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**What is Canada Doing?
An Analysis of Canadian University Sexual Violence Policies**

Konnor Legault

Submitted in partial fulfilment of the requirements of the degree of
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Wilfrid Laurier University
2021

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Abstract

As social awareness of the prevalence of sexual violence on university campuses has increased, it is important to understand the role of university policies in providing protection and support for the campus community and people affected by sexual violence. The purpose of this research is to analyze and compare Sexual Violence Policies (SVP) from four Canadian universities. The analysis evaluates the comprehensiveness of the policies and considers how power, and ideas of power are embedded within SVPs. Findings suggest that policies are at times comprehensive, but may be missing important information, such as including an Objectives section in the policies. Additionally, the analysis suggests that power is present and exercised through the policies in two ways: through university officials being granted discretion when investigating and making decisions related to sexual violence reports, and through the understanding of policies as a piece of common knowledge as argued by Foucault's power/knowledge.

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Chapter One: Introduction

In November of 2017, a sexual assault took place at St. Francis Xavier University (St. FX), in Nova Scotia. Quickly after the student reported this to the university, an investigation took place. Throughout the investigation, the university took measures to protect the victim by placing restrictions on the accused, such as not being allowed to contact the victim or set foot on her residence floor (Bundale, 2018). The accused was found responsible by the university and was suspended. However, the university allowed the guilty party to finish his academic year and ruled the suspension would take place the following year. Additional restrictions were put in place to protect the victim until the suspension came into effect.

While St. FX took steps to ensure the victim's safety up until the point of the accused's suspension, the university was heavily criticized by the media for its handling of the case after the suspension took place. The student who was found guilty appealed the decision, and his suspension was lifted until the appeal was resolved. According to university officials, and the school's code of conduct: when there is an appeal, the school must maintain the accused's access to education (Brundale, 2018; Community Code of Conduct, St. FX, 2018-2019). The school failed to inform the victim of the appeal and lifted the accused's suspension. The reason for the media criticism was not about the appeal, per se, but rather the fact that the university did not inform the victim that there was an appeal and that the suspension was lifted. The university's handling of the situation ultimately led to the victim dropping out of St. FX and moving back to her hometown. Such examples of media criticism of a university's handling of reported sexual assault are becoming more common due to the increase in sexual assault reports.

The purpose of this research is to better understand how those factors that contribute to comprehensive campus sexual violence policies (SVP) play out in practice by examining four

Canadian university sexual violence policies. Additionally, this research will seek to better understand how the implementation of these SVPs that were created to respond to campus sexual violence (CSV)¹ may be subject to legal and social pressures from various stakeholders. I use prior research on sexual violence policies (SVP), and specifically draw on DeLong et al.'s (2018) discussion of comprehensive sexual violence policies, to develop a checklist to measure policy comprehensiveness in terms of the scope of situations to which it could apply and the inclusion of key definitions, measures, and options. I further engage in discourse analysis to consider how power is embedded in SVPs. This research is responding to the fact that self-reported rates of sexual violence are not declining, while official reports of sexual violence are increasing.

Statistics on sexual violence have remained consistent over the years. According to The Government of Canada (2017), self-reported rates of sexual violence among women have remained stable for 15 years, with roughly one in four women reporting that they have been sexually assaulted at least once in their lifetime. Statistics also show that women aged 15-24 are more likely to be sexually assaulted than other age groups (Government of Canada, 2017). According to self-report measures, rates of sexual violence do not appear to be decreasing, despite increased attention to the issue, and the topic of sexual violence is of increasing concern and discussion in the public sphere and in the media.

Howard, Potter, Guedi, and Moynihan (2019) conducted a study to better understand community-college students' sexual violence victimization in the United States. Almost half of their study participants (48.4% of their sample of 800 students) reported at least one form of sexual violence victimization since enrolling in university. In Canada, women aged 15-24 experience higher levels of sexual violence victimization than older women (Canadian

¹ Reason for using the term "sexual violence" will be explained in further detail in "Sexual Violence Policy Language" section

Federation of Students, 2015). Additionally, the Canadian Federation of Students (CFS) (2015) note that four out of five female undergraduate students say they have been a victim of some form of sexual violence, and 29 percent of these have been victims of sexual assault. Moreover, what is concerning is that the CFS (2015) note one survey finding which showed that 60% of college-aged men would commit sexual assault if they knew they would not get caught. Findings from Martin-Storey et al. (2018) suggest that transgender and non-binary students were more likely to report victimization from most forms of sexual violence than their cisgender counterparts. These statistics, and research conducted on campus sexual violence clearly suggest that campus sexual violence is a serious problem that needs addressing. The problem of CSV is a topic covered not only in academic research, but it has been covered in the film industry as well.

In 2015, the documentary film *The Hunting Ground* was released. This documentary focused on how American universities were responding to cases of reported sexual violence on campus. The film discussed how administrators failed to deal with CSV in ways that acknowledged harm and meaningfully addressed victims' concerns. These failures led to students using Title IX legislation to sue their schools for failing to take action and address the victims' concerns. Title IX is US federal legislation, and part of the Education Amendments of 1972, that prohibits institutions that receive federal financial aid from engaging in discrimination on the basis of sex. Students argued that when universities failed to adequately address reports of sexual violence, women in particular, were not being granted their equal right to education. In lawsuits, students claimed that experiencing CSV and the university's failure to effectively address their victimization affected their own and other women's access to education by making them feel unsafe on campus. This documentary highlighted how universities were responding, or failing to respond, to sexual violence cases, and its goal was to prompt victims and survivors of

sexual violence to come forward about their experiences with sexual violence (Ziering & Dick, 2015).

With the release of documentaries such as *The Hunting Ground* and increased public awareness, governments in the United States and Canada have begun to focus more on the issue of campus sexual violence. For example, in response to students' use of Title IX legislation to seek justice for experiences of sexual violence on campus, the Obama Administration released the *Not Alone* report, which was prepared by the White House Task Force to Protect Students from Sexual Assault (White House Task Force). This report provides American universities with a checklist on what to include when drafting sexual violence policies (White House Task Force, 2014).

Canadian governments have also turned their attention to the issue of sexual violence. In September of 2016, Ontario passed "Bill 132 the Sexual Harassment Action Plan Act (Supporting Survivors and Challenging Sexual Violence and Harassment" which required all Ontario post-secondary institutions to have a stand-alone sexual violence policy in place by January of 2017 (Lindeman, 2018). On May 19th, 2016, British Columbia's Bill 23 received Royal Assent. As such, the Bill would come into force one year after this date; this bill, like Ontario's Bill 132, required public post-secondary institution in British Columbia to establish and implement a standalone sexual misconduct policy (Lowe, 2016; Bill 23). Manitoba's Bill 15 came into effect in April of 2017 (Bill 28), and Quebec's Bill 151 came into force in December of 2017 (National Assembly of Quebec), both of which also require universities to have a sexual violence policy.

Two years after *The Hunting Ground* was released, the #MeToo movement emerged as a cultural phenomenon. The MeToo movement, was originally created by African American

activist Tarana Burke in 2006 as an intersectional project aimed at supporting girls and women of colour who experience sexual violence (Pellegrini, 2018). For Tarana Burke, being able to speak “me too” is an act of courage and empowerment. Her experience in a community center helping survivors of sexual violence made her realize how important and necessary it was to have a space where girls and women can share their experiences of sexual violence (Hasunuma & Shin, 2019). The term “Me Too” was originally created without the hashtag, and “without the new media motor [Twitter], affective charge, or racialized privileges that have contributed to the take off of #MeToo some 10 years later” (Pellegrini, 2018, p. 262). In October of 2017, the hashtag made headlines internationally, encouraging individuals who had been victims of sexual violence and harassment to publicly share their experiences. The hashtag emerged quickly after sexual assault allegations against film producer Harvey Weinstein surfaced (Hannem and Schneider, 2019). This subsequently led to what is called the “Weinstein Effect”: a phenomenon of public allegations, resignations, and dismissals of powerful people, mostly men, who had been accused or proven to have engaged in sexual harassment or sexual assault (Hannem and Schneider, 2019). According to the Canadian Women’s Foundation, the #MeToo movement has been called a watershed moment in the advancement of gender equality (Kampen, 2018). The impact of this movement can be seen in the increased reports of women coming forward with their experiences of sexual violence. In 2017, the same year the movement began, there were more reports of sexual assault than any other year in Canada (Rotenberg & Cotter, 2018). According to Rotenberg and Cotter (2018), the number of sexual assaults reported to police in October and November of 2017 was higher than any other calendar month since data became available in 2009. This finding speaks to the importance of cultural responses to sexual violence in creating a climate in which people who have experienced sexual violence feel able to report and seek

assistance. The creation of sexual violence policies on campus is just one piece of this larger puzzle.

In examining university sexual violence policies in Canada, this research project seeks to answer the following research questions:

1. How, and in what ways, if at all, do Canadian Sexual Violence Policies meet the criteria for comprehensiveness, as defined in DeLong et al. (2018)?
2. How is institutional power/knowledge embedded in definitions and policies around sexual violence?
3. What are the implications of institutional power/knowledge and the power to define when creating Sexual Violence Policies?

To reiterate, the purpose of this research is to better understand how campus sexual violence policies (SVP) play out in practice by examining four Canadian university sexual violence policies. I use prior research on sexual violence policies (SVP), and specifically draw on DeLong et al.'s (2018) discussion of comprehensive sexual violence policies, to develop a checklist to measure policy comprehensiveness in terms of the scope of situations to which it could apply and the inclusion of key definitions, measures, and options. I further engage in discourse analysis to consider how power is embedded in SVPs. This research is responding to the fact that self-reported rates of sexual violence are not declining, while official reports of sexual violence are increasing.

Sexual Violence Policy Languages

For this research, I use the term sexual violence policy (SVP) when referring to university policies that respond to cases of sexual assault, harassment, and misconduct, all of

which fall under the scope of “sexual violence”. Thus, the term sexual violence policy is an effective tool for describing university rules, regulations, and policies that encompass issues of sexual violence, sexual misconduct, sexual assault, and sexual harassment. Furthermore, three of the four policies analyzed in this research project use the term sexual violence in their policy, demonstrating the relevance of the term “sexual violence” to maintain consistency in the discourse.

