexually assaulted," especially if victim blame is upheld by a professional or someone a survivor trusts (Hayes et.al, 2013, p.207). These assumptions in the CJS response severely impact a survivor's understanding of their sexual victimization because of "the social context of victim blaming and stigma that can also be influential in the way in which women construct narratives about their experiences [of sexual victimization]" (Randall, 2010, p.430). Victim blaming and self-blame has become a common occurrence for survivors of SV; this has partly been caused by assumptions based on the just world belief (Hayes, et al., 2013).

Hayes, Lorenz and Bell (2013) use the just world belief (JWB) scale to measure rape myth acceptance, victim blaming and self-blame in responses to sexual assault and survivors. Hayes et.al (2010) defines JWB as the belief that each individual has the control over their actions and to make their own choices, meaning "[everyone] gets what they deserve and deserves what they get" (p.203). JWB has been influenced by ideologies of self-governing citizens, meaning our actions are the result of our own choices. Assumptions based on JWB influence rape myths and victim blaming, as represented through the Canadian CJS denial of the systemic issues in responding to SV. Hayes et. al (2010) argues that JWB works through the belief that "every person has a multitude of choices," (p. 204). If someone subscribes to JWB then they do

not acknowledge the systemic role of sexism, racism, colonialism, ableism, ageism, and other oppressions. Thus, assumptions based on JWB fail to recognize the influence of the systemic oppressions in the treatment of certain groups of people, such as the continuous increase of violence against LGBTQ+ people, a rate that has doubled since 2012 in Canada (Young, 2016).

Survivor-centered framework

Survivor-centered approaches and research have become popular over the last decade, specifically because of the hard work done by advocates, allies and survivors who have called attention to the prevalence of SV. A big step in survivor-centered approaches in Ontario, was the Ontario Government's release of *Bill 132: It's Never Okay: An Action Plan to Stop Sexual Violence and Harassment* (2015), which required employers, universities and colleges to make commitments to safer and healthier spaces and to promote gender equality and anti-violence. Within the educational context, Root and Godderis (2016) discuss responses to student disclosures of gender-based violence and how to maintain a survivor-centered approach. In outlining a survivor-centered approach, Kulkarni, Bell and McDaniel Rhodes (2012) discusses similar principles as Root and Godderis (2016), which state that belief and solidarity for a survivor are main components of support in a disclosure. Root and Godderis (2016) highlight difficulty in disclosing for students, especially because of how society and CJS has viewed and blamed survivors of SV. Maintaining a safe space for a survivor is necessary; it can impact their understanding of SV. More specifically, Root and Godderis (2016) argued "the act of bearing witness to the deeply harmful impacts and consequences of violence is one of the most valuable things we, as professors and public intellectuals, can do when we receive disclosures of violence or harm" (p.15). Survivor-centered approaches are founded in compassion, belief and solidarity, which is in contrast to what the literature has shown in where responses are being guided by assumptions based on rape myths, victim blame and the "ideal victim" stereotype.

Survivor-centered approaches help dismantle victim blaming and rape myths because it brings survivors' voices to the forefront. An important factor of survivor-centered approaches is to uphold belief in the survivor and "bear witness as an act of solidarity" (Root & Godderis, 2016, p.15). Acting in solidarity can refer to listening and, as a service provider, it means to "engage in more mutual and collaborative relationships with their survivor clients [and] must also maintain ethical boundaries" (Kulkarni, Bell and McDaniel Rhodes, 2012, p.97). Ethical boundaries and mutual respective relationships are key for ensuring survivor-centered approaches in responding to survivors' disclosures. This can mean the individual responding, whether a friend, family member, or a service provider must ensure their response to the survivor is based on respect and belief. Ethical and clear boundaries, for both the survivor and responder, can help decrease the influence of stereotypes and assumptions based on rape myths and victim blaming (Kulkarni, Bell and McDaniel Rhodes, 2012). Responding through a framework of belief and solidarity can help a survivor in their healing and "respect[s] individual survivors' perceptions of their needs and preferred solutions" (Kulkarni, Bell and McDaniel Rhodes, 2012, p.98). Within the context of this research, survivor-centered approaches will be referenced in regards to how SV professionals interpret their own survivor-centered approaches in comparison to the CJS response to disclosures.

METHODOLOGY

This qualitative research study examined the research question: are rape myth acceptance and victim blaming present in responses to SV disclosures received by CJS professionals? Using semi-structured interviews, I interviewed SV professionals about their interactions with CJS professionals and how the SV professionals perceived these interactions impacted survivors. SV

professionals are experts in identifying when victim blaming attitudes and rape myths are present, and therefore their knowledge and observations are crucial in developing a better understanding of responses to survivors. This research will contribute to the current literature on how to develop better survivor-centered approaches to responding to SV. This research received approval from Wilfrid Laurier University Research Ethics Board (REB#5282).

Theoretical Framework

Kimberle Crenshaw (1991), a critical race theorist, introduced the term intersectionality in response to "Whitestream feminism" and the consistent construction of women's experience of oppression and inequality as common and shared. As Grande (2004) explained, first-wave and second-wave feminisms promoted "the belief in women's common identity and the aim of a unified sisterhood" (p.135) and focused on the fight against patriarchy and sexism, without recognizing this view as "written from the standpoint of the colonizer" (p.142). As a result, Whitestream feminism failed to include the experiences of Indigenous women, women of color, immigrant women, LGTBQ+ women or any women systemically oppressed by other aspects of their social identities. As Crenshaw (1991) critiqued, Whitestream feminism focused on white women, mostly middle to upper class, who did not represent a majority of women's oppressive or violent experiences: "the intersection of racism and sexism factors into black women's lives in ways that cannot be captured wholly by looking at the race or gender dimensions of those experiences separately" (p.1244).

Intersectionality focuses on the connections amongst our social identities and how those connections shape our experiences in all aspects of our lives, especially experiences of SV. Crenshaw (1991) argued women's experience of violence and oppression cannot be cast into a unified identity because "the violence that many women experience is often shaped by other dimensions of their identities, such as race and class" (p.1242). She focused on how anti-racism

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and Whitestream feminism movements have not included the experiences of violence against black women (p.1253). Whitestream feminism was critiqued for not upholding intersectionality, rather it only "represents the migration of white women's concern into a context in which they are not only irrelevant but also harmful" (Crenshaw, 1991, p.1253). Crenshaw's (1991) work can be applied to feminist-based research on SV.

Intersectionality has helped guide my application of feminism and has become a foundation in my research of SV. Though Crenshaw (1991) highlighted the failures of the feminist movement in including women of color, other feminist scholars have used Crenshaw's framework in their feminist research to critique gender stereotypes and violence. For example, Stephanie Shield (2008) used intersectionality to understand how the concepts of gender and gendered violence are researched. Shield (2008) maintained an intersectional framework to challenge the presumption of "the whiteness of women, maleness of people of color, and the heterosexuality of everyone" (p.303). Shield (2008) outlined Crenshaw's (1991) use of political and structural intersectionality to dismantle assumptions based on gender stereotypes and rape myths. According to Shield (2008), structural intersectionality includes the ways an "individual's legal status or social needs marginalize them," and political intersectionality is "the different and possibly conflicting goals of the respective groups from which an individual draws [their] identity" (p.304). Both structural and political intersectionality apply to SV research because both highlight the systemic problems in responses to survivors of SV. Not only are survivors dismissed by the CJS, but these stereotypes also persist in survivors' personal lives. An intersectional analysis helps discourage assumptions based on the "ideal victim" stereotype and rape myths because it becomes "impossible to talk about gender [and gendered violence] without

considering other dimensions of social structure/ social identity that play a formative role" (Shield, 2008, p.303).

Susan Brownmiller (1975), along with Liz Kelly (1988) and bell hooks (2000), assisted feminist research into moving towards an understanding of SV as a technique to maintain patriarchal power and dominance in society, which "revealed that physical force plays a far larger part in controlling women than had previously been acknowledged" (Kelly, 1988, p.39). Feminist scholars provided the concept of patriarchy to explain the power imbalance and sexism present between genders. Kelly (1988) defined patriarchal power as the "social and political system in which men control, and have power, over women" (p.38). Both, Brownmiller (1975) and Kelly (1988) researched the role of SV as a central aspect of patriarchal power in society and institutions. Feminist thought has recognized SV as a tool of patriarchal power and control and has been used to maintain control over women's sexuality and livelihoods. Research and critiques guided by feminism have built up an analysis of the harms caused by patriarchal control in society, especially in regards to how that power has extended to all aspects of a woman's life: "patriarchy is reproduced within the family, by the state, ideology and culture…[and] that control in patriarchal societies, as in all political systems, ultimately rests on force" (Kelly, 1988, p.36). But as feminist research expands, there becomes more recognition of SV as the result of intersecting oppressions and social identities, rather than just the result of patriarchal violence and control.

Feminist and anti-racist theorist, bell hooks (2000), provided a feminist understanding of violence that closed the gap between feminism, intersectionality and women's complex social identities. hooks (2000) defined feminism as the foundation of her activism and research: "feminism is a movement to end sexism, sexist exploitation, and oppression" (p. viii). Along

with Crenshaw (1991), hooks (2000) also called attention to the shortcomings of feminisms, especially in regards to Whitestream feminism has concentrated on patriarchal oppression as the dominant factor of gender inequality. Anti-racist and feminist theorists, similar to Crenshaw (1991) and hooks (2000), helped dismantle assumptions of a *unified sisterhood* and experience of oppression. Though hooks (2000) argued there lays a difference between white women's experience of oppression compared to women of color, she also highlighted the need for a "feminist sisterhood…[which] is rooted in shared commitment to struggle against patriarchal injustice, no matter the form that injustice takes" (p.15). In order for a feminist sisterhood to prevail, hooks (2000) maintained the intersections of women's identities must be brought to the forefront. She argued, "as long as women are using class or race power to dominate other women, a feminist sisterhood cannot be fully realized" (hooks, 2000, p.16).