In addition to this, I will be frequently using the terms “victim,” “survivor,” and “complainant” when referring to individuals who have been affected by sexual violence. Some individuals who have experienced sexual violence prefer to be referred to as “victims”, while others prefer “survivor” (RAINN, 2020). I have therefore decided to use both terms as even when speaking in hypotheticals, the assumption is the individual may refer to themselves as a victim or survivor. Moreover, the term “complainant” may be used at times when referring to the language used in the policy. Canadian SVPs, consistent with practice in the criminal justice system, generally use the legal term “complainant” to refer to individuals who have reportedly been victims of sexual violence, but do not refer to them as victims or survivors until an investigation has determined the accused to be responsible for acts of sexual violence. Thus, it is the confirmation of a perpetrator’s guilt that allows the complainant to be legally or procedurally redefined as a victim, rather than the individual’s own experience of harm. In the next chapter, I offer an overview of international academic literature on campus sexual violence and the role of sexual violence policies.

Chapter Two: Literature Review

Literature on sexual violence has looked a variety of topics; at the center of these discussions is the concept of rape culture (O’Neal, 2019; O’Neal & Hayes, 2019; Cuklanz, 2020; Gjika, 2020; Lockyer & Savigny, 2020; Orth, van Wyk, & Andipatin, 2020; Radtke et al., 2020). The literature examines rape culture throughout society, but also considers specifically the role it plays on university campuses. Literature on sexual violence on campus has considered various topics such as the role of gender and race (Krosse, 2007), the role of bystanders (McHannon, 2015; McMahan, Burnham, & Banyard, 2020; Melkonian, Ham, Wiersma-Mosley et al., 2020; Feldwiisch, Whiston, & Arackal, 2020; Yule & Grych, 2020; Exner-Cortens & Cummings, 2021), and the relationship between athletes and instances of sexual violence (Boeringer , 1999; McHannon, 2015; Young, Desmarais, Baldwin, & Chandler, 2017). For the purpose of this thesis, I will first provide a general discussion on rape culture, followed by a discussion of how it plays out on university campuses. Next, I will provide a general overview of campus responses to sexual violence, followed by a specific summary of findings on the role sexual violence policies play as a response. Within this summary, I will discuss policy comprehensiveness, Title IX, role of the faculty, theoretical approaches (with a focus on the debate between restorative justice and formal justice), bystander intervention, and finally, sexual violence policies in the Canadian context.

As scholars research sexual violence, the term rape culture has been a main topic of discussion (O’Neal, 2019; O’Neal & Hayes, 2019; Cuklanz, 2020; Gjika, 2020; Lockyer & Savigny, 2020; Orth, van Wyk, & Andipatin, 2020; Radtke et al., 2020). According to Weiss (2009), as cited by Blumell & Huemmer (2017), “rape culture refers to societal norms that promote stereotypes about rape and rape survivors” (506). Beliefs such as women “asking for it”

based on the clothing they wear, a disbelief in women when they come forward with their experience of sexual assault, the assault not being properly defined as “rape”, and the women lying, are only some of the beliefs that contribute to rape culture (Blumell & Huemmer, 2017). Research on rape culture has examined the role media plays in contributing to rape culture (Blumell & Huemmer, 2017; Inal, 2017; Cuklanz, 2020; Gjika, 2020; Lockyer & Savigny, 2020), how police perceptions of victims/survivors of sexual violence impacts sexual violence cases (O’Neal, 2019; O’Neal & Hayes, 2020), the phenomenon on campus (Giraldi, Monk-Turkeny, 2017; Canan, Jozkowski, Crawford, 2018; Orth, van Wyk, Andipatin, 2020; Radtke et al., 2020;), and how “culture of consent” plays a role in responding to rape culture.

Research on rape culture has examined the role the media plays in addressing the social problem. Specifically, scholars have looked at the way media coverage discusses sexual assault and sexual violence, and ultimately how media discourse and framing may contribute to or exacerbate rape culture (Blumell & Huemmer, 2017; Gjika, 2019; Lockyer & Savigny, 2020). These research findings consistently argue that rape culture is heavily influenced and related to gendered power relations (Lockyer & Savigny, 2020). Specifically, the way media discuss rape and sexual violence reinforces rape culture by seeing rape as a topic of humour, and centering news coverage more on the perpetrator’s point of view, and less on the survivors’ (Blumell & Huemmer, 2017; Cuklanz, 2020). As a gendered phenomenon, the research on media consistently finds that those who use rape as a topic of humour tend to be men (Blumell & Huemmer, 2017; Cuklanz, 2020). Ultimately, what the findings show is that news media coverage silences survivors voices. In fact, findings from Gjika (2019) argue that news media coverage, specifically on adolescents, focus on using cases of sexual assault as cautionary tales

aimed at shaping particularly young women's risk-taking behaviour, rather than focusing on how rape culture and perpetrator behaviour leads to crimes of sexual assault.

In addition, research on rape culture has looked at the relationship between policing and rape culture. Specifically, research has examined police perception of victims/survivors and the role it plays in perpetuating rape culture (O'Neal, 2019; O'Neal & Hayes, 2020). Research on this area notes that the acceptance of rape myths by police officers and detectives influence the belief regarding a victim/survivor's credibility (O'Neal, 2019) and the outcome of a sexual assault case (O'Neal, 2020). Findings suggest that drug use, sex work, and other "risk taking" behaviours lead to police questioning of the victim/survivor's credibility. In essence, scholars have argued that police who are accepting of rape myths are less likely to believe victims/survivors of sexual violence, especially when they do not meet the criteria for the "ideal victim" (O'Neal, 2019; O'Neal & Hayes, 2020).

When considering rape culture on campus, literature has looked at the role that fraternities play in perpetuating rape culture, students' perceptions of rape culture, programs designed to counter rape culture, and the role gender plays. The acceptance of rape myths is a key factor in the perpetuation of rape culture (Hayes, Abbott, Cook, 2016). Findings suggest that there is a high correlation between gender and rape myth acceptance, such that men accept and believe rape myths at higher rates than women (Hayes, Abbott, & Cook, 2016; Canan, Jozkowski, & Crawford, 2018; Giraldi, & Monk-Turner, 2020). Other findings discuss how membership norms in fraternities and sororities endorse and support rape myths; in this case also men at a higher rate than women (Canan, Jozkowski, & Crawford, 2018). Research on rape culture on campus has also looked at how meanings of masculinity and femininity play out, though this is not limited to campus environments. Findings on these studies have argued that

questioning and challenging dominant gender norms are an important step in addressing and dismantling rape myths (Hayes, Abbott, & Cook, 2016; Radtke et al., 2020). Radtke et al. (2020) argue that preventative programs guide women to critically question dominant meanings of masculinity and femininity and gendered social expectations, and that these programs can prevent rape, and undermine rape culture.

In an effort to respond to rape culture on campus, universities have begun adopting and discussing consent cultures. Specifically, in Canada, the Canadian Federation of Students-Ontario developed a tool-kit for creating consent culture entitled Campus Toolkit for Creating Consent Culture (CTCCC). Crocker (2020) notes that Canadian campuses began using slogans such as “yes means yes” and “enthusiastic consent” to underscore the importance of consent in sexual interactions. The CTCCC (2017) define consent culture as:

“A culture in which the prevailing narrative of sex is centered on mutual consent. It is a culture that does not force anyone into anything, respects bodily autonomy and is based on the belief that a person is always the best judge of their own wants and needs. Consent to any activity is ongoing, freely given, informed and enthusiastic” (p.18)

As such, an emphasis on consent being clear is given in this definition. Findings from Lofgreen, Mattson, Wagner, Ortiz, and Johnson’s (2021) research on heterosexual sexual violence suggest that men are likely to infer consent regardless of the situation at hand. For example, they note that men are more likely to perceive that consent exists when they have had a past sexual encounter with the women. Thus, men may perceive an encounter as consensual, even without consent being given explicitly. Consequently, it is important to raise awareness about what consent really means and looks like in sexual encounters when an organization is attempting to foster a culture of consent. Research in this area has looked at the role non-verbal, and verbal

cues play in sexual activity. For example, both men and women use non-verbal cues, and are likely to interpret non-verbal cues as consent (Jozkowski 2015; Jozkowski, Manning & Hunt, 2018; Hill & Croft, 2021; Lofgreen et al., 2021). However, findings suggest that individuals identify non-verbal cues as consent for acts such as kissing and genital touching, and verbal cues for penetrative sex (Jozkowski, 2015). Jozkowski notes that affirmative-consent policies are beneficial in that they may increase dialogue between individuals in sexual encounters; however, these are not necessarily a panacea as findings suggest that the use of non-verbal cues can commonly be interpreted as a form of consent. Nevertheless, it remains important to educate youth on consent. Flyntz (2016) identifies FORCE, an artist and activist collaborative working to end rape culture by promoting a culture based on consent. Their collaborative seeks to make voices of survivors heard and to use art as a form of healing. In addition, FORCE puts emphasis on teaching consent at a young age. For example, they note children should be taught to have control over their own bodies. For example, instead of forcing children into giving they aunts/uncles a kiss, they should be provided the choice to do so (Flyntz, 2016).

Campus Response to Sexual Violence

Sexual violence remains a significant problem on university campuses, therefore, universities must provide ways to respond to the problem of campus sexual violence. As such, academics have conducted a variety of research to better understand how universities are responding to sexual violence. Brubaker's (2019) research on sexual assault² examined whether Title IX offers a preferable approach to responding to sexual assault at American Universities as compared to the criminal justice system. Brubaker's research presented sexual assault advocates'

² Throughout the literature review, I have used the language used in each article when discussing. Therefore, sexual assault and misconduct will be used.

perspectives on the topic. Her findings revealed that advocates felt that the effect of Title IX challenges had been to raise awareness of the problem of sexual assault on campus, define campus sexual assault as a violation deserving of punishment, and provide increased resources to universities for training and response (Brubaker 2019). Advocates believed that media coverage of Title IX challenges had increased public awareness of the issue and led to an increase in sexual assault reporting on campus. However, not all of the effects of Title IX challenges were considered positive. Advocates also felt they had lost the ability to support survivors' empowerment through this process and feared that campus priorities would shift from supporting survivors to protecting universities from liability. Overall, Brubaker (2019) found that Title IX had provided a more preferable response to campus sexual assault than the criminal justice system; however, the approach still creates similar problems and tensions between advocates and formal systems. Her research is not without limitations, as she notes that due to this research being exploratory, she had a relatively small sample and the advocates included in her research are from privileged social locations in terms of race, class, and sexuality.

Olomi, DePrince, and Gagnon (2019) also looked at institutional responses to campus sexual assault. They focused primarily on how the development of multidisciplinary teams (MDT) played a role in responding to campus sexual assault. These teams were made up of individuals from the campus, criminal justice agencies, and community-based institutions that were seeking a coordinated response to campus sexual assault (CSA). Findings suggested that MDTs focus largely on problem solving issues, meeting to address issues that were raised when responding to incidents of sexual assault. In addition, Olomi et al. (2019) highlighted the complexity of responding to CSA, such as issues of co-occurring investigations. They emphasized that institutional motivations and priorities also play a role in how sexual assault will

be addressed. Their research found that MDT had a positive impact on campus response to sexual violence. In particular, members of the multidisciplinary teams argued that the teams were able to provide better services for victims of sexual violence by connecting service providers across institutions to gather more information on cases and provide coordinated support.

Research on campus response to sexual violence can also be seen in Beres, Treharne, & Stojanov's (2019) research on what they term a "whole campus approach". Their research focused on The University of Otago Model (UOM), which is characterized by two innovations. First, the model was developed through a collaboration of staff with expertise in the area of sexual violence prevention and support; second, the model joins student services and research to create an evidence-based approach to the prevention of sexual violence. Since sexual violence is a multi-layered issue, and not one single prevention approach will be effective on its own, the UOM approach includes four prevention programs. Beres, Treharne, and Stojanov (2018) outline these four programs as the Enhance, Assess, Acknowledge, Act rape resistance program (EAAA); Bringing in the Bystander (BITB); CommUNITY102; and RealConsent. These four programs work together to engage with the three tiers of what is known about sexual violence: normative (hetero)sexuality, rape culture, and sexual violence. The EAAA program is designed to educate first year university women on how to identify and resist coercive behaviour. The authors note that this program was shown to reduce victimization related to sexual violence, however, they outline that as with all rape resistance programs, they focus on preventing victimization, as oppose to addressing perpetrating behaviours (Beres, Treharne, and Stojanov, 2018). Therefore, they state that it is important to include other prevention mechanisms in combination with rape resistance approaches.

The BITB is a program that the authors note pairs well with rape prevention approaches (Beres, Treharne, and Stojanov, 2018). This program/approach focuses on the responsibility of all members of the community in ending sexual violence. Results from piloted bystander intervention programs showed an increase in intention to intervene for those who took the program and for those who did not attend the program but attended universities that offered the program. RealConsent shifts focus from the community's responsibility and looks at decreasing perpetrating behaviour. Evaluation results for this program showed that participants accepted the program's approach and felt it helped to dispel rape myth acceptances in relationships. Finally, CommUNITY102 is a program that focuses on consent workshops. Beres, Treharne and Stojanov (2018) mention that despite the lack of evidence on the effectiveness of these workshops, they included them due to the demand. The workshops focus on New Zealand's legal definition of consent, discussion of pressures associated with sex, and the role of alcohol in considering the validity of consent.

Overall, Beres, Treharne, and Stojanov's (2018) model integrated existing best practices in the areas of prevention, support, professional development, and policy. They note that evaluations are necessary to track the success of their program in order to make any required changes to reach the desired outcome in terms of campus sexual violence response.

Another way that universities respond to campus sexual violence is through the use of Campus Climate Surveys (Graham, Mennicke, Rizo, Wood, and Mengo, 2018; Tilley, Wang, Kolodestsky, and Yeatts, 2020). Campus Climate surveys were implemented as a recommendation from the *White House Task Force to Protect Students from Sexual Assault* to assess the prevalence of interpersonal violence, and to assess students' perceptions of institutional responses to sexual violence. Tiley et al. (2020) found that the Administrator-

Researcher Campus Climate Collaborative (ARC3), a campus climate survey, was “a reliable and valid instrument to measure campus climate around sexual misconduct and related concepts” (p.65S). The researchers note that the ARC3 survey instrument provides information about the prevalence of sexual abuse and sexual misconduct and could be used to gain insight into areas to prioritize for intervention. One issue with Campus Climate Surveys is that they are typically limited to traditional, post-high school, undergraduate students (Graham et al. (2018). Nevertheless, research on the surveys consistently demonstrate that they are useful in gathering and learning about campus culture issues related to sexual violence (Graham, Mennicke, Rizo, Wood, and Mengo, 2018; Tilley, Wang, Kolodestsky, and Yeatts, 2020).

Research conducted by Corcoran, Miller, Sohn and Chugai (2020) looks at the challenges faced with the use of online resources as a university response to sexual violence. Specifically, they are concerned with the presence of online resources and how accessible they are. Corcoran et al. (2020) note that digital literacy is often overlooked, but important when considering access to health-related content online (such as sexual violence resources). For their research, a free online tool for campus leaders was developed to assess gaps in online sexual violence resources, i.e. a digital checklist. This checklist involved steps that campus administrators could take to determine whether information relating to SV was easily located, current and relevant, and accessible. Their research included eight post-secondary institutions (however data from two of the eight was not considered, as they respected schools did not comply with what was asked from the research). The researchers’ developed checklist was designed to assess the *presence* of online resources, and not their content (Corcoran et al., 2020). The checklist included two main categories with additional subcategories, they are as followed: Online presence (information provision, keyword searches using the embedded search tool, hyperlinks,

ADA compliance and accessibility), and Digital Engagement (social media, google alerts, keyword searches via google).

Corcoran et al. (2020) note that their preliminary findings suggest that there are substantial issues with accessibility of online content, issues with relevant content, and lack of digital monitoring to improve relevancy of content. One issue for example, was that the recommended reading level for online resources was well above what was recommended. Another issue was that online resources from the sample were easily viewed on iPhones, but not on Androids, thus an issue with accessibility for those who do not own iPhones.

Garcia, Carter, Nyariro, Ezcurra, Beavis and Mitchel (2020) look at the way the arts have been used to respond to sexual violence on campus. They examine different areas of arts such as research, education, therapy, and activism. An example of “arts” would be photo exhibitions and video screenings. Their findings suggest four key ways that art interventions combat rape culture and support survivors: healing, education, protesting, and community-building. Their research offers a different way of thinking about sexual violence response, and while they note that the arts cannot address the legal barriers encountered with sexual violence, the arts can be used in other ways, such as sensitizing communities (Garcia et al., 2020). They call on policy makers to consider artistic interventions in order to learn from survivors in the community, and as a tool to raise awareness about sexual violence issues.

Sexual Violence Policies on Campus

The following section will discuss the current literature on SVPs on campuses, most of which focus on American universities. Literature on SVPs can be broadly categorized into

articles that address policy comprehensiveness, Title IX compliance, and the role of faculty in responding to sexual violence.

Policy comprehensiveness

Much of the research on sexual assault policies refers to the notion of policy comprehensiveness. Advocates and government legislators generally assume that comprehensive CSV policies will contribute to increased reporting of CSA and lower incidence of CSA, overall (White House Task Force, 2014). According to the Government of Ontario's (2013) *Developing a Response to Sexual Violence: A Resource Guide for Ontario's Colleges and Universities*,

Formal policies and response protocols can play a critical role in creating an environment where everyone on campus knows that sexual violence is unacceptable, victims receive the services they need, and perpetrators are held accountable. Policies and protocols are particularly beneficial when combined with public education and prevention initiatives as well as ongoing improvements to the physical safety of the campus (Government of Ontario, 2013, p. 11).

While comprehensive policies for response to sexual assault on campus seem intuitively linked to reduction in violence and improvements in victim satisfaction, there has been very little empirical study of the impact of sexual violence policies on the prevalence of sexual assault on campus.

DeLong et al., (2018) were the first researchers to attempt to empirically validate a correlation between comprehensive sexual assault policies and lower prevalence of sexual assault on campus. DeLong et al. (2018) used the recommendations of the 2014 *White House Task Force to Protect Students from Sexual Assault*, which had generated a checklist for campus sexual assault policies that included ten recommended policy elements. Each of the ten

recommended policy elements subsumed varying numbers of policy topics, for a total of 98 possible inclusions. As described by DeLong et al. (2018), the ten elements recommended by the White House Task Force for a comprehensive campus sexual assault policy are: introduction, scope of the policy, options for assistance, Title IX coordinator, definitions, reporting policies and protocols, investigation procedures and protocols, grievance procedure, prevention and education, and training. A few examples of the 98 specific policy topics included within these elements are: a description of the sexual assault response team, an anonymous reporting process, third party-reporting processes, a policy to address intimidation and retaliation, grounds for appeal, and the process for appeal.

The authors assessed and coded each selected policy to see if there was a relationship between the number of elements (the 10 mentioned) included in the CSV policy and the rate of sexual assault reports on that campus. The more elements that were present in a policy, the more it was deemed comprehensive, and the lower number of elements, the less comprehensive the policy was deemed to be. What DeLong et al., (2018) discovered was that nine of the ten elements had a negative correlation to the self-reported prevalence of CAS. They interpreted this to mean that the more comprehensive a CSV policy, the less prevalent CSA is likely to be, particularly for women. However, the authors also noted that the negative correlations did not reach statistical significance (this will be discussed later in limitations). Nevertheless, DeLong et al.'s findings suggested that policy comprehensiveness may contribute to lower prevalence of CSA for women; they did not find the same negative correlation for men. They therefore posed the question of why policy comprehensiveness may have an impact on prevalence of CSA for women. They suggest that it may be a function of the fact that policies target women's experiences, as it is more common for women to be victims of sexual assault. They suggest that

comprehensive policies to address sexual assault on campus may drive a shift in campus culture with respect to consent and bystander intervention in sexual harassment and sexual violence, resulting in lower rates of CSA overall.