Social Location and Reflexivity

My social location, as a white, middle class, settler and cis-gendered woman, provides me with advantages within society, especially in terms of accessing government or support services. Yet I sit in a contrasting position because I am also a survivor of SV; my victimization was the result of sexism, the patriarchy, and the current rape culture that persists in Canadian society. Because of my advantaged position, I cannot speak to all experiences of SV, especially experiences where SV intersects with racism, colonialism, homophobia, and other oppressions based on discourses of othering. Therefore, I aim to be aware of my position and uphold an intersectional analysis throughout my research because I do not represent various communities where SV is particularly prominent, such as Indigenous women and girls or LGBTQ+ individuals.

I did not disclose or report my experience of SV for two years because of my own belief in rape myths and victim blaming ideologies. I upheld my belief in a "just world" because I thought

I had brought this violence upon myself. Researching SV and understanding the theoretical framework behind it has helped me understand my experience of SV. I am also aware that my advantaged position, as an educated white woman, has allowed me a specific type of healing. I had access to heal through the support of my family, friends, feminist-based counseling and theoretical research in the academic context. Not all survivors have the opportunity to dismantle theoretical and academic ideologies of SV, but by reviewing the literature on intersectionality and the CJS's responses to SV, I have concluded that there can be no perfect narrative for how survivors should respond to, or heal from, trauma and violence. Though there can be no perfect narrative of healing, there are various ways to uphold a survivor-centered approach in responding to disclosures of SV.

As a white settler researching SV, I must be aware of how systemic responses to SV are based on stereotypes of social identities, which disproportionately affect certain groups of women. Since I am a white settler researching SV, I ensured I upheld reflexivity throughout the research process. Rosalind Edwards and Janet Holland (2013) defined reflexivity as "the researcher, who must recognize themselves both as part of the research process and the power relations that permeate the research encounter of the qualitative interview" (p.5). In regards to reflexivity, I recognized my position as a researcher representing a university to ensure participants feel comfortable. Since I represent an academic institution as the principal investigator, there was possibilities for participants and myself to experience a power difference within the research process, for example participants' may have feel that I controlled or held power over the interview and conversation.

To ensure reflexivity throughout qualitative research, Jennifer Mason (2002) discussed the importance of self-questioning, which "means thinking critically about what you are doing and

why, confronting and often challenging your own assumptions and recognizing the extent to which your thoughts, actions and decisions shape how research and what you see" (p.5). As a white settler and cis-gendered women, I ensured self-questioning throughout my research process to uphold intersectional feminism and deviate away from the "strains of Western feminist scholarship that reproduced, however 'innocently,' the altruistic missionary/explorer position" (Herising, 2005, p.134). Through this research study, I have engaged in self-questioning, especially around the connections between SV, colonialism, racism, sexism and systemic responses.

Data Collection

SV professionals are defined as individuals' who have experience in the field of SV advocacy and work. SV professionals were invited via email to participate in interviews about their interactions and experiences with how CJS representatives respond to disclosures of SV and how they interpret the impact of those responses on survivors. Using a qualitative semi-structured interview, SV professionals were asked to reflect on their experiences with the CJS. Mason (2002) notes that interviews are a way to present "people's knowledge, views, understanding, interpretations, experiences, and interactions [as] meaningful properties of the social reality which your research questions are design[ed] to explore" (p.57). The aim of investigating SV professionals' experience with the CJS was to explore whether they experienced assumptions based on victim blaming and rape myths in responses to disclosures of SV received by CJS professionals. The interview guide included eight questions but does not have a concrete structured outline. The most important concepts explored in the interview were how SV professionals interpret the impact of rape myths, victim blaming and CJS professionals in disclosures (see Appendix A for interview guide). Participants had the opportunity to include any other information in their closing thoughts at the end of the interview.

I conducted four interviews with five SV professionals, (one interview was conducted with two SV professionals), in Brantford and surrounding area, which were audio-recorded. I have Central Auditory Processing Disorder (CAPD), which means I required assistance with transcribing. I chose to work with a professional transcription company, *Transcript Heroes,* who transcribed the audio-recorded interviews. *Transcript Heroes* has extensive experience working with universities and Research Ethics Boards.

Participants

SV professionals' can refer to people working in various organizations that support and work with survivors, such as Sexual Assault Centers, Crisis Centers, shelters, counseling services and independent support programs or organizations. For this research study, an SV professional must have had experience in supporting survivors through their interactions with CJS professionals, whether negative or positive experiences. SV professionals' must also uphold survivor-centered approaches in responding to and engaging with survivors of SV. A survivor-centered approach refers to a safe space for a survivor; meaning survivors are believed and supported in a disclosure. Kulkarni, Bell and McDaniel Rhodes (2012) state understanding as key component of survivor -centered responses, with emphasis on "active listening, supportive presence and empowerment" (p.97).

Participants completed an informed consent form with the researcher prior to the interviews; this was to ensure participant safety throughout the research process. Participants are referred to with pseudonyms to ensure anonymity. Participants were not asked any questions about their personal lives. No identifying factors of the participants have or will be used in published work, and no questions were asked about their employment location or history.

Data Analysis

The data collected through qualitative interviews with SV professionals was the sole source of analysis. The participants' responses were analyzed for the central themes of the research: how SV professionals interpret their experiences with the CJS, and specifically whether victim blaming and rape myths are present in CJS professionals' responses to survivors' disclosures. The purpose of the research was to gain a deeper understanding of how survivors are being responded to in their disclosures of SV. Mason (2002) noted that as a researcher, the goal is to "[move] towards a social structure in which there is less exploitation, oppression and injustice and more creativity, diversity and equality" (p.57). Using this approach to my research, the data was analyzed to further understand if rape myths and victim blaming persist throughout the CJS's response to survivors of SV.

I conducted a thematic analysis of the data collected from the interviews with SV professionals, which the analysis was "driven by the researcher's theoretical or analytic interest in the area" (Braun and Clarke, 2006, p.12). This means the interviews was analyzed in regards to the key concepts related to the research question such as rape myth acceptance, victim blaming and the "ideal victim" stereotype. Each interview was read and analyzed to discover central themes discussed with the participants. Based on the literature review, I anticipated attitudes of victim blaming and rape myth acceptance in the CJS would be central themes of the research study. I also examined the data to discover differences between responses to disclosures and, specifically, to explore whether CJS's responses uphold beliefs based on victim blaming and rape myths or whether these responses adopt a survivor-centered approach. A survivor-centered approach was another theme of analysis because it can help provide a point of comparison relative to negative responses to disclosures of SV. In maintaining an intersectional feminist approach, another theme of the data analysis was to understand how assumptions based

on victim blaming and rape myths have disproportionality affected women who are deemed as the "other" and fall into the "bad victim" category. The goal of data analysis was to gain a deeper understanding of how to support survivors in responding to a disclosure of SV.

I started the thematic analysis of the research findings through hand coding each individual interview with highlighters. I coded for five central themes based on the findings from the literature review, which included: rape myth acceptance, victim blaming, the "ideal victim" stereotype, the CJS response and "unfounded" cases, and self-blame and just world belief. During the process of coding each interview, I discovered new themes and concepts from the participants' responses such as the "prison industrial complex" and the legal system, the CJS's response to trauma, survivor resiliency and further training for the CJS. After coding all of the interviews, I created two matrixes based on the central themes found in the data. The first matrix I created was divided by each interview into eight central themes, which included: rape myth acceptance, victim blaming, the "ideal victim" stereotype, "unfounded" cases and the CJS, self-blame and JWB, interesting quotes and unexpected topics, survivor centered frameworks, and participants' experience in the field of SV advocacy. From the development of the first matrix, I realized the eight themes contained an overwhelming amount of data. This lead me to create a second matrix based on four overarching central themes developed through the original eight. I combined the eight themes into four primary themes which included: survivors' expectations versus the reality of the CJS, rape myth acceptance and the "ideal victim" stereotype, the consequences of engaging with the CJS, and survivor centered approaches and survivor resiliency. The results and discussion sections reflect the four central themes in the research findings and align with the literature review's critique of the CJS's response to survivors of SV.

RESULTS AND DISCUSSION

SV professionals were chosen as research participants due to their experience working in the field of SV and advocating for survivors of SV. I conducted four interviews with five SV professionals (one interview was completed with two participants), who all had experience interacting with the various levels of the CJS including supporting survivors in the initial interview with police or detectives, hospital accompaniments, court, and legal and follow-up support, such as counseling or advocating for the survivor through the legal process. All five participants discussed intersectionality in relation to SV and how a survivor's social location can shape their experience with the CJS. In addition, the five participants had also supported survivors of SV who had not interacted with, or disclosed to, the CJS, which one participant noted was the majority of survivors they had supported. Further, all of the participants discussed their own feminist-based and survivor-centered approaches in providing support for survivors of SV, specifically in their counseling practices and responses to disclosures. In particular, they all had experience in providing immediate care or support to survivors after trauma and stressed the importance of maintaining contact with a survivor. Finally, all five SV professionals had experience in public and community education as well, which they all believed was one of the most important aspects in working in the field of SV advocacy.

Four of the five participants described their experiences with the CJS's response to survivors of SV as generally negative. One participant regarded their experiences as generally positive, but also noted negative experiences within the CJS's response to survivors. Within those positive experiences, the same participant deemed working in a small community as beneficial because it was easier to create and maintain relationships amongst professionals in the field of SV advocacy, both in the legal system and non-governmental organizations.

Additionally, all of the participants referenced that there were specific individual representatives within the CJS that work under a survivor-centered framework, but that these individuals are often restricted in offering full support to survivors because the outcome of the system can be beyond their control. Participants also all noted the hard work of advocates and allies throughout the field of SV advocacy, such as the work of non-governmental community organizations in supporting survivors, whether or not the survivors decided to engage in the legal process. Due to the majority of the current research participants deeming the CJS's response to survivors as negative, the central themes found in the data reflect the participants' critique of the systemic response to survivors of SV. The term legal system, rather than CJS, will be used in the remaining sections of this research study because the findings highlight that SV professionals themselves prefer the terminology "legal system" given that the system has not necessarily provided justice for survivors of SV. The key themes of this research study include: 1) survivors' expectation versus the reality of the legal process, 2) the influence of rape myths and the "ideal victim" stereotype in the legal response, 3) the consequences for survivors who engage with the legal system, and 4) survivor-centered approaches, education and awareness.

Survivors' expectations versus the reality of the Canadian legal system

The participants discussed the unrealistic representations of the legal system in media, as demonstrated in TV shows such as *Law & Order* or *CSI,* and how those representations provide a distorted understanding of the legal system for survivors. In regards to survivors' expectations of the legal system, four of the participants agreed that survivors' expectations are not being met and survivors "just go in there assuming that they're going to get their justice and they don't" (Participant #1, June 9, 2017). The participants described survivors' expectations of the legal process as: the assumption that the Crown Attorney or responding police officer believes and supports the complainant, that perpetrators' will receive jail time, and/or that trials often end with

a positive outcome for the survivor. For example, participants' noted that the legal process does not work towards supporting survivors of SV or violence, rather "the systems we have in place, [fails] to hold people accountable. They do not encourage people to get help and change their behaviours...[and] don't do any healing work for survivors" (Participant #4, June 19, 2017).

These results are similar to findings in the literature which assert that realistically, "[survivors] may be revictimized by a legal process that permits brutal cross-examination of complainants regarding their sexual history and facilitates the undermining of their credibility by allowing the introduction of irrelevant considerations into the trial" (L'Heureux-Dube, 2001, p.88). Survivors often disclose to representatives of the legal system, such as police, in hopes to gain justice, healing, protection, and safety from the perpetrator or other violent crimes, but as the literature and the participants' discussed, the legal system's response in sexual assault cases does not uphold survivors' expectations. Instead, the system "continues to be based on the false assumption that women who report sexual assault are more likely to be lying than individuals reporting other crimes" (DuBois, 2012, p.194) and, as a result, justice has rarely been met: "an average of 5,500 people are reporting sexual violence to Canadian police, but their cases are dropping out of the system as unfounded long before a Crown prosecutor, judge or jury has a chance to weigh in" (Doolittle, 2017). The concrete ways in which this theme was discussed within the context of the interviews is examined in more detail below including: healing through sentencing, the legal system's analysis of trauma and the reality for survivors' who engage with the legal system.

Healing through Sentencing

Participants' discussed the common expectations of survivors that they will find healing through the legal process. All five participants discussed the importance of providing all the information to a survivor who wants to engage in the legal process, such as asking questions

similar to "what will it take for you to be okay at the other side of this process?" (Participant #5, June 20, 2017) or "what's the driving force for you to report and what's the driving force for you not to report?" (Participant #3, June 13, 2017). They also touched on how many survivors expect the perpetrator to be held accountable for their crime, which Participant #2 described as "[survivors] expect that [the perpetrator] is going to go to jail for life and the sentencing is not like that" (June 9, 2017). In other words, survivors often expect the perpetrator will be sentenced and may associate their healing with that outcome, which the majority of research participants regarded as an extremely harmful belief for a survivor because the legal outcome is unlikely to end in the survivor's favor. Participant #5 stated survivors "[are] not responsible for making sure that [the perpetrator] doesn't do it to somebody else and that their well-being cannot be linked to that outcome because the odds are against them" (June 20, 2017).

The literature suggests that when survivors uphold responsibility for ensuring the perpetrator does not offend again, or if survivors have an expectation of healing with the legal outcome, they are more likely to "blame [themselves] for the assault, which then has an impact on [their] recovery" (Grubb & Harrower, 2009, p.65). Findings from the current research study support this claim, as participants highlighted the problematic impacts of associating healing with the legal system's outcome. Participants' also spoke to how survivors uphold their own victim blame through feeling responsible for the perpetrator being sent to jail to ensure they do not re-victimize another person. However, the likelihood of a perpetrator being held accountable for their crime remains very low in Canada where only 0.3% of perpetrators are sentenced for their sexual assaults (Conroy & Scassa, 2016, p.8). With the unlikelihood of conviction, participants' argued that associating healing with the legal process and outcome can severely impact a survivor's perception of their experience because "[the system is] not a fit for doing

good work around healing individuals, healing communities, and holding people accountable"
(Participant #4, June 19, 2017). In sum, the participants' argued survivors' need to separate
healing from the legal process because the legal system was not and should not be used for
healing work: "a lot of survivors' [are] taught that they only way to get healing is through
revenge and that's what the [legal system] teaches us, that we'll feel better when people have
things stripped away from them" (Participants #4, June 19, 2017).

Analysis of Trauma

Participants' argued that the legal system's understanding and analysis of trauma has not
met survivors' expectations. The five participants discussed that many representatives of the
legal system and other professionals in the field of SV do not have an adequate or full
understanding of how people respond to traumatic experiences; there remains "a huge gap in the
system, [there] is just not [an] understanding of sexual violence and how memory works"
(Participant #2, June 9, 2017). The participants believed that not only in the legal response but
also in societal responses that "[they] do not understand the science of what happens to the brain
after trauma happens" (Participant #2, June 9, 2017). When disclosing an experience of SV,
survivors' reactions during their initial disclosure, whether to a representative of the legal
system, family member or friend, are often measured against assumptions based on how
survivors "should" respond to trauma, such as expectations of survivors being emotional or being
too calm. Participants argued that the legal system's expectation of survivors to respond to
trauma within a specific framework has resulted in "victim's post-assault conduct [to still be]
under massive scrutiny, as though [survivors' do not] have the right do conduct themselves
however they need to recover from what's happened" (Participant #5, June 20, 2017).

Specifically, representatives of the legal system encourage survivors of SV to report their
experience immediately, in order to gain the most relevant evidence about the sexual assault such

as rape kits. But all the participants argued that immediate post-assault interviews cause more harm for a survivor because "after an experience of sexual violence, anything with lots of trauma in it, it takes 72 hours for your brain to transfer it from your amygdala (the reaction to trauma) to your hippocampus (long-term memory)" (Participant #4, June 19, 2017). This means it will take approximately two to three days for survivors' brain to register or recall the trauma experienced, however, the legal response still attempts to interview survivors immediately after a traumatic event. Moreover, research participants noted the legal system does not have an adequate analysis of trauma because "[police are] used to doing investigations, trying to find holes in people stories…and so trying to get [a survivor] to describe things linearly, [which] means they inherently are going to have holes and flaws in their stories" (Participant #4, June 19, 2017). The participants' all noted that survivors' all respond differently to a trauma or an experience of SV, which Participant #2 argued "there is no one way that someone who's been assaulted is going to react after" (June 9, 2017).

Lori Haskell and Melanie Randall (2013) discuss how trauma impacts a person, in which trauma can be "measured and assessed not only in relation to the severity and nature of the triggering event(s), but also, and perhaps most crucially, in relation to the person's perception and experience of these events" (Haskell and Randall, 2013, p. 507). Haskell and Randall (2013) define trauma through how a survivor experiences it, meaning the response and support must be specific to that individual. In comparison, the legal response relies on collective assumptions of how a survivor of SV must look like when disclosing, which is based on rape mythology such as the idea "women are 'more emotional' than males so unless they become hysterical [in recalling a traumatic event], nothing must have happened" (L'Heureux-Dube, 2001, p.90).

Providing a realistic picture of the legal system

All five participants discussed the importance of providing survivors with an understanding of "what the system is actually like" and to present survivors with all the information about the legal process to ensure survivors can make an informed decision on whether to engage with the legal system or not (Participant #2, June 9, 2017). Due to survivor expectations of the legal system versus the actual reality of the process, the research participants' believed that survivors' experience with that system could be "just as violent and harmful as their experience of a sexual assault, sexual violence [and/or] gender-based violence" (Participant #4, June 19 2017). Three of the five participants used the term *legal system* rather than CJS because, as Participant #2 (June 9, 2017) states, "I don't believe that justice is met." All of the participants noted that the legal system was not framed in such a way as to support survivors of SV, which "the way [the system] was built, the way it was framed [it] inherently holds up these really dangerous ideas around gender-based violence that causes all the harm" (Participant #4, June 19, 2017).

Additionally, the participants stressed that the legal system was not built to protect or provide support for survivors of SV nor offenders of crime, but rather continues the violence and oppression enacted against marginalized groups of people. For example, one participant explained that the legal system "further enacts out systemic violence against the most marginalized members of our community…[and those people] have a high risk of being marginalized in lots of different types of ways" (Participant #4, June 19, 2017). Three participants used the understanding of the legal system as "broken" to highlight the need to separate the legal response and healing for survivors because "the survivors' outcome isn't necessarily inherently linked to the criminal justice outcome" (Participant #5, June 20, 2017, p.5). The original purpose of the legal system was to rehabilitate people who broke the law, but

today, the legal system works to deny certain people their livelihoods (Davis, 1997/2012, p.39).

The participants highlighted the law and order response that the Canadian legal system has upheld, which was why participants discussed the importance of separating healing from the legal process.

Participant #4 used the idea of the "prison industrial complex" to create a further understanding of the legal system as broken and how that system works to "further reinforce along with the violence, the shame, the guilt and the doubt individuals who have experienced harm go through [while attempting to manage the system]" (Participant #4, June 19, 2017, p.2). Four of the five participants understood the Canadian legal system as built on colonial, racist, patriarchal, sexist and oppressive values, which intrinsically work against "survivors of sexual violence, people who've experience exploitation, people who are at the intersection of many different experiences of repression" (Participant #5, June 20, 2017). As Participant #5 (June 20, 2017) explains, the Canadian legal system was built on "English common law and those roots are deep and oppressive and speak to a long history of colonization, and class hierarchy, and values that centered around patriarchy." Thus, the notion of the "prison industrial complex" also brings attention to whom the legal system was built to serve, which it "[maintains] the values that it was [built] upon and it's benefitting the people who established the system" (Participant #5, June 20, 2017).

The "prison industrial complex" was a concept developed by Angela Davis to further articulate an understanding of how the legal system works "as an apparatus of racist and political repression" to incarcerate massive amounts of people of color (1997/2012, p.35). Davis explains how the prison industrial complex has been used as justification for structural racism, colonialism and classism because the majority of the incarcerated populations are people of color

who were sentenced on drug-related or "non-violent" crime charges (Davis, 1997/2012, p.50). This means the legal system works to serve white, heterosexual and upper class men, rather than the populations at most risk of experiencing or being victimized by violence. Davis (1997/2012) argued the prison industrial complex has been used to replace social structures, such as welfare or social assistance programs, has forced people in need of support to:

> seek alternative modes of survival, since they can no longer depend on welfare. Many will be lured into the drug economy or the economy in sexual service, two of the major alternatives available to people bared from the mainstream economy. This will send them straight into jail or prison, and their presence there will justify the further expansion of the prison industrial complex (p.43).