The goal of policy comprehensiveness is to ensure that policies are inclusive of a wide variety of situations defined as sexual violence and that clear information is available to guide institutional responses to allegations of sexual violence. Lee and Wong (2019) looked at Canadian public university policies to see if specific institutional features were related to their dependent variables, one of which was policy comprehensiveness. They defined a comprehensive policy as including: a definition of consent with respect to sexual behaviours, response protocol procedures, confidentiality explanations, possible sanctions, academic or other accommodations for victims, information regarding reporting or disclosing an incident, differentiation between reporting or disclosing an incident, and available support resources.

The more factors present, the higher the level of comprehensiveness. The researchers found that overall, policy comprehensiveness was low; the mean number of factors was 3.57 (Lee & Wong, 2019). The researchers found that none of the institutional features they examined were significant predictors of policy comprehensiveness. Surprisingly, they found that the presence of a women's resource center/sexual assault support center also had no correlation to policy comprehensiveness. Lee and Wong (2019) noted that policy comprehensiveness was of particular concern as universities already face a number of obstacles in responding to sexual assault cases. Their findings lead them to make recommendations to improve policy comprehensiveness. They state that policies:

“Should include verbal and behavioural definitions of sexual assault and consent, the scope of policy and to whom the policies apply (e.g. students, staff, faculty,

guest/visitors); who is responsible at each stage of response and intervention; all formal and informal disclosure and reporting options; protection services and accommodations for victims; and training and education for all members of the campus community.” (442)

According to the authors, this concept of comprehensiveness is important as it would mean that the policies are inclusive of the above recommendations, and that it would be worth pursuing further research on the topic of SVP comprehensiveness and its relationship to the prevalence of sexual violence on campuses.

The concept of comprehensiveness is also present in Graham et al.’s (2017) article. Their study was similar to that of DeLong et al. (2018) as Graham et al. (2017) were also looking at the correlation between policy inclusions and the prevalence of CSA on campus. Specifically, Graham et al. (2017) examined whether the presence of a definition of consent was correlated to CSA prevalence. Their findings center primarily around these consent definitions, whether school’s characteristics influence the definitions, and if these definitions were linked to higher or lower levels of CSA prevalence. Comprehensiveness was found to be an important factor when determining if consent definitions were present. Part of these findings identified that the most comprehensive policies addressed particular factors that were important in consent definitions. These include: consent in the context of intoxication, consent with a current or previous sex partner, and who is responsible for obtaining consent (Graham et al., 2017). To elaborate, Graham et al. (2017) considered policies with these consent definitions as more comprehensive than the policies without. Furthermore, they found that the most comprehensive definitions included 27 out of 30 factors, while the least comprehensive definition included only one factor. When it came to policy comprehensiveness however, their main takeaway was that, “room

remains for expanding and improving consent definitions, such as their comprehensiveness and clarity” (Graham et al., 2017, p. 255).

Title IX compliance.

The majority of research on campus sexual assault in the United States has either evaluated or considered Title IX. This piece of legislation was part of the Education Amendments of 1972; it was designed to prohibit discrimination on the basis of sex in all institutions that received financial aid from the federal government (Streng & Kamimura, 2015). Title IX has been an important factor in tackling the issue of sexual violence on university campuses.

Streng and Kamimura’s (2015) research looked specifically at how the policies were complying with Title IX and the *Not Alone* report. They found that while their sample of 10 universities had revised their policies, none were fully compliant with Title IX or the recommendations of the *Not Alone* report. In fact, they found that three of ten did not have a specified sexual misconduct policy. The authors note, however, that while a policy that does not comply with all federal recommendations is not necessarily a poor policy, having a standardized policy provides a good foundation for ensuring consistent responses to sexual violence.

Richards’ (2019) study was similar in that she examined the current state of institutions of higher education’s (IHE) responses to campus sexual assault, and whether they had changed over time. Her research was comparing current responses to sexual assault with findings found in Karjane et al’s (2002) examination. Richards (2019) found that most IHE provided a Title IX policy against sex discrimination, however, much like Streng and Kamimura (2015), Richards found that some schools are still not complying with the mandate of Title IX. Furthermore, Richards (2019) found that while more than two thirds of IHE notified students about whom to

contact in the event of a sexual assault, 30% of them did not identify who the Title IX coordinator was. Furthermore, Richards (2019) found that only about 60% of IHE had a standalone sexual misconduct policy, similar to Streng and Kamimura's (2012) findings that 70% of the schools they studied had a policy. Nevertheless, the overall finding was that significant gains have been made in IHE response to campus sexual assault since Karjane et al.'s examination in 2002. Essentially, similar to Streng and Kamimura's argument, having any kind of policy is considered an improvement, even if that policy is not fully compliant with government mandates. Nevertheless, Richards (2019) provides a suggestion for IHE to move beyond a focus on compliance with mandate, to better adherences to best practices and the development of national models.

Next steps/Role of faculty

More recent research has examined what the next steps are with respect to CSA response. Graham et al. (2019) consider the role faculty play, specifically their role in the areas of research, teaching, and service with respect to addressing sexual assault. Their article argues that faculty's role as teachers and researchers are important in addressing the complex issues of interpersonal violence on their campuses, and therefore their participation is critical in any response plan. Graham et al. (2019) outline three ways faculty should contribute to interpersonal violence prevention. The first is through research; they argue faculty should focus research on the prevalence of victimization and perpetration of various forms of interpersonal violence. The second is through teaching; they suggest faculty should be teaching specialized courses or providing course content on interpersonal violence, and they should be mentoring students interested in anti-violence research. Finally, they argue that faculty should be involved in service

work focused on designing and implementing campus interpersonal violence prevention and intervention policies.

Theoretical approaches

Driessen (2020) examines the role of power in sexual violence policies. Specifically, she uses a feminist-based policy analysis approach to discuss and determine how power is expressed in campus sexual violence policies. In her analysis, she notes that there are tensions between institutions and students competing for power, specifically with respect to mandatory reporting. Overall, her research findings support previous findings that question the extent to which certain sexual violence policies may support survivor's sense of empowerment.

Nelund (2020) provides and discusses the feminist critique of the criminal justice system and alternate forms of justice and their handling of sexual violence. Specifically, she argues that university sexual violence policies are replicating many of the shortcomings of both the criminal justice system, and alternate forms of justice (such as restorative justice). She argues that many of the policies in her study use language that replicates and allows rape myths to be accepted. One example of her critique of the formal university response is that she notes a clause in many of sexual violence policies refers to false statements – this perpetuates the idea that survivors lie and should not be trusted when it comes to their experiences with sexual violence (Nelund, 2020).

With respect to restorative justice while its approach has benefits, Nelund (2020) argues that when used by university policies, they do not display any of the benefits, but rather are a demonstration of why some feminists have critiqued the use of restorative justice when responding to sexual violence. For example, one criticism of restorative justice and its use to

respond to sexual violence is that it re-privatizes the crime. Nelund (2020) argues that university sexual violence policies are an example of this by their commitment to confidentiality. Similarly, Del Gobbo (2020) discusses some of these issues in her chapter that focuses on restorative justice through an examination of the Dalhousie Dentistry Case.

Del Gobbo (2020) notes that there is a variation in consensual dispute resolutions in Canadian sexual violence policies, as there are limited guidelines on what is to be included in them. In other words, Del Gobbo (2020) notes that there is a lack of clarity surrounding consensual dispute resolutions, and that it is important to be clear on whether this model has a place in sexual violence policies. She argues that there are arguments on both sides around issues of consensual dispute resolutions, such as Nelund's critique of restorative justice. Ultimately Del Gobbo (2020) argues for a complainant-centred approach, meaning that the resolution should take into account what justice looks like for the complainant – if that means using a consensual dispute resolution model, then policies should offer that pathway. These authors' discussions of restorative justice and formal justice as a response to sexual violence is part of a larger debate on what approach is better suited to respond to sexual violence.

On the pro-restorative justice side of the debate are BIPOC individuals who are critical of the notion that formal justice needs to be used to address violence against women; specifically, many are critical of what has been called "carceral feminism". Colpitts (2019), describes what Bernstein (2012) has called "carceral feminism", as responses to sexual violence that legitimize the criminal justice system. Those who subscribe to this term believe that violence against women should be dealt with by an increase in policing, prosecution, and imprisonment (Law, 2014). Those on the other side of the debate argue that carceral feminism fails to acknowledge and ignores the ways in which race, gender, class identity, play significant role in violence

against women, additionally the role the criminal justice has in often criminalizing members of marginalized communities (Law, 2014; Kim, 2018; Colpitts, 2019). Discussions about non-punitive accountability and restorative justice models as viable approaches to sexual violence on university campuses are ongoing in Canada, and it remains to be seen whether these will be integrated into sexual violence policies in a holistic and systematic way³.

Policy mandates

A bulk of the current research coming out on sexual violence looks at what is mandated by the policies. Discussions on mandatory reporting have been example as such (Driessen, 2020; Holland, Cipriano, Huit, 2020). Findings on perceptions of mandatory reporting policies by Holland, Cirpiana, and Huit (2020) suggest that while individuals believe there are good intentions behind this mandate, they recognize and discuss key concerns that exist as well. One specific concern is how mandatory reporting requirements may negatively impact students who have experienced sexual assault. Notably, service providers used in the study voice their concern with how mandatory reporting policies strip survivors of autonomy and the right to choose whether to pursue legal procedures. Mandatory reporting requirements may be experienced by survivors as disempowering and may even inhibit people from seeking assistance to address the violation that they have experienced.