Social programming cuts work to further the prison industrial complex because the alternative motives used by people, such as sex workers, are criminalized by the legal system. This furthers victim blaming and the just world belief, which "according to the conservative population discourse, people who are prison deserve to be there. They deserve to be thrown away" (Davis, 1997/2012, p.50). In summary, survivors' expect that engaging with the legal system will bring justice and result in the survivors favor. Realistically, survivors' expectations have not been met because the legal system has failed to understand how individuals' respond to trauma or how survivors' social identities intersect with the violence experienced. As the participants highlighted, the legal system has not been used to uphold justice, safety or support for those in most need of it but rather further enacts violence against those populations which Participant #5 (June 20, 2017) states that as a survivors of SV in the legal system:

> you better hope you had no contact with the [legal system] previously, that you didn't have any mental health issues, didn't have a relationship to drugs or alcohol, that you

hadn't been sexually active previously, but that you couldn't be represented as being

frigid.

Rape Mythology and the "Ideal victim"

All five participants agreed rape myths play a large role in the legal system's response to

survivors of SV, especially in how survivors were treated in their initial disclosure to a

representative of the legal system. The participants referenced explicit examples where the

responding representative of the legal system relied on rape myths to deem a complainant as

credible or not. The participants noted that survivors' clothing choices still remains a popular

topic to investigate in post-assault interviews by representatives of the legal system, which

upholds the rape myth that survivors' clothing choice are a justification for sexual assault. One

participant referenced common questions based on rape myths that are used in post-assault

interviews to victim blame, such as "what were you expecting, she's got spaghetti straps showing

from her bra" (Participant #1, June 9, 2017). Similarly, the participants also discussed how rape

myths based on women's sexuality continues to be upheld in the legal response, such as "victim-

blaming myths about short skirts, about drinking [and] about promiscuous behaviour"

(Participant #4, June 19, 2017). All five participants agreed that rape myths work on all levels of

responses to SV, meaning both in the systemic (such as the legal and healthcare systems'

responses) and societal responses (such as friends or family responses based on the survivors'

behavior or choices). They also agreed that rape myth acceptance impacts survivors healing

negatively, which Participant #4 (June 19, 2017) states "much of the healing work that

[survivors] need to go through, is not having this idea that you're responsible for someone else

doing really harmful things."

All five participants discussed rape myths around alcohol and drug-facilitated assaults

such as the ideas that survivors are more likely to have consented or "asked for it" when drug or

alcohol were involved. Participants also agreed that rape myths surrounding alcohol and drug-facilitated assaults were most commonly used in the legal response to place blame and responsibility on the survivor for sexual assault. The participants discussed how responding representatives of the legal system treat survivors in drug or alcohol-facilitated assaults in similar ways: "across every spectrum, women have shame around [their choices]… they shouldn't have been drinking or they shouldn't have been drinking that much…or they should of known better, more or differently" (Participant #4, June 19, 2017). Survivors' behaviours and choices are under massive scrutiny by representatives of the legal system and that results in survivors upholding their own rape mythology about their experience: "I was drinking, I shouldn't have drunk so much, [and] I shouldn't have gone to that party. I shouldn't have done X, Y or Z. I shouldn't have let him in the house" (Participant #3, June 13, 2017). Thus, it is clear that rape myths work to place blame and responsibility on a survivor, which the participants argued has been the most explicit in the legal response to sexual assault complaints involving women who do not met the "ideal victim" stereotype. Four of the participants argued that rape myths are used to justify an individuals' belief in a just world, where "[rape myth acceptance] makes us feel safer that we can create reasons for why [SV] is happening to other people" (Participant #4, June 19, 2017).

All five of the participants agreed that rape mythology has influenced the legal system response and has created an "innocent [or ideal] victim of sexual violence" (Participant #5, June 20, 2017). The participants discussed that a stereotype of a "good or ideal victim" has been upheld in the legal system response, which Participant #2 (June 9, 2017) described a good victim as "someone who is white, middle to upper class, doesn't have a criminal record, is employed, has never done any kind of sex work…has a university education, presents really well, hasn't experienced previous trauma that shows." Four participants discussed that the category of "good

or ideal victim" has been used to dismiss or deny a majority of survivors' experience in the legal response. Participant #4 also noted that not only does the construct of the "good or ideal victim" works against survivors of SV, but also "reinforces the idea that people who cause harm are most often racialized and low-income men" (June 19, 2017). All of the participants agreed that rape mythology has created a "good or ideal victim" category, which has inherently lead to "an understanding about who is and isn't worthy of safety, protection, and vulnerable to exploitation" (Participant #5, June 20, 2017).

Within the category of the "good or ideal victim," the participants argued there has been a creation of the "bad victim" category to dismiss a majority of survivors' experiences of SV. The "victim" categories upheld in the legal response inherently decide whose worthy of justice, which Participant #5 (June 20, 2017) states that these categories decide on:

who has the right to bodily autonomy, who has the right to own themselves, who has the right to safety, who is seen as being a human, and who is seen as being an exploitable resource, and who is seen as being disposable.

Four of the participants explained how a majority of survivors fail to meet the standards of rape mythology or the legal system's stereotype of the "good or bad victim" category. The participant's highlighted that the most likely individuals victimized by SV are also the most likely to be deemed as "bad victims" by the legal system, which Participant #5 (June 20, 2017) states:

So if you're Indigenous, if you're racialized, if you have mental health issues, if you have addiction issues, if you grew up in care, if you've been involved in sex work, if you've been previously mistreated [or if] you're at the intersection of any of those things in combination.

The category of "bad victim" denies many survivors experiences of SV because the legal system fails to understand the influence of identity-based oppressions, such as "classism, racism, all those oppression that happen and stigmas" (Participant #2, June 9, 2017). Participants went on to say that the "good versus bad victim" category that has been upheld in the legal response has failed to provide justice and safety for a majority of survivors of SV.

As discussed throughout the literature review and in participants' understanding of the legal response to survivors, the category of the "good or ideal victim" has been used to cast a majority of survivors of SV into the categories of "the other" or the "bad victim." Randall's (2010) understanding of the "ideal victim" construct aligns with the majority of participants' explanation of the "good versus bad victim" which "the extremity of what must occur in order to qualify… as a 'real rape,' means that many of the more ordinary everyday threatening, intrusive, and coercive experience of unwanted sexual attention and contact become normalized and thus invisible" (p.408). Ultimately, rape mythology and the construction of the "good versus bad victim" in the legal response places blame and responsibility on the survivors of SV.

Consequences of engaging with the legal system

All of the participants believed that the legal process could negatively impact survivors and how survivors may perceive their experience of SV. The participants discussed the various results for survivors within the legal system which included: victim blaming, self-blame and just world belief, "unfounded" cases, further traumatic and violent experiences, and doubt in the legal system. For example, all five participants provided explicit examples of the negative impact on survivors, which within the legal response "there's [an] aura of disbelief and that shuts [survivors] down even further" (Participant #1, June 9, 2017). Four of the participants talked about the fact that survivors are most likely to experience self-blame and victim blame as a result

from interacting with the legal system, which increased their likelihood in internalizing

damaging stereotypes based on rape mythology or the "good or bad victim." Additionally, all of

the participants noted that the classification of "unfounded" was also a common result for

survivors engaging in the legal system. These consequences are discussed in more detail below

and all highlight that the legal system was not built to support survivors of SV.

Victim Blaming

The participants all agreed that victim blaming played a large role within the legal

system, which Participant #2 stated that "there's no spot where I haven't seen [victim blaming]"

(June 9, 2017). The participants identified victim blaming as a consequence of the construction

of the "good or bad victim" and rape mythology. When survivors do not meet the legal systems'

expectations, the responsibility and blame transfer to the survivor especially when upheld by an

authoritative figure. For example, Participant #1 explains how the response by representatives of

the legal system can have a direct impact on the likelihood of a survivor engaging in victim

blaming themselves, which Participant #5 (June 20, 2017) states "even women who haven't been

sexually assaulted understand [victim blame and] that the society that they live in and the

oppressive forces that they're subjected to makes it less possible to be the full version of

yourself." But when the legal process dismisses a majority of survivors because of their ability to

align with assumptions based on the "good or bad victim," survivors of violence are more likely

to be blamed by society for traumatic events.

As the literature highlighted, victim blaming has been a result of rape mythology and

used to compare survivors' experience to: "the widely held belief that 'real rape' happens when a

previously chaste woman is assaulted by a stranger, suffers serious injury, and immediately

reports the attack to the police" (Johnson, 2012, p.622). Therefore, rape myth acceptance not

only impacts an adequate response or investigation from the legal system, but rape myths also

significantly impact a survivor's adherence to victim blame. Similar to the arguments of participants in this research study, Scassa and Conroy (2016) maintain that victim blaming has resulted in survivors wanting to "withhold details about their own behaviour surrounding the sexual assault for fear that investigators will doubt their stories or blame them for the assault" (p.10). In other words, the role of victim blaming in the legal response to survivors has resulted in survivors as "less likely to define their own experiences as sexual assault or seek help" (Johnson, 2012, p. 623/4).

Rape mythology and the construction of the "good or bad victim" has not only allowed victim-blaming rhetoric, but it makes it extremely difficult for survivors to have a positive experience in the legal system. As discussed previously in relation to the "ideal victim", the participants noted that victim blaming has "created a very definite concept of what you need to be, who you need to be, how you need to walk in the world, to be in innocent victim of sexual violence" (Participant #5, June 20, 2017). Additionally, four participants discussed how victim blaming has also been upheld through stereotypes around the perpetrator of SV, meaning when the perpetrator is not held responsible for their crime, the responsibility and blame shifts to the survivors. Thus, the legal system overall works on the assumption that people are good or bad, meaning within cases of SV there lies the "idea of the good or bad man, or the good man and the monster [which] it really reinforces really awful ideas because then people don't believe that the good guy could cause harm" (Participant #4, June 19, 2017). When perpetrators are deemed good guys, their violence gets represented as a mistake or accident, which results in the survivors being blamed for the perpetrator's decision to commit violence against them. This process, then, works to place blame on the survivors, rather than hold perpetrators accountable and results in

"whole categories within our society that are disposable and it doesn't matter to society whether [survivors] in those communities make it or not" (Participant #5, June 20, 2017).

This theme was also found in the literature, where previous scholars have noted that the legal response to survivors of SV does not work to engage in providing justice, but rather "still appears to be as much about distinguishing between complainants who are good (that is, performativity successful/proper) girls and those who are bad (subversive/un-rapeable) girls as they are about proving an offence has even occurred" (Pietsch, 2010, p. 139). Participants' views echoed a number of key findings in the scholarly literature, including Randall's (2010) work, which described how the legal response has engaged in victim blaming by upholding "the idea that women are responsible for protecting themselves against sexual assault," (p. 430). As the participants described, the legal response to survivors has upheld victim blaming and "the social context of victim blaming and stigma can also be influential in the way in which women construct narratives about their experiences" (Randall, 2010, p. 430). All of the participants agreed that victim blaming was present in the legal response to survivors. The literature has also highlighted that the consequence of victim blaming in the legal response has "translated into a tolerance of the crime itself…[which] has several negative consequences for the [survivor] as [they] are more likely to blame [themselves] for the assault" (Grubb and Harrower, 2009, p.64).

As described through participants' critique of the legal system, survivors of SV are met with victim blame because everyone "gets what they deserve and deserves what they get" (Hayes, Lorenz & Bell, 2013, p.203). Davis' (2012/1997) concept of the "prison industrial complex" is that the legal system works on the assumption that all individuals have the ability to self-govern, which presents the idea that people need "to manage their own risk and make 'prudent responsible choices that ensure a responsible, self-sufficient future'" (Cormack & Peter,

2005, p.285). This notion of self-governing upholds victim blaming because it fails to account for the systemic barriers of racism, sexism, colonialism and other oppressions based on stereotypes of othering. Crenshaw (1991) discussed the impact of structural racism in the legal systems' response to survivors of SV, especially women of color, where "much of the problem results from the way certain gender expectations for women intersect with certain sexualized notions of race, notions that are deeply entrenched in [North] American culture" (p.1271). The legal system denies the intersections between experiences of SV, racism, colonialism, ableism, and structural oppression, which places victim blame on survivors and "casts a shroud of silence over [survivor's] experiences and affects their willingness to report to police or to disclose to other public agencies" (Johnson, 2012, p.614).

Self-Blame and Just World Belief

All five participants discussed self-blame as a result of survivors' engagement with the legal system. Self-blame happens to a majority of survivors, whether they disclose their experience of SV to a representative of the legal system, friend, or family members. For example, Participant #3 (June 13, 2017) regarded how self-blame affects a survivor's ability to reach out for support, which "eighty-seven percent [of survivors] do not seek any professional help at all." Participants all agreed that self and victim-blame can affect a survivor's decision to move forward with the legal process because "the focus, very quickly, gets taken away from the incident that happened and is focused on every other decision that you've ever made in your entire life" (Participant #3, June 13, 2017). Further, the participants discussed how self-blame transfers into other feelings around responsibility for the perpetrator re-victimizing, being sent to jail, or failing to make the "right or safe" choices during an assault, which Participant #4 (June 19, 2017) states results in:

Ninety percent of people I support have some level or blame, guilt or shame that directly correlates to victim-blaming rhetoric… [and] that's so much of healing work that individuals need to go through, is not having this idea that you're responsible for someone else doing really harmful things.

Four of the participants believed victim blaming and self-blame are inherent within the legal process, especially because that response has been guided by assumptions based on rape mythology and the "good or bad victim" construct. Participants believed the legal response has a direct impact on survivors' adherence to self-blame, which Participant #1 (June 9, 2017) states "that picture of [police] standing there in a uniform can be this [validation]... 'I need validation from you because you are a person who upholds what's right and what's wrong." Moreover, participants argued the result of victim blaming and self-blame leaves a majority of survivors upholding responsibility for their own victimization and minimizes the harm committed against them, but in reality "there's no possible way to walk in this world that makes you invulnerable to being blamed for whatever befalls you in that kind of circumstance" (Participant #5, June 20, 2017). Participant #3 (June 13, 2017) also noted how self-blame can impact whether a survivor reaches out for support, which "that [self-blame] cannot only determine whether or not they move forward with an investigation but it can determine whether or not they feel like they deserve medical care or follow up or counseling."

A key area in the scholarly literature around self-blame focuses on an individual's belief in a "just world," which refers to "the world we live in is just and fair… and fits into our [North] American ideology of independence, which includes notions that every person has a multitude of choices" (Hayes, Lorenz, & Bell, 2013, p. 203). Though participants did not explicitly reference the theoretical understanding of the just world belief, they touched on the topic in their

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discussions around survivors' belief in self-blame and victim blame. Participants explained the

just world belief through the acceptance of rape mythology and victim blaming in societal and

legal responses to survivors of SV:

> Because it makes [people] feel safer that we can create reasons for why [SV] happens to
>
> other people, so we're not one of those people in what happened because we are not
>
> going to do X. But then what happens is that when X happens to one-third of women,
>
> [survivors] are like, 'I did this, I caused this, I'm responsible.' (Participant #4, June 19,
>
> 2017).

The belief in a just world aligns with self and victim blame because it promotes the idea that

everyone has the ability to make their own choices, and that these choices should result in the

desired outcome. Within the framework of just world belief, if the desired outcome is not

reached, it is a result of making the wrong choice. The legal response has been influenced by the

just world belief, where survivors can be blamed for choices and victimization. For example,

Jane Doe (2003) discussed how the belief of a just world and self-blame work to minimize

experiences of SV, especially through presenting sexual assault as an individualized event. Jane

Doe (2003) argued that the legal response has used survivor self-blame and belief in a just world

"to isolate one series of rape, one sensational case and conviction, and claim justice when

countless more go unreported, fortifies people's desperate need to believe that rape and sexual

assault are episodic-when it is justice that is episodic" (p.77).

"Unfounded" cases

As the majority of participants, and the literature highlighted, that victim blaming and

self-blame were present in the legal response to survivors of SV, and this was especially the case

when the representative of the legal system deemed a complainant as "unfounded." All of the

participants discussed the classification of "unfounded" used by the legal system. The majority

of participants believed the classification has been misused within the legal response, which "unfounded" had been used to dismiss survivors on assumptions of rape mythology and "good or bad victim" category. The participants also noted that "unfounded" cases have been used to measure survivors' credibility, particularly in situations where responding officers' invasive questions are aimed at evaluating the emotional responses of a survivor. Participant #4 (June 19, 2017) described the exploitation of the "unfounded" classification:

> All these unfounded cases - these types of questions that the police ask and even just the investigation process is one that doesn't match up with even getting a strong case…every part of the process is flawed and acts out further violence.

The participants referenced "getting a strong case" meaning the representative of the legal system actually works towards gaining sufficient evidence and providing support to the survivor in the initial response to a disclosure of SV. In comparison, the current legal response and current rate of "unfounded cases," points to the fact that the legal system continues to investigate through assumptions of victim blaming which "the way that most officers continue to investigate sexual assault, is actually the exact opposite of what should happen…it's causing even the most well-intentioned officers to disbelieve real victims" (Doolittle, 2017).

The majority of participants also noted how survivors often stopped their engagement with the legal system because of the initial response, which Participant #2 (June 9, 2017) stated that:

> Many women who have went to the police and because their experience with the police have recanted…then those get filed as false reports and they're not false reports, it's because their experience in going to the police was so horrendous that they can't go forward with it, so they are willing to say they lied about it in order to get out of having to experience that anymore and go through that kind of trauma.

Participants' all discussed the harms associated with the legal system, especially when survivors are dismissed as "unfounded" or a false allegation that leaves "survivors [to] live in these intense feelings of shame and guilt and responsibility" (Participant #4, June 19, 2017).

The literature also highlighted the mishandling of the "unfounded" classification within the legal response to survivors of SV. The rate of "unfounded" cases can be connected to the lack of sexual assault reports to police, which Scassa and Conroy (2016) stated "that a high number of crimes of SV are never reported, when they are reported, many crimes of SV are deemed as 'unfounded' by police [and] when investigated, many cases do not result in charges being laid" (p.9). Similar to the research participants, DuBois (2012) highlighted the connection between "unfounded" cases and false allegations, which "the premise that women lie about sexual assault seems to permeate police investigations and has led to unfortunate development of damaging investigative techniques" (p.208). The legal systems' use of "unfounded" and false allegations has exposed the influence of rape mythology and "good or bad victim" categories, which Doolittle (2017) stated:

> When complaints of sexual assault are dismissed with such frequency, it is a sign of deeper flaws in the investigative process: inadequate training for the police, outdated interviewing techniques that do not take into account the effect that trauma can have on memory; and the persistence of rape myth among law-enforcement officials.

The response to survivors from the legal system does not guarantee justice; rather it depends on the responding officer adherence to rape mythology and "good or bad victim" categories. As Doolittle and the research participants highlighted, the legal response has not met survivors' expectations and "the result is a game of chance for Canadian sexual assault complainants" (Doolittle, 2017).

Impacts of the legal system's analysis of trauma

The participants noted that the legal response has harmful consequences on a survivor's ability to understand their experience as traumatic or as an experience of SV, which the legal system fails to "[recognize] that this [process] might be way more traumatic and way more detrimental to her well-being, to her survival, to her life" (Participant #2, June 9, 2017). The legal system's analysis of trauma has left negative impact on survivors which Participant #4 (June 19, 2017) states "there's so many different levels of rape culture and rape myths that are being reinforced through the systems…the idea of what a good victim looks like is one of those harmful things that gets upheld."