Other research has looked at the importance and impact of preventative initiatives outlined in campus sexual violence policies (Beres, Treharne, and Stojanov, 2018; Backman, Spear, Mumford, and Taylor, 2020). Perceptions of preventative initiatives outlined in Backman et

³ See, for example, the “Courage to Act” national initiative to address and prevent sexual violence, which has incorporated a community of practice on non-punitive accountability: <https://www.couragetoact.ca/community-of-practice-towards-a-justice-that-heals>

al. (2020) suggest that the preventative based program were successful. Specifically, a notable finding was that the preventative imitative led to a diverse, new or expanded sexual assault intervention programming, including culturally tailored programing. These findings respond to suggestion made by Beres, Treharne, and Stojanov (2018) who state that while it is necessary for preventative programs, that research is needed to track the success of the programs. While they were referring to the programs in their studies, findings from Backman et al. (2020) nevertheless provide information on the outcomes of preventative programs.

Bystander Intervention

In response to the issue of campus sexual violence, universities have begun implementing and using Bystander Intervention programs. These programs focus on the role of bystanders and their willingness and responsibility to recognize sexual violence, disrupting risky situations, and engaging in tertiary preventative strategies, such as helping individuals who disclose sexual assault (McMahon, Burnham, & Banyard, 2020). Research in this area has looked at the success, perception, and possible barriers to these programs (McMahon, Burnham, & Banyard, 2020; Melkonian, Ham, Wiersma-Mosley et al., 2020; Feldwisch, Whiston, & Arackal, 2020; Yule & Grych, 2020; Exner-Cortens & Cummings, 2021). Findings from research suggest that these programs are well regarded by participants, and that participants are more likely to intervene to prevent sexual assault than those who did not partake in the program (Feldwisch, Whiston, & Arackal, 2020; Yule & Grych, 2020; Exner-Cortens, & Cummings, 2021). A notable finding across the research is an increase in intent to intervene when a friend or stranger is involved, though more so with friends (Feldwisch, Whiston, & Arackal, 2020; Exner-Cortens, & Cummings, 2020). Unfortunately, though most participants say they are more likely to intervene

in sexual assault, findings have also indicated many barriers to participants doing so. Dangerous situations, level of risk in intervening, absence of feelings of responsibility, and concerns with the way individuals involved would think about them are all factors that participants noted as reason they would not intervene (Yule & Grych, 2020; Exner-Cortens, & Cummings, 2021). Research also indicates that intoxication may affect the initial steps of bystander intervention (Melkonian, Ham, Wiersma-Mosley et al., 2020). Barriers and issues within the programs themselves have also been discussed in research. Findings suggest that while the programs were successful in getting participants to *think* about intervening, but they do not necessary give them the tools to do so (Exner-Cortens, & Cummings, 2021). Additionally, McMahon, Burnham, & Banyard (2020) note that bystander intervention programs tend to focus exclusively on addressing sexual and dating violence without integrating other forms of oppressions, such as homophobia. Participants in their research suggest that bystander intervention programs need to consider various forms of racism, homophobia, transphobia and microaggressions. In addition to this, participants noted that their identities are intertwined and affect their ability to intervene – shedding light on the additional risks that some marginalized individuals face in doing so (McMahon, Burnham, & Banyard, 2020).

Canadian Research

While the bulk of research on campus sexual violence tends to look at post-secondary institutions in the United States, more research is starting to come out of Canada. As mentioned above, Lee and Wong's (2019) research looked at Canadian public universities. In addition, research from both Crocker, Minaker, and Nelund (2020), and Quinlan, Quinlan, Fogel and Taylor 's (2020) edited work have been discussed above. Both of these books provide discussions of how Canadian universities are responding to sexual violence, and the role

Canadian sexual violence policies have played in the Canadian context. In addition to the aforementioned research, a report was conducted by researchers Buss, Majury, Moore, Rigakos, and Singh (2016) that examined the way police and institutions respond to sexual violence on Ontario University campuses. Researchers conducted interviews of campus administrators and service providers, campus and local police, and sexual violence survivors over a four-month period. Their report discusses five major findings: constructions of sexual violence and of survivors, challenges in reporting and disclosing, creation of institutional silos, the need for education and training, and resource demands (Buss et al., 2016). Each of their five findings was accompanied with recommendations. For example, one recommendation to address challenges in reporting was for governments and universities to focus on service provision, informal remedies, and sexual assault prevention, all while taking the needs and wishes of survivors into consideration.

A similar report was conducted at the University of British Columbia by a panel of five faculty members and one recent PhD graduate. The panel was appointed by the university's president in February of 2016 to, "undertake a review of sexual assault and make recommendations for University policy and practice in a report to the President" (Benedet, Anderson, Butterwick, Clark, Hunt, & Lorenzi, 2016). Based on their report, they identified three principles that emerged for an effective campus response to sexual assault: foster a climate that takes sexual assault seriously, implement survivor-centered actions, policies, and processes, and understand the broader social and systemic context of sexual assault (Benedet et al., 2016).

Cahill (2017) provides a philosophical perspective on sexual violence policies on campus. Her chapter in Quinlan, Fogel, Quinlan, and Gail (2017) book, *Sexual violence at Canadian universities: activism, institutional responses, and strategies for change* discusses the

importance of theory when developing university sexual violence policies. She argues that SVPs should go beyond legal compliance, and instead consider the expertise of faculty members whose research focuses on sexual violence. She notes that administrators should consult these faculty members when creating SVPs, as well as ensuring that those who have been affected by sexual violence also have their voices heard.

Bourassa et al. (2017) write about the exclusion of Indigenous woman from discourse and policy processes that address sexual violence on campus. They conducted an environmental scan of 44 universities and their research designed aimed to search for two items: a reporting system that identifies demographic information, including Indigenous identify, for victims of violence on campus; and institutional policies on campus violence, sexual violence, and colonial violence (Bourassa et al., 2017). The research found that 15 of the 44 universities had a campus policy that addressed violent incidents on institutional grounds, seven had a policy under review or in development, six stated that they collected ethnicity and/or gender demographic information from victims, and ten noted that their campus security had received some sexual assault response training. Additionally, the research team did not find any available statistics on the rates of violence against Indigenous women on Canadian university and college campuses (Bourassa et al., 2017). Notably, Bourassa et al. (2017) found that overall, the data does not exist to allow for any conclusions to be drawn regarding violence against Indigenous women on campus. However, they note that due to the fact that rates of violence against Indigenous woman throughout Canada are high, that it is reasonable to make the assumption that Indigenous woman would also be at a higher risk of violence on campus. Further research is required to better understand the intersectional nature of sexual and racialized violence on university campuses.

Limitations

One of the limitations seen throughout the literature is research consistently using small sample sizes. Specifically, DeLong et al, (2017) state in their research that due to their relatively small sample size, they were unable to make an accurate conclusion. A similar issue is seen in the research conducted by Brubaker & Mancini (2017), where their sample size only included 18 participants. This research runs in to the same problem of that of DeLong et al., where they would be unable to draw a conclusion, as their data set is too small. The issue with small sample sizes is that both of these researchers followed a quantitative approach, and therefore would need a much larger sample size to draw generalizable conclusions.

My Research

The current literature on campus SVPs have largely looked at how they have made an impact on rates of sexual violence. DeLong et al.'s (2018) findings suggest that policy comprehensiveness may be related to lower levels of campus sexual assault. However, there is no current Canadian research that looks at comprehensiveness and SVPs. In addition, DeLong et al.'s (2018) research did not consider how comprehensiveness was established, only whether or not it was there. In other words, research evaluates presence, not content. We know from DeLong et al.'s research that there may be a relationship between lower levels of CSA and the comprehensiveness of CSA policies, however their research does not speak to the language and discourse used in the policies, only the categories they have established. In other words, we may know a policy has an "Introduction," but not what the introduction says. Additionally, similar to DeLong et al. (2018), Corcoran et al. (2020) also do not mention or evaluate content, merely whether or not, in the case of their research, an online sexual violence resources were available.

Though Corcoran et al. (2020) slightly tweaked their research, as they noted simply looking at whether the information was available or not was not enough, they again did not evaluate the content of what was online.

Additionally, discussion on how power is embedded in SVPs is limited. Driessen (2020) discusses how the language used in SVPs shows tensions between students and institutions and who is granted power, specifically with respect to mandatory reporting procedures. Nelund (2020) also includes power in her study, where she notes that language holds power, as in her research, she outlines the issue of language replicating and allowing rape myths to be accepted. Language choice in CSV policies is important, and understanding who is given power, and where power is found in these policies remains important.

This research addresses this gap by examining the comprehensiveness of four Canadian campus sexual violence policies, drawing on DeLong et al.'s (2018) research and identification of policy elements. Additionally, I seek to further the discussion on how power is embedded in SVP by examining it through a Foucauldian lens, as well as a Foucauldian discourse analysis.

Theoretical Framework

The theoretical framework used for this research project draws on Michel Foucault's theorizing on the relationship between knowledge and power. In his book, *Power/Knowledge*, Foucault argues that power and knowledge are not isolated concepts, but rather that they function as a duality. (Foucault, 1972-1977). In fact, Foucault views knowledge as an exercise of power wherein the power comes from accepting and understanding the social world through knowledge.

When discussing power and Foucault, it is important to note that throughout his writing in *Power/Knowledge*, he urges readers to think not about power only in its simplest form: of one individual wielding it over another. Rather, he argues that power works through both institutions and individuals, and therefore power is not only characterized by its positives and negatives, but also by the way it is productive or unproductive (Feder, 2011). One example of an institution that power may work through is legal institutions, and the creation of legislation and policy. In this context, power would be productive through its ability to create knowledge and to shape social behaviour through legislation and policy.