As discussed by the research participants in this study and in the scholarly literature, survivors of SV react and respond in different ways to trauma because of the complex intersections in experiences of SV. The legal response has failed to understand the science of trauma, which Participant #2 (June 9, 2017) states "[responses] like, 'well why didn't you report right away or as soon as it happened?' and that's not the norm and not how people function. [Survivors] are in shock, [they] haven't processed the memories." Haskell and Randall (2013) support participants' discussion around the legal response to trauma, and argue that the legal system "must also take into account the physiological and psychological levels on which trauma is experienced, as well as the social context in which trauma occurs" (p.511). Haskell's and Randall's understanding of trauma helps dismantle rape mythology and victim blaming because trauma can only be understood through the survivor's experience of violence or trauma. Yet the most common responses to survivors' trauma continues to be measured against rape mythology, which Participant #5 (June 20, 2017) described "that viciousness and the determination of certain sections of society to advance rape mythology is the thing that's surprising…you would imagine that evidence of human experience would just start to gradually erode that narrative." Thus, the

legal system has not provided justice or support for survivors of SV, which has lead to survivors'

of SV to have doubt and lack of confidence in the legal system.

Doubt in the legal system

As the literature and the participants' discussed, the legal system can further enact

violence against survivors of SV. The participants' noted that the majority of survivors do not

engage in the legal process because of their social location, which Participant #5 (June 20, 2017)

described as:

> There are good reasons not to engage in the justice system, not just because you could
>
> suffer from further victimization…but also because a lot of people, whether they
>
> understand it politically or not, are profoundly critical of what happens in the justice
>
> system to the people who've been accused.

The participants discussed survivors' doubt and fear in disclosing to a representative of the legal

system because of the aggressive process, such as survivors have to "disclose something that

happened to you that you may not ever want to talk about and go to court and talk about it but

you also may not want your friends and family, partner, [or] anyone else to know" (Participant

#2, June 9, 2017). Since the legal response relies on intrusive investigation procedures, many

survivors do not want to engage in that process because "your life, who you were, where you

were, what you were doing is now being dragged through the court and you're forced to relive

that" (Participant #3, June 13, 2017). The legal response has failed a majority of survivors of SV,

which Participant #5 (June 20, 2017) stated, "the justice system has a long way to go if it wants

to prove itself to be relevant to the people that it most needs to serve."

The legal process has not worked on the behalf of survivors, but as the majority of

participants and the literature has argued: "the criminal justice system (historically and currently)

has been all about the coercion, regulation, and punishment…of those who are under-privileged,

racialized, and already 'othered'" (Cormack & Peter, 2005, p.307). The legal response has not

encouraged survivors of SV to report, but rather upholds rape mythology, the construction of the

"good or bad victim" and victim blaming. As the participants have noted, this had led to

survivors' doubt and uncertainty in the legal system's ability to provide justice or safety because

the legal response has "scrutinized [survivors'] lives to determine whether they were innocent

victims or women who essentially got what they were asking for. Legal rules thus functioned to

legitimize a good woman/bad woman dichotomy" (Crenshaw, 1991, p.1266).

The findings of this research study support the argument that the legal system was not

made for supporting survivors of SV, nor for the individuals' who are most risk of being

victimized by violence. The majority of research participants deemed their experience in

supporting survivors' through the legal system as generally negative, which Participant #4 (June

19, 2017) stated "the work is deeply complex, it's really difficult and challenging work, but it

also is really beautiful, meaningful and important." However, one participant did deem the

majority of their experiences with the legal system as positive, and the next section will highlight

this interview by focusing on strategies to support survivors through the legal system. The legal

system needs to change in order to truly uphold survivor-centered approaches, but the continuous

effort of advocates and allies is also required to make this change. Though this research study

critiques the Canadian legal system and advocates for change, the concrete strategies and ideas to

re-design the current system are beyond the scope of this research. Therefore, the next sections

will focus on the current strategies and efforts being made to change the legal system and to

better support survivors who decide to engage in that system. Though all participants understood

the harms in supporting survivors through the legal process, they also all noted that survivor

resiliency has been a major component of their work. Participants' also all agreed that

advocating, education, and awareness must be systemic because of the deeply entrenched influence of rape mythology and victim blaming. But as advocates and allies work towards dismantling systemic rape mythology and victim blaming, they must also ensure these conversations are fore fronted by survivors and people most affected by this violence. As Participant #4 (June 19, 2017) stated:

> [Advocates must ensure] that we're not encouraging survivors to go down any particular path and that we really listen to them. I think that's really important for a lot of healing work and reclaiming your own experience and having a say over your own healing process.

Survivor-Centered approaches

Survivor-centered frameworks are utilized by SV professionals. These approaches need to be upheld within responding to survivors, especially in terms of providing survivors with information on "all the different options available for survivors and helping survivors explore them but really ensuring that we are not pushing an agenda" (Participant #4, June 19, 2017). As discussed in the literature and by the majority of research participants, the legal system has not upheld survivor-centered frameworks, and the individual legal representatives that do are constrained within the system. This means that in order to uphold survivor-centered frameworks in the legal response, the entire legal system needs to be re-developed to account for the experiences of colonialism, racism, ableism, sexism and other identity-based oppressions. More specifically, participants argued that the legal system has "the opposite approach" of a survivor-centered framework in their responses to survivors of SV because the survivor does not have the right to make the choices in the legal process. Survivors of SV are not encouraged to engage with the legal system because "fewer than one in ten victims report their assault to police, and fewer than half of the cases that do go to court end with a conviction" (Doolittle, 2017).

It is clear that the legal response fails to understand how experiences of racism, sexism, colonialism, ableism, classism and other identity-based oppressions are connected to SV and how systemic responses contribute to that violence and oppression. The legal systems needs to be re-designed to serve the people who need it the most because currently this system "allows this society to discard people who have serious social problems rather than recognize that many of them are simply hurting themselves and are in need of help" (Davis, 2012/1997, p. 50). As Constance Backhouse (2012) questions: "if prisons disproportionately house the poor, the mentally ill, and members of racially subordinated communities, can we in good conscience continue to accept such institutions as part of a feminist strategy to eliminate rape [and sexual violence]?" (p.733).

The Canadian legal system was built from British colonial history and law. The Criminal Code was introduced through the 1867 British North America Act, which made Canada into a governing state. Since the Canadian legal system relies and was built on a hundred and fifty year old legislation, it will take time and determination to make changes in that long-standing system. Though results of this research study align with participants' and the arguments in the feminist scholarly literature about the prison industrial complex and the inherently broken legal system, there is an important argument to be made that we still require a commitment to work towards changing that system and helping survivors engage with the current legal system. As the participants of this research study have shown, the work of survivor-centered frameworks and SV professionals has been extremely valuable because of the lack of support from the legal system. Thus, while the legal system needs to be changed because how "can we conceive of a penalty that will contribute to a reduction of misogyny and sexism, one that will also avoid any reinforcement of masculinity cultures and behaviours?" (Backhouse, 2012, p.737), but until the

legal system can change, there still needs to be considerable effort to help survivors and individuals engage with a legal system that often causes more harm and trauma.

A strategy towards changing the legal system and working towards survivor-centered approaches has been demonstrated through collaboration amongst representatives of the legal system and SV professionals and advocates. For example, Conroy and Scassa (2016) used the Philadelphia Police Department (PPD) model of sexual assault investigations to highlight the necessity for remodeling the current Canadian legal response. The PPD model was produced through Philadelphia's mis-use of the classification "unfounded" in sexual violence cases, whereas the new model "supports transparency and accountability in policing by working from a collaborative and victim-centered approach to investigating crimes of sexual violence" (p.7). This model has been extended to Ontario, where fifteen chosen police services across Ontario were allocated 1.8 million dollars to collaborate with their regions' sexual assault center to improve and develop new procedures and trainings for police responses to SV crimes (Ministry of Community Safety and Correctional Services, 2017). The project, "Police Pilot Projects to Improve Response to Sexual Violence," also focuses on the classification of "unfounded." The Brantford Police Service, who has a thirty percent "unfounded" rate in SV crimes, was chosen as one of the fifteen forces (Ruby, 2017). The Brantford Police are working alongside a panel of sexual violence professionals and advocates, such as representatives of Sexual Assault Centre, post-secondary institutions, hospital and Victim Support Services, on implementing new police trainings and procedures and investigating the "unfounded" rate in sexual assault cases in the Brant County (Ruby, 2017).

Doolittle's (2017) findings of the number of "unfounded" cases in Canada pushed the public and many police forces to recognize the inherent inequalities and problems in the

Canadian legal system's response to survivors of SV. Hamilton Police Service dismissed approximately one in three complaints as "unfounded," but was not chosen to receive the funding from the Ontario Government (Bennet, 2017). Rather following Doolittle's (2017) investigation, the Hamilton Police board voted that the Hamilton Police force was to collaborate with the local SV advocate group to improve their responses, investigative procedures and handling of sexual assault cases (Bennet, 2017). Collaboration amongst Sexual Assault Centers and police services can be extremely beneficial for working towards survivor-centered approaches because it maintains relationship amongst organizations and can better support the survivors that both, police and support services, interact with. The Ontario collaboration project has been a step in the right direction towards changing the legal system and hopefully this project will be extended to all police forces in Canada. This project also needs to be extended to creating more resources and support services for survivors, especially those in rural locations. For example, opening more sexual assault centers, rape crisis centers, women shelters, men shelters, counseling and healthcare centers in rural or Northern areas.

Survivor Resiliency

The literature surrounding the legal response to survivors of SV has critiqued the legal system's handling of complainants of sexual assault, which within the Canadian response means that "complainants who do not conform to stereotypes about the perfect victim were winding up with cases deemed unfounded [or dismissed] at a disproportionate rate" (Doolittle, 2017). Though the literature and research participants' critique of the legal response align, the literature does not highlight how the failures of the legal response has actually, in some ways, emphasized the strength and resilience of survivors of trauma and SV, including survivors who choose to engage with the system or those who do not. Participants' highlighted that due to the failure of the legal response, survivors have moved towards other means of support and justice, which

Participant #5 (June 20, 2017) described as "a subculture where people are responding in their own ways to the lack of efficacious criminal justice response and healing quite nicely as a result."