Social Theory Re-wired (2016) explains that one of Foucault's most famous examples of the exercise of knowledge and power comes from his explanation of confessions and sexuality in his book *History of Sexuality*. They note that Foucault argues confessions, a practice used by the Christian Church, became diffused in secular culture in the Eighteen and Ninetieth century. Foucault explains that confessions were used as a form of power as they encourage individuals to tell the truth about their sexual desires, emotions, and dispositions, and this truth then became a product of knowledge (*Social Theory Re-Wired*, 2016). Once these truths were discussed in confession, ideas of sexual identity came into question. Thus, when individuals discussed ideas of sexual desires, emotions, and dispositions, the ideas became a form of accepted knowledge as individuals would then identify themselves based on those desires, emotions, and dispositions. Foucault goes on to discuss how the acceptance of these new forms of knowledge then become a form of power because individuals will act according to this accepted truth. Beyond this, these forms of knowledge (sexual identity, in this case) will then be monitored, cultivated, and ultimately, controlled through confession. Thus, another form of power that is seen here is the idea that knowledge and power can be constricted, as some individuals and institutions will try to

control knowledge, but that knowledge can also be productive, as these individuals and institutions can then promote new ways of thinking about ideas.

Beyond this, Foucault (1972-1977) discusses that there, “are certain moments and in certain orders of knowledge, there are sudden take offs” and transformations of what we currently understand as truths (p.112). He argues that the focus should not be so much on the change of understanding or the extensibility and rapid changes, but rather that there is something else going on; a modification of the rules that formulate what we understand as truths. Thus, he argues that understandings of knowledge can change over time, and that the focus should be on how or what is happening that changes certain pieces of knowledge. For example, large social justice movements such as the push for legalizing same-sex marriage was one of these modifications to the rules that changed what society understood as truth. Prior to the passing of legislation that allowed same-sex couples to be married, marriage was understood as an experience to be shared only between a man and a woman (CBC News, 2012). However, since the passing of Bill C-38, which gave same-sex couples the legal right to marry, society’s understanding of marriage has shifted. In this case, the “common knowledge” of marriage changed from man and woman, to also include same-sex relationships. Furthermore, the institution that power is working through in this context, would be legislation. Therefore, the concepts of power/knowledge as defined by Foucault could also work through legislative policies, such as sexual violence policies.

Sexual violence policies can serve as both an example and a function of power/knowledge. Foucault’s theory can be understood in the context of sexual violence policies, as when these formal documents become embedded in a social context, they become a form of “common” knowledge. Feder (2011) notes that knowledge does not need to come from

forms of authority (policy makers, in this case). Nevertheless, as policy becomes embedded in conversations about sexual violence over time, what is written becomes what Foucault describes as knowledge that is “recognized as true”. Once we begin to accept what is written in sexual violence policies as true, the way we interact, respond to, and understand sexual violence becomes reliant on this knowledge. Therefore, this understanding and knowledge of sexual violence policy procedures becomes interconnected with power, as it shapes the way we interact and respond to sexual violence. For example, in the event that a university’s sexual violence policy states that it does not tolerate sexual violence in any case, and goes on to provide a definition of sexual violence that does not include discrimination or sexual violence towards gender or gender identify as a form of sexual violence – this could become a form of knowledge that restricts what will be responded to as sexual violence by the institution. Based on Foucault’s theory of power/knowledge, the university’s definition of sexual violence would become accepted by members of the university, and the way they begin to understand, interpret, and respond to sexual violence will reflect said definition. In this case, gender and gender identity would be excluded from cases of sexual violence. In turn, this university’s definition of sexual violence would become a form of “common” knowledge that members of the university would accept and would base their understandings of sexual violence on that definition.

It is also important to consider the concept of discourse. For Foucault, discourse refers to the way language and practice in society are related to power relationships. Additionally, it refers to ways of constituting knowledge and power relations. Foucault specifically looked at how knowledge systems shaped the social context and influenced certain pieces of knowledge as permissible, and determined whether or not they changed (Pinkus, 1996). For example, sexual violence policies can be considered a knowledge system with respect to handling of sexual

violence cases and they shape the social context by laying out the parameters of how individuals should respond to sexual violence. Therefore, discourse holds power in determining the development and implementation of sexual violence policies in any given context. This language is directly related to the function of said policies in determining how a sexual violence claim will be addressed, and how justice will be established according to the power/knowledge of discourse.

I draw on Foucault's ideas about knowledge and power to understand and analyze the way sexual violence policies are created. Additionally, I draw on this theory to consider how language and the way it is presented in SVPs can be understood as a form of knowledge, and therefore, holds power. Finally, I will discuss how individuals involved in creating SVPs use discourse to define and control the framing of the problem.

Chapter Three: Methodology

The objective of this research is to gain a better understanding of how campus sexual violence policies play out in practice, and to better understand how the implementation of SVPs may be subject to a variety of legal and social pressures from various stakeholders. This research seeks to answer the following research questions:

1. How, and in what ways, if at all, do Canadian Sexual Violence Policies meet the criteria for comprehensiveness, as defined in DeLong et al. (2018)?
2. How is institutional power/knowledge embedded in definitions and policies around sexual violence?
3. What are the implications of institutional power/knowledge and the power to define when creating Sexual Violence Policies?

To accomplish this research project, I have chosen to rely on a collection of analytical tools and approaches to qualitative research, such as Bowen's (2009) qualitative document analysis, Charmaz (2014), and van den Hoonaard's (2015/2019) explanation of grounded theory, sensitizing concepts, and coding, and Foucault's theory of power/knowledge (1972-1977) to interpret the data. The decision to use a variety of approaches to qualitative research was made as this research included two main sections that required different approaches to make sense of and analyze the data. First, in order to consider how comprehensive Canadian CSV policies are, sensitizing concepts were drawn from the literature on policy comprehensiveness, and specifically from DeLong et al (2018). However, the second part of the analysis relies on Sandelowski's (2000) qualitative description (QD), including qualitative content analysis, and thematic coding to gain an understanding of the content of the policies. One of the features of QD is the flexibility and commitment to a theory or framework when conducting the study (Kim,

Sefcik, & Bradway, 2017). This research relies on this flexibility with the use of a Foucauldian lens to answer the second research question. In this sense, there is a commitment and use of Foucauldian theory, but it is not an overarching theory that frames the study. Finally, research using QD includes findings that are straightforward, and include descriptive summaries of the data (Sandelowvsi, 2000; Kim, Sefcik, & Bradway, 2017).

As mentioned, part of this research project includes a qualitative policy analysis (or qualitative document analysis) of a sample of four SVPs from Canadian Universities. According to O’Leary (2014), policy documents from both private and public sectors are considered pieces *official data and records*. One of the benefits O’Leary (2014) notes is that secondary data (in this case a qualitative policy analysis) allows for the collection of “rich, in-depth qualitative data” (p.487). In essence, a qualitative policy analysis, or qualitative document analysis involves providing a thematic analysis of selected documents in order to answer a posed research question (Bowen, 2009). A thematic analysis involves the researcher identifying patterns (or themes) throughout the document that become the focus of the analysis (Bowen, 2009). In this case, I will be analyzing sexual violence policies in order to uncover themes that arise throughout the documents.

Foucault’s concept of power/knowledge fits into a qualitative policy analysis, as Foucault suggested that documents are a form of discourse. Documents, such as policies, thus become written historical records that reflect societal approaches to an issue. In this case, sexual violence policies become a record of how universities are responding to the problem of sexual violence on campus. These documents serve as both functions of institutional or government power and also to establish and reinforce the normative frame. The documents therefore can serve as a way to frame what we know about an issue. In this case, the sexual violence policy serves as one tool

that shapes how society perceives the issue of sexual violence, the extent of the issue, who the issue impacts, how to respond to the issue, and why the issue matters; Foucault's theorizing on knowledge/power posits that as policies are considered legitimate and accepted by people, they serve as a resource that tells people what they "know" about sexual violence on campus.

In order to answer the research questions above, I conducted a qualitative policy analysis of the institutional sexual violence policies of four universities in Canada. I used a purposive sampling method to select four universities whose policies were publicly available. Utilizing purposive sampling also allowed me to select specific universities that have a stand-alone sexual violence policy, and to select them from various regions in Canada to provide a broad representation, recognizing that some provinces have mandated policies and others have not. At times I also included the Universities' Student Codes of Conduct in the data because stand-alone sexual violence policies often refer to disciplinary processes in existing codes of conduct and including these allows for a more holistic understanding of the institutional response.

The first step in this project was to select the university policies that comprise the data set: one from the Maritime provinces, one from the western provinces, one from Quebec, and one from Ontario. The universities that I selected are Queens University (Ontario), McGill University (Quebec), the University of British Columbia or UBC (British Columbia), and St. Francis Xavier University (Nova Scotia) otherwise known as St. FX. I selected these universities from across Canada to allow for regional representation in the data, as well as to consider the impact of provincial policies and mandates for university sexual assault policies. These universities were also chosen because each has been covered in the news media due to controversies about sexual violence on campus and their institutional response. This created a

possible additional source of data with respect to victim/survivor narratives about the institutional response, although ultimately this data was not included in the final thesis.

Next, I created a coding scheme for the policy analysis, drawing on the categories that were deemed important for policy comprehensiveness by DeLong et al. (2018) and the White House Task Force to Protect Students From Sexual Assault (WHTF) (2017). As these categories already exist in DeLong et al. (2018) research, they are considered the sensitizing concepts of the research. Van den Hoonaard (2015) describes sensitizing concepts as codes or ideas that originate from the data, in this case, DeLong et al. (2018) research and the WHTF's (2017) checklist. The sensitizing concepts in this research were able to guide the initial approach to the analysis. However, I remained open to identify additional themes as I read through the documents. Additionally, my openness allowed me to take out certain codes, collapse others, and add categories through my immersion in the data. The sensitizing concepts from DeLong et al. (2018) and the WHTF (2017) were: Introduction, Scope, Option for Assistance, Reporting Procedures, Investigation Procedures, Definitions and Grievance Procedures to code the policies. I removed the category of Title IX Coordinator, as Title IX is an American legislation, and therefore not relevant for Canadian research. Additionally, I collapsed Education and Prevention, and Training into a single category, and subsequently added the category of Disciplinary Action. The categories outlined by the WHTF (2017) and DeLong et al. (2018) were used as they were amongst the first researchers to analyze university policies on campus sexual violence, and the only researchers that used policy comprehensiveness as a measurement. Although Lee and Wong (2019) and Graham et al. (2017) both included policy comprehensiveness in their studies, this was not the primary focus of their research. Additionally, while The Canadian Federation of Students-Ontario (2017) has released a template that describes which categories should be

included in a sexual violence policy, this template was meant for creating a policy that reflected consent culture, not policy comprehensiveness. As such, the categories outlined by the WHTF (2017) and DeLong et al. (2018) were selected as the best option when looking at policy comprehensive codes. These categories were used as the codes to answer the first objective of this research; to determine how, if at all, this selection of Canadian SVPs meet the criteria for policy comprehensiveness, as established by the DeLong et. Al. (2018), and *White House Task Force* (2017).

Throughout the coding process, I relied on open and focused coding in order to draw out themes that arose throughout the policies. Van den Hoonard's (2015) and Charmaz's (2014) explanation of open-coding⁴ is described as labelling the themes that arise in the document of analysis. Charmaz (2014) notes that at this stage, the researcher should remain open to all possible theoretical directions, coding most, if not all of the document. After the open-coding was finished, I took part in focused coding, which involves going through the data as these relate to each code, and recoding them in order to fit with the aspect of the themes (Charmaz, 2014). Additionally, I took part in manifest and latent coding as described by van den Hoonard (2019). She notes that manifest content is that which is obvious, and immediately recognizable to the researcher (van den Hoonard, 2019). In this case, this would be using the code "University Power" when the policy uses the word "power" in the text. Latent content on the other hand is that which focuses on underlying meaning (van den Hoonard, 2019). Here, using the code "University Power" may be used when the policy discusses actions or situations that aren't as obvious as using the word "power". This can be exemplified by policy that mentioned the

⁴ Kathy Charmaz (2014) refers to open coding as initial, or grounded coding in her book *Constructing Grounded Theory*. However, for the purpose of clarity, I use the language drawn from van den Hoonard's *Qualitative Research in Action*.

University being allowed to override decisions made by victims/survivors to withdraw a Report. The text may not explicitly say “The university has the power to override the decisions...”, it may instead look something like: “Officials may consider the request, but ultimately decided to proceed with an investigation.” All four coding methods were important in the coding and analyzing of the four sexual violence policies.

I followed open, focused, manifest, and latent coding process as I coded each policy. This allowed me to identify each code (each of which was provided with a colour in the coding process to more easily group them) - followed by subsequent analysis to identify any missing or relevant information that was missed the first time. For example, latent coding when coding for the WHTF and DeLong et al. section allowed me to look beyond the subheadings that the university provided, and allowed me to determine whether certain codes, such as “options for assistance” were present anywhere else.

In the third step, I read and analyzed the document a third time. However, this time I used a fresh copy of the policy in order to identify themes that are present in each of the four policies. At this stage, in-line with open-coding as described by Charmaz (2014) and van den Hoonaard (2015), I coded most of, if not the entirety of the documents. I used paragraph-by-paragraph coding; meaning I tried to code each paragraph thematically. If multiple codes were identified in a single paragraph, they would be highlighted by both respected colours. Once this was completed, I reviewed the codes created from the open-coding phase to recode them, i.e., I engaged in focused coding. Again, here I relied on Charmaz (2014) and van den Hoonaard’s (2015) description of focused coding. This allowed me to focus on the more salient codes, and get rid of less useful ones. For example, during the second coding process, it was discovered that two codes (University Power and University Rights) could be collapsed into one overall code of

“University power”. Additionally, “rights” in the first round of coding was subsequently split into two separate codes during the second round of coding: “victim/survivor’s rights” and “accused’s rights” respectively. In this case, “university rights” was deemed as less important, since the university’s rights are set out and defined by the policy as it is created by the university via an exercise of power. Additionally, latent coding at this step helped me look beyond the words that were used, and understand that what might be written in the policy is considered “University Power”, even though it is not said outright.

To conduct the analysis, I used Microsoft Excel to create four separate spreadsheets in which I copy the content of each sexual violence policy, sorted by topic or issue (e.g. definitions, process, punishments)—each policy next to the other. I used four separate Excel spreadsheets for step 1 (analysis of comprehensiveness) and four spreadsheets for the thematic analysis (identifying common themes throughout). This allowed for greater ease in comparing and drawing themes across the policies. In addition to this, I downloaded each of the universities’ codes of conduct. I analyzed each of the sexual violence policies and codes of conduct for similarities and differences, as well as relevant themes that appear across the policies. Ultimately, as mentioned, an analysis of the code of conducts were not included in the final thesis, however they were referred to when relevant. For example, when referring to disciplinary actions, the sexual violence policies will make reference to the code of conducts, as this is where they are outlined. In the next chapter I describe the findings of this coding process.

Finally, strategies to attend to qualitative rigor were used throughout this research. Though rigor is often associated with quantitative studies, it was nevertheless considered in this research, particularly Guba and Lincoln’s (1989) concept of trustworthiness (Maher, Hadfield, Hutchings, & de Eyto, 2019). To be specific, one strategy to attend to rigor, or trustworthiness, is

transferability. Maher et al., (2019) state that transferability is the ability for the findings to be transferred to other contexts or settings; to do this, it is important to provide in-depth descriptions of research contexts. This was done by being specific and providing an in-depth explanation on the context of this research, that being campus sexual violence. Another strategy is dependability, wherein the research process is described in sufficient detail in order for another research to repeat the work (Maher, et al., 2019). Again, this was done by providing an in-depth explanation on the research methods used. This study of policy comprehensiveness and content could be replicated using other CSV policies.

Chapter Four: Findings

This chapter engages Foucauldian theory to provide a critical, qualitative policy analysis of four Canadian University Sexual Violence Policies: McGill’s *Policy Against Sexual Violence*, St. Francis Xavier University’s (StFX) *Sexual Violence Policy*, Queen’s *Policy on Sexual Violence Involving Queen’s University Students*, and The University of British Columbia’s (UBC) *Sexual Assault and Other Sexual Misconduct Policy*⁵. In this chapter, each policy was coded in order to answer the following research questions:

1. How, and in what ways, if at all, do Canadian Sexual Violence Policies meet the criteria for comprehensiveness, as defined in DeLong et al. (2018)?
2. How is institutional power/knowledge embedded in definitions and policies around sexual violence?
3. What are the implications of institutional power/knowledge and the power to define when creating Sexual Violence Policies?

Guided by the literature that explores the extent to which sexual assault policies are “comprehensive” and the importance of comprehensiveness (e.g., DeLong et al 2018; Lee & Wong 2019), I first describe the categories that are used in the four policies and discuss these in terms of the degree to which they may be said to be “comprehensive.” I then offer a thematic qualitative analysis of the policies and discuss the emergent themes that I found. The themes include: *Vague Language*, *Specificity/Certainty*, *Impact of Sexual Violence*, *Discretion*, *Rights of the Victim/Survivor*, *General Rights*, *University Power*, *Power*, and *Trauma Informed*.

⁵ St. Francis Xavier University implemented a new policy as of February, 2020 and is up for review in June of 2021. Also, UBC’s policy was revised in September 2020, and is up for revision every three years, as required by provincial law.

Policy Comprehensiveness

The following section will look at the relevant themes inspired by Delong et al. (2018) to investigate the extent to which the sexual violence policies of the four Canadian universities are comprehensive. Comprehensiveness can be understood as including as many topics, if not all, of an element as possible. In Delong et al. (2018), comprehensiveness was noted by a greater number of elements present in the list of topics. So, the more topics in an element, the more comprehensive the policy was. For example, in their research, “Policy Introduction” was considered an element, and the relevant topics that should be included were “a clear statement of the school’s prohibition of sex discrimination which includes sexual misconduct” and “a statement of the school’s commitment to address sexual misconduct” (Delong et al., 2018, p.3318). Comprehensiveness in this example therefore, would be an introduction that includes both elements outlined. This is important for sexual violence policies as a comprehensive policy presents all the necessary information in one place for those who are using and applying the policy. If some elements are missing from a sexual violence policy, users will have to look elsewhere for information or steps to follow.

Introduction.

Introductions are an essential part of sexual violence policies as they are primarily used to introduce and acknowledge the problem that the policy intends to address; plainly speaking, they provide an opportunity for the creator of the policy to frame the issue at hand. Frames showcase what will, and will not be discussed (Altheide, 1976; Epstein, 1973; Fishman, 1980; Altheide and Schneider, 2013). While the introduction itself is not a frame, it nevertheless provides an overview of the issue at hand by setting out what the policy will and will not discuss.

Each of the four policies reviewed included some version of an introduction. While UBC, Queen's and StFX refer to their introductory section as the "Purpose", McGill uses the term "Preamble". Additionally, each provides some form of outline detailing what the policy will include. In each respective introduction, there is mention of the fact that the policies are intended to respond to sexual violence (UBC, 2019; McGill, 2019; Queen's, 2016; and St. FX, 2018). The Preamble to McGill University's policy, includes the most introductory information of the four policies. It describes that the policy is intended to prevent and respond to sexual violence, to outline the University's role in prevention and response, and includes statement that acknowledges that sexual violence affects all members of society but that its impact is disproportionately felt by members of groups who "experience intersecting forms of system discrimination" (such as racialized individuals, members of the LGBT community, etc.) (McGill, 2019, p. 1). Additionally, they include a statement about power imbalances between victims and perpetrators, and the additional procedures employed by the university to aid in their response to sexual violence (McGill, 2019).

Queen's University, on the other hand, lays out their introduction by articulating their commitment to maintaining a positive learning environment, asserting their intention to respond to sexual violence, and listing the ways in which they will do this. They note their coordinated and comprehensive response to sexual violence, as well as support for students who have been affected by sexual violence through the provision of counselling, health, and medical care. Also, they note that they are intent on following a clear and fair process for handling reports of sexual violence (Queen's, 2016). UBC follows a very similar approach to Queen's, in which they first discuss their plan to respond, and subsequently provide resources and information. However, UBC makes an additional note on their plan to educate their university community on sexual

violence prevention (UBC, 2019). Finally, StFX's introductory statement not only states their intolerance of sexual violence but also outlines the response protocols, informs students of available resources, and defines the reporting procedures (StFX, 2018).