As discussed by participants', survivors' have moved towards alternatives for support because of the failures of the legal system which "much of this activism took place outside the criminal justice system; indeed, many feminists scorned any engagement with the courts, as it was seen as more important for women to take rape into their own hands" (Johnston, 2012, p.269). Though some survivors find support and justice within the legal system, such as successful trial with the perpetrator receiving sentencing, overall the system has not worked for survivors. Survivors have exemplified resiliency through their work to change the legal system. For example, Jane Doe (2003), and Pino and Clark (*The Hunting Ground* Film, 2015) used the legal system to hold the specific institutions, the Toronto Police and University of North Carolina, accountable for failing to respond or support their experience of SV. In Jane Doe's (2003) experience, the Toronto Police refused to caution the public on the 'balcony rapist' and failed to do their job. Doe (2003) responded through strength and resiliency, in which she took it upon herself to alert the public and won her landmark case against the Toronto Police for their failures and "reliance on rape myths and stereotypes" in SV investigations (Doolittle, 2012, p.191). Pino and Clark (*The Hunting Ground* Film, 2015) also exemplified strength and resiliency through challenging their university's handling of their sexual assault complaints, which started a nation-wide resistance to campus rape culture. Though Doe (2003) and Pino and Clark (2015) exemplified resiliency in challenging and attempting to change the systems they were against, survivors can also exemplify resiliency by being alive because "it's a real testament for the human spirit that [a survivor is] still here and still reaching…for a better

situation for everybody in society" (Participant #5, June 20, 2017). As Rentschler (2014) highlighted through her understanding of "feminist response-ability," survivors have shown resiliency and strength in their personal lives as well, such as *stfurapeculture* site operator, who provided support and strategies to challenge rape culture, SV and everyday sexism on their online posts. Survivors of SV need to be celebrated for their strength and resiliency, rather than shamed by stereotypes based on rape mythology and the "good versus bad victim" category.

As the research participants in this study argued, survivors demonstrate resiliency and strength through various ways, both in trying to change the legal system through legal means, as seen with Jane Doe (2003) and Pino and Clark (2015), and by continuing to survive: "[survivors] struggle really hard but survive with or without the help of the justice system" (Participant #5, June, 20, 2017). As the literature and participants highlighted, there can be extremely harmful impacts of the legal response, but also positive outcomes:

Having those connections with individual survivors and getting to witness that incredible resiliency and that face that people are routinely surviving the un-survivable. That's where the energy comes in and where the real power is just by witnessing those stories (Participant #5, June 20, 2017).

Survivors are continually finding their own means of support and healing, as demonstrated through the increase of feminist groups on campuses, online and support services. Though there can be no perfect narrative for healing, survivors have exercised various strategies to work against SV and support themselves due to the failures of the legal system, such as "Take Back the Night marches to self-defense classes, from sexual assault centers and hotlines to campaigns on rape awareness" (Johnston, 2012, p.269).

Survivors' voices need to be fronted in the conversation around changing the systemic responses to SV because survivors have had that lived experience of harm and violence. The discussion around survivor resiliency is extremely important in working towards survivor-centered approaches because it celebrates survivors' power and strength in surviving violence. But the current procedures do not recognize survivors' resiliency or harm done to them and that must change to fully support survivors. Currently, only one in ten survivors will report their experience of SV to the authorities because of how the legal system has handled sexual assault complainants. Representatives of the legal system need to change their interview procedures to begin to mend the relationships between police forces and survivors because police have not always provided safety or justice to those people most likely to be victimized. Though laws and legislation will need to change to provide justice and safety for survivors and people most likely to experience violence, when police recognize survivors' resiliency and survival there can be a step towards mending those relationships between communities and police forces.

A step towards recognizing survivor resiliency has been through upholding survivors' rights as a victim of crime in the legal system. Though this research has critiqued the use of the "victim" category in the legal system, the use of victim in the Canadian Victim Bill of Rights attempts to provide protections in the legal process for the individual who experienced harm and violence. In July 2015, the Canadian federal Government enacted Bill C-32, which outlined the rights of an individual as a victim of crime, which "it is important that victims' rights be considered throughout the criminal justice system" (Canadian Victims Bill of Rights, 2015, S.C.13, s.2). This legislation allows individuals who've been victimized or individuals related to someone who has been victimized to access information surrounding the investigation, the offender, and/or the trial. In regards to survivors of SV, the Canadian Victims Bill of Rights

could be used to ensure survivors are kept aware of the entire legal process, such as information about the offenders release or the status of the investigation (Canadian Victim Bill of Rights, 2015, S.C.13, s.2). The Canadian Victim Bill of Rights, if upheld through investigations, could support survivors and survivor-resiliency because the bill works to protect survivors/ complainants' rights. But as demonstrated throughout this research study, survivors' rights seemed to be forgotten in the legal system's response to SV. But in highlighting the Canadian Victims Bill of Right, it is important to recognize that this legislation can only be useful when the legal system dismantles assumptions and stereotypes of the "good or bad victim" category. Though there has been effort and improvement in legislation, there still remains a large difference between law and practice as demonstrated through this research, especially in regards to the "victim" category. In sum, for the Canadian Victims Bill of Rights to aid survivors, the legal system needs to change their approach to SV crimes and stereotypical assumptions based on "good or bad victim" category.

Additionally, the legal system needs new training and procedures in responding to crimes, such as harm reduction and transformative justice (TJ) practices.[2] Though harm reduction has been mostly used in substance abuse programming, implementing harm reduction practices in SV response allows the survivors to have control over their healing and/or legal process. If the legal system responded through a harm reduction lens, for example by including supportive and believing stances, more survivors would likely report to the authorities. Another useful approach to SV is TJ, which focuses on the intersection of systemic inequalities and oppressions, such as the understanding that the prison industrial complex is inherently violent and reproduces that

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[2] In discussing alternative legal practices, restorative justice has been used positively in other crimes, such as robbery. But in regards to SV, restorative justice has been critiqued because of the severity of violence against a body and the deeply entrenched oppressions related to SV which Balfour and Du Mont (2012) stated: "restorative justice sentencing practices may be the thing edge of a wedge that undermines, in part, the legacy of feminist inspired legal reforms aimed at denouncing sexual violence and securing the safety of women" (p.703).

violence rather then rehabilitate. This framework associates violence to the oppressive systems in place that reproduce this violence, which " [TJ] does not assign sole culpability for the assault on the perpetrator of the 'person who has caused harm.' Rather, we ask: what did the community do to create and support spaces or to ensure cultural competency in communicating sexual needs, desires, and boundaries?" (Kelly, 2012, p.49). For example, Participant #4 (June 19, 2017) discussed their own transformative justice practices in regards to SV:

> Transformative justice models [supports the idea] that you can be doing accountability work without the two-people having to engage with each other and rebuild or create a new relationship. Rather [it focuses on] supporting someone, making sure they feel cared for, have resources, have community [support], and then the person can equally support them and hold [himself or herself] accountable [and then can] work through the behaviours that challenge them.

TJ and harm reduction frameworks can work towards providing better support for survivors' in the legal system because there's recognition and accountability placed on the systems, especially the legal system, that furthers enact violence against populations mostly likely to be victimized. In order for the legal system to uphold survivor resiliency, they must re-design their procedures and laws through harm reduction and TJ frameworks. In hopes of change in the legal system, there needs to be an understanding that "yes, [survivors'] experiences [are] different, but that doesn't make it any less valid" (Participant #3, June 13, 2017).

Education and Awareness

In upholding survivor-centered approaches, awareness and education has been an important aspect in the work in supporting and advocating for survivors of SV. As discussed

through the study, the legal system has failed to understand the intersections between survivors'
social location and experiences of SV. For example, Participant #4 (June 19, 2017) stated:

> You can't possibly take away an experience of misogyny and sexual violence out of the
> context of a capitalist, racist, colonial, homophobic society because a majority of people,
> particularly those who are at the highest risk of experiencing of sexual violence, [and]
> those experiences are deeply critical and you cannot ever look at an experience of
> violence in a silo.

The legal system fails to take into account the cultural and social contexts in which SV happens
because the systemic response has been guided by rape mythology and victim blame. This means
training and education need to occur at the systemic level because "realistically if we're going to
have better responses to gender-based violence, we also need better understanding of how racism
[and identity-based oppressions are] impacting the police system and things like that because
those things are so deeply interconnected" (Participant #4, June 19, 2017).

The majority of participants also discussed the lack of trauma-informed approaches in the
legal response to survivors, which Randall and Haskell (2013) argued that survivors "social
realities must be take into account in developing more sensitive, effective and responsive trauma-
informed justice intervention into the harms caused by crime and wrongdoing" (p. 515). As
discussed earlier, all of the participants noted the positive impact of collaboration amongst the
legal system and community organizations, such as police working alongside rape crisis centers.
The legal systems need to work alongside organizations that uphold survivor-centered
approaches because the legal system fails to understand the response to trauma. For example, Dr.
Lori Haskell provides a two-day workshop on trauma-informed policing, which highlights the
neuroscience behind human reaction to trauma. Trainings, similar to Dr. Haskell's, will allow

representatives of the legal system to develop more realistic understandings of how survivors respond to trauma. In working with advocates and allies, the legal system can work towards understanding the systemic oppression that has been upheld through invasive investigative practices, which have been influenced by rape mythology and victim blaming. But in order for the legal system to recognize the inherent flaws and inequalities, it must be changed as Participant #4 (June 19, 2017) described: "my vision of a world free of gender-based violence is a world that when someone causes harm, they're able to held and supported in their own accountability." As demonstrated through this research study, the current legal system has not offered justice or support for survivors of SV or offenders of crime. Participant #4 discussed the "prison industrial complex" to highlight the failures of the legal system, not only in supporting survivors, but also how the legal system fails offenders because " over ninety percent of the people in jail for committing [sexual assault or violent crimes] are survivors of childhood sexual abuse" (June 19, 2017). The majority of participants' argued that the legal system does not work in supporting offenders because there has been no work with offenders around accountability or counseling in the system. Rather than working towards accountability and understanding why a person offends or commits violence, the legal system further enacts violence against people in the system because "[the legal system doesn't] actually change behaviours [and] if you look at any research, particularly around childhood [abuse], the [offender is] much more likely to re-perpetrate " (Participant #4, June 19, 2017). This means the legal system does not work to support offenders of crime to change behaviours or be accountable for the violence committed, which "no one ever expects people who go to prison to come out reformed. In fact, many come out in much worse condition than when they entered (Davis, 2012/1999, p.68). In order for the

legal system to uphold justice and safety for survivors and offenders, this system needs new training and procedures to provide support for those in most need of it.

In addition to training and development in the legal system, education on rape culture and rape mythology needs to be addressed at the societal level as well. Participants' noted that societal responses to survivors, such as responses from loved ones, family members or friends, could have significant impact on how survivors perceive their experience of SV. Moreover, in order to be presented as blameless as a survivor of SV, Participant #5 (June 20, 2017) argued "you have to have perfect relationship to every societal pressure that comes down on women to be considered even somebody who could be raped." The conversations around the harms of rape culture, rape mythology, victim blaming and SV needs to start at an earlier age, because these harmful stereotypes around SV are introduced at a young age in an individual's life, such as in TV shows, movies, social media or online platforms, advertisements, and in conversations amongst youth. Participants agreed education around sex positivity, healthy sexual activity, and relationships needs to start at the elementary levels because then children are encouraged to ask questions in those settings, rather than go to other sources where they may learn harmful stereotypes, such as online pornography. For example, the No More Project in Brantford, ON works with youth and young adults to engage in conversations about topics surrounding gendered violence, such as gender stereotypes and norms, gender identity, masculinities and consent. The project encourages youth to engage in programming and workshops to promote anti-violence and anti-oppressive practices and language in their daily lives. The No More project aligns with survivor-centered approaches in discussions about SV, which Participant #4 (June, 19, 2017) stressed:

We need to talk way more about what 'yes' looks like because I think this idea that if we

expect the person who is not feeling comfortable or safe to express 'no' in a very understood

way rather than teaching people who want a particular path to happen, they understand what

'yes' looks like [and] what consent looks like.

Moving towards a culture of consent, not only in regards to sexual activity but throughout

individuals' daily lives and choices, can work towards dismantling stereotypes based on rape

mythology and victim blaming.

Another example of working towards a culture of consent and conversations around SV

is the Ontario Government's *Bill 132*, which required all Ontario post-secondary institutions to

create a new sexual violence policies and procedures. Universities and colleges were required to

re-visit or create new policies to ensure survivors of SV were supported and believed in making a

complaint of SV to their institutions. Wilfrid Laurier University (WLU) worked alongside

student groups and professors to create the "Gendered and Sexual Violence Policy and

Procedures" which the document states that "Laurier acknowledges that deeply held social

attitudes contribute to the perpetration of gendered and sexual violence and operate to minimize

the understanding of the extend an impact of gendered and sexual violence in our communities"

(Wilfrid Laurier University, 2016).

As argued throughout this section, the legal system needs to be re-structured to support

survivors of SV, which Participant #4 (June 19, 2017) argued that the conversations around SV

education also need to center survivors' voices: "there needs to be much bigger and deeper

conversations about the intersections of gender-based violence and the different types of

identities and we need to be putting the people who are most marginalized at the center of those

conversations." Survivors' and advocates voices need to guide the conversation and education on

the systemic oppression and violence in the legal system because survivors' have that lived experience. Participants' noted that survivors cannot be expected or forced into leading this conversation, but their perspective exemplifies the oppression and violence experienced as a survivor of SV. Bringing survivors' voices to the forefront and in public spaces can break down stereotypes of SV, such as rape myths or the "good or bad victim," because their experiences will show the reality of SV. In sum, survivors have moved towards other means of support and justice because of the failures of the legal system. But due to the lack of justice in the legal system, the determination and work of advocates towards supporting survivors and those who experience violence needs to continue in order to change this broken system. When survivors' are supported and believed in disclosures of SV, there can be less traumatic and victimizing consequences and this can provide a better start for healing work. As participants' discussed, the legal system's outcome and healing for survivors are two things that need to be separated. But when survivors are better supported in engaging with the legal system, there can be less traumatic outcomes such as victim blaming and self-blame. While the legal system needs to undergo some fundamental changes, as this research study has demonstrated, it is important to also think about supporting survivors' in this long-standing system while change occurs. In sum, the legal system needs to be reconstructed to uphold feminist, survivor-centered, harm reduction and TJ-based practices to provide justice and support for those who experience violence and trauma.

CONCLUSION

In Canada, one in three women will experience violence in their lives, and the likelihood of experiencing this violence increases for women who are marginalized in society including Indigenous women, immigrant women, women of color, LBGTQ+ women, and women with

intellectual or developmental disabilities (Sexual Assault Centre of Hamilton and Area, 2017). Though the prevalence of SV remains high in Canada, the number of survivors of SV has not translated into an increased reporting rate-only one in ten survivors will report their experience of SV to the legal system (Canadian Women's Foundation, 2016). As the findings of this research have revealed, the low reporting rate can be attributed to the influence of rape mythology and victim blaming in the legal system's response to survivors. This research study investigated how SV professionals interpreted their experiences with representatives of the legal system through an intersectional feminist framework. Specifically, this research analyzed the role of rape myth acceptance and victim blaming in the legal system and how SV professionals perceived the impact on survivors of SV.

More specifically, this research indicates that survivors' expectations of the legal system are not being met, especially in regards to supporting survivors and responses to trauma. In particular, the legal system's outcome should not be connected to a survivor's healing because perpetrators are rarely held responsible for their crimes, which transfers responsibility and victim blame onto the survivors for the violent experience. Furthermore, survivors' expectations of the legal system were not met in the system's analysis of trauma because there continues to remain a lack of understanding of how survivors or individuals' react to violence. Thus, findings from this research demonstrated that the reality of the legal system does not work towards justice or providing support for survivors of SV, but rather relies on rape mythology to dismiss a majority of survivors' experiences.

Representatives of the legal system, specifically police, rely on rape mythology to guide their initial interviews with complainants of SV. The legal system has used the construction of the "good or ideal victim" to dismiss survivors whose experience does not measure up to

stereotypes based on rape mythology. As the research demonstrated, the "good or ideal victim"

has been used to cast a majority of survivors as the "bad victim." Survivors are deemed the "bad

victim" in a majority of cases, such as if a survivor has had any previous experience with the

legal system, or had any previous mental health or illness, substance use or abuse, sexual activity

and/or involved with sex work. In comparison to the "good victim," the "bad victim's"

experience of SV fails to meet expectations of rape mythology and as a result they are deemed as

responsible for the violence experienced. In sum, survivors who meet the "good or ideal victim"

stereotype get deemed as worthy of the legal system's intervention and support, whereas

survivors, who do not meet the criteria, get branded as a "bad victim" and are met with victim

blame.

Victim blaming and self-blame were common outcomes for survivors who engaged with

the legal system, especially when survivors' complaints were dismissed as "unfounded."

Therefore, rape mythology and the construction of the "good or bad victim" has influenced

survivors to self blame when their experience does not match to those stereotypes; survivors

uphold their own responsibility and blame themselves for their experience of SV. Moreover, as

this research study has exposed, victim blaming and rape myth stereotypes in the legal response

are maintained through the classification of "unfounded." The proper use of the classification

"unfounded" in the legal system is to decide if a crime occurred or not, but it has not been used

for that purpose. Participants agreed that "unfounded" has rather been used to dismiss the

experiences of survivors of SV, and these dismissals have been based on assumptions of the

"good or bad victim" and the idea that false allegations of SV are common (DuBois, 2012). The

legal system has not used the classification of "unfounded" properly and that has resulted in

survivors fearing that they will not be believed in disclosing an experience of SV to the legal system (Doolittle, 2017).

In sum, the legal system's response to survivors has upheld rape mythology and victim blaming, leaving survivors with doubt and fear of engaging with that system. The legal system was not made to provide justice or healing for survivors of SV or people most likely to victimized by violence, such as immigrant women, Indigenous women, people of color, LGBTQ+ individuals, and people with developmental or physical disabilities. Rather than working to help the populations most likely to be victimized by violence, the system further enacts identity-based oppression, such as racism, colonialism, sexism, classism, ableism and so on by deeming them as a "bad victims". To further enact this violence and oppression, the legal system has used assumptions based on rape mythology to discredit and discard a majority of survivors' experiences of SV. Thus, the legal system has not provided justice or healing for survivors of SV, but rather results in victim blaming and self-blame, and contributes to a survivor's own adherence to a just world belief, rape mythology, and the "good or bad victim" construct. The lack of SV reporting to the legal systems has not been a coincidence but the result of systemic responses, which has maintained fear and doubt in survivors when engaging with the legal system.

In closing, the current legal system has failed survivors of SV and the legal system needs to be re-developed to uphold survivor-centered approaches in responses to survivors. In order to uphold survivor-centered approaches, the legal system has to make new changes to focus on survivor resiliency and strength. By focusing on the survivors' strength and resiliency in responses to disclosures, survivors will be encouraged to further engage with the legal system or support services, such as counseling. In addition, the legal system needs to change the

procedures and laws around sexual assault investigations to uphold survivor-centered

approaches, which involves believing and supportive stance when a survivor discloses. Until

change occurs, the work of advocates and SV professionals is extremely valuable because

survivors' need support in engaging with the legal system that can cause harm and trauma. As

this research study has demonstrated, there needs to be a cultural and legal shift towards a culture

of consent which encourages discussion and questions around issues related to SV. The legal

system needs to be re-worked to incorporate feminist, harm reduction and transformative justice

frameworks to provide better support for survivors. In sum, when the legal system changes to

uphold these values, survivors can be better supported and this will assist them in working

towards healing and justice.

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Interview Guide

1. Can you briefly describe your experiences working or interacting with survivors in the field of sexual and gendered violence?
2. Which parts or professionals of the criminal justice system have you interacted or worked with? (Explore: Would you describe these experiences as generally positive or negative?)
3. Have you encountered survivor-centered approaches in your interactions with criminal justice system professionals and survivors?
4. Have you encountered victim-blaming attitudes when interacting with survivors and professionals in the criminal justice system?
5. Have you encountered rape myth acceptance when interacting with survivors and professionals in the criminal justice system?
6. Can you explain your understanding of how victim blaming attitudes or rape myth acceptance can affect survivors? (Explore: survivor own beliefs and criminal justice response)
7. Do you see a connection amongst victim blaming or rape myth acceptance and the survivor's decision to report and/or disclose?
8. What are some strategies or ideas to maintain a survivor-centered approach and response to a disclosure of sexual or gendered violence? Does this approach differ from what you have experienced with the criminal justice system?