The introduction section in each of the policies acknowledges and outlines that sexual violence is a problem, and that it occurs on campus. Additionally, by doing so, they further acknowledge that the university plays a role in addressing the problem. The introduction section is where they address the problem through certain means, such as education, support, investigation, and so on. The White House Task Force (2014) notes that this is where schools are to make a statement on their commitment to addressing sexual violence.

Scope of Policy.

Scope of the policy can be understood as an overall summary of who and what situations are included within the purview of the policy. Scope often includes a summary of the policy (in this case, the sexual violence policies), and identifies who the policy might affect or apply to, such as victims, survivors, students of the institution, and those accused. This section might also identify which university officials are responsible for the implementation of the policy or for providing important resources. All four policies provide information or sections that can be understood as "scope" as outlined by the White House Task Force.

McGill University includes the scope of their policy under the heading "General." Here, they state that their policy applies to all members of the university community (i.e., any student, faculty, or staff member of McGill), and the policy extends to all acts of sexual violence. They provide additional information regarding what to do if those who use the policy feel that the university did not "adhere to the requirements set out by [the] policy" (McGill, 2019, p.2).

StFX identifies their scope section using the subheading “Scope”. In this section, they explain that their policy is “meant to provide an overarching framework to guide students who are victims, survivors, students who have been accused, and anyone who is supporting students in this process.” (StFX, 2018, p.1). They also provide information on allegations of sexual violence that involve employees of the university. They explain that if the alleged perpetrator is an employee, and not a student, that the report or disclosure will be forwarded to the StFX Human Resources Department, as a follow up will be required, which might result in an investigation under a separate policy (StFX, 2018).

Queen’s, like StFX, identify their scope section using the heading “Scope of the Policy”. Here they state that their policy “applies to all members of the Queen’s Community” (Queen’s, 2016). They also mention that their reporting process applies to incidents where the complainant was, or is a current student at the university, and at the time of the incident the respondent was, or is a member of the University, regardless of where the incident took place (Queen’s, 2016).

It is worth mentioning that while UBC does not have a scope section, they do outline who is able to receive services from the university under their section “Sexual Violence Prevention and Response Office”. Here they state that their policy extends to all members of the UBC community (those who experience sexual violence, those who are accused, and those who are a support person to someone who has experienced sexual violence). Additionally, they note what their jurisdiction is in terms of investigations, however, they do not outline what their jurisdiction is. The scope section in the policies is used to outline who the policies extend to. In each case, the policies cover members of the university who are either accused, or those who are victims/survivors. UBC and StFX both note that their policies also extend to support persons, but this is absent from Queen’s and McGill. The scope frames the issue in a way that shows who the

university presumes should be involved and affected by the problem of sexual violence on campus. This can be seen by who is mentioned as being covered by the policy and by narrowing the scope, the university limits the kinds of situations that they may be required to intervene on or provide support for.

Options for Assistance.

Options for Assistance are services that are provided to those who have experienced sexual violence. These services may include counselling for survivors and information on how to report a sexual assault, for example. Providing this information within the sexual violence policies will allow those involved to know what services they can access and how to find them.

UBC lists their Sexual Violence Prevention and Response Office (SVPRO) as the main on-campus resource for survivors of sexual violence. They note that they have established a SVPRO at both their Vancouver and Okanagan campuses. They then provide an overview of the types of services and assistance these offices can provide, such as: receiving disclosure of sexual violence, identifying, accessing, and coordinating appropriate accommodations, providing referrals to counseling services within UBC, and providing referrals to external organizations such as the local hospitals. These offices also state that they will serve those who have received an allegation of sexual violence against them, those who know someone who has experienced sexual violence, and those who have witnessed sexual violence (UBC, 2019).

Additionally, options for assistance under UBC's sexual violence policy include the ways in which the school will accommodate members who make disclosures or reports. These accommodations, or options, include: re-location of student residence or short term emergency housing, class schedule changes, academic accommodations, and temporary work reassignment

(UBC, 2019). These options are to limit interactions and access between those who have made the report/disclosure, and the individual accused.

Both McGill and Queen's do not have a standalone section for options for assistance. when considering comprehensiveness, it would be worth universities to include a standalone section, as it can aid in structure, organization, format, and ease in finding the information for those who might seek out assistance. They do, however, both refer to the existence of supports in the event that a member of the community comes forward to make a disclosure or report an act of sexual violence. McGill mentions it in their "Responding to Disclosure" section, where they state that they will inform students about access to health and counselling services, as well as off campus services, such as legal and social services (McGill, 2019). Queen's (2016) on the other hand, mentions in their "Policy Statement" section that appropriate measures will be put in place to cease further unwanted contact from an alleged perpetrator. They then provide a list of related measures later in the policy under "Interim Measures". They include considerations such as, but not limited to, "no contact" directives, restrictions or suspension of an individual's enrolment at the university, and temporary administrative suspension of student groups (Queen's, 2016). Finally, Queen's outline in their policy that they will provide information about on, and off-campus supports that are available to students.

StFX also does not have a standalone options section, however they do provide a list of options for assistance in their reporting section. These include reaching out to university Health and Counselling staff, Student Life Staff, and Human Rights and Equity Advisors, followed by how each of these individuals will refer them to appropriate resources (StFX, 2018). They do not, however, make explicit reference to what those resources entail. They also provide a list of

external options for disclosures, including the Sexual Health Nurse Examiner, which provides an additional resource for assistance.

Definitions.

Definitions provides an outline and meaning of important terms that will be present throughout the policy. In other words, definitions, in the case of sexual violence policies, explain to the reader what a specific term means and what limits have been placed on its interpretation. Each of the policies include a section on definitions, where they provide definitions of terms from sexual violence, to disclosure, and report, to who is considered a member of the university community.

UBC provides a two-page list of definitions in their policy. They start with a definition of sexual misconduct, and then provide a list of what is considered sexual misconduct, such as sexual assault, sexual harassment, stalking, indecent exposure, voyeurism, and the distribution of sexually explicit photographs. For example, they define voyeurism as “non-consensual viewing, photographing, or otherwise recording another individual in a location where there is an expectation of privacy and where the viewing, photographing or recording is done for a sexual purpose...” (UBC, 2019, p.6). They also include the definitions for consent, members of the UBC community, report and reporting, disclose and disclosure, jurisdiction to investigate, investigation, and investigator.

McGill also has a two-page section on definitions. Theirs includes conduct of a sexual nature, consent, disclosure, member of the university community, report, respondent, sexual violence, survivor, teaching staff, trauma-informed, and university context. McGill also provides a definition of sexual violence, then provides the definitions for several examples of sexual violence. This is similar to UBC’s approach, except UBC uses “sexual misconduct” as their

umbrella term rather than “sexual violence”. McGill defines sexual violence as “sexual acts targeting a person’s sexuality, gender identity, or gender expression that is committed, threatened, or attempted against a person without the person’s consent and may occur in person, in writing, by phone, or by any means of communication” (McGill, 2019, p.3). Their list of acts of sexual violence include sexual assault, sexual harassment, stalking, indecent exposure, voyeurism, distribution of sexual images, and sexual exploitation.

Queen’s two-page list of terms includes definitions for consent, complainant, disclosure, no-contact directive, notice of prohibition, Queen’s community, Queen’s university property, report, respondent (both student and employee respondent), student, student group, and survivor/victim. Queen’s defines acts of sexual violence and sexual misconduct differently than both McGill and UBC. They provide definitions for sexual assault, sexual violence, and sexual harassment. Additionally, they define examples of sexual violence, such as sexual solicitations, non-consensual posting of pictures, physical contact of a sexual nature, and sexual conduct that interferes with an individual’s dignity. They also provide examples of sexual violence, such as stalking and voyeurism under its definition, but do not provide definitions for these examples. For example, they define sexual violence as:

“Any sexual act or act targeting a person’s sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person’s consent, and includes such things as sexual assault; sexual harassment; stalking; indecent exposure; voyeurism; and, sexual exploitation.” (Queen’s, 2016, p.4).

While there are definitions of sexual harassment and sexual assault, they do not provide them for stalking, indecent exposure, voyeurism, and sexual exploitation.

The list of definitions used by StFX is noticeably smaller than the previous schools, as they provide only half of a page of definitions, including consent, disclosure, investigator, reporting, sexual assault, and sexual violence. StFX's definition of sexual violence is similar to Queen's, in that they provide a definition and examples, but do not specifically define any of the examples. StFX's definition is: "any act targeting a person's sexuality, whether physical or psychological, that is committed, threatened or attempted against a person without their consent" (StFX, 2018, p.2). They provide a non-exclusive list of examples including, unwanted sexual comments or advances, sexual harassment, stalking, indecent exposure, voyeurism, and cyber-sexual harassment, but they do not define those terms. Across the four universities there are differences in certain definitions, such as Queen's and StFX's definitions of sexual violence.⁶ Nevertheless, these difference can have an impact on how the issue is framed, and what is considered sexual violence at one university, may not be the same as another.

Reporting Policies and Protocols

One of the important suggestions made by the White House Task Force to Protect Students from Sexual Assault (which DeLong et al. use for their list) involved creating an environment that encourages individuals to report sexual violence when it takes place, and to make ways to report clear and accessible (White House Task Force, 2017). They note that policies should include options to report through the school, through the criminal justice system, or both. For the purposes of this research, civil litigation will also be considered. They also note that schools should provide means for individuals who are reporting to secure interim protective measures while an investigation takes place (White House Task Force, 2017). These interim measures have already briefly been mentioned in *options for assistance*.

⁶ A more detailed and throughout discussion of these differences and their importance will be discussed in the Analysis chapter.

UBC's section on reporting states that anyone who is subjected to sexual misconduct by a member of the University of British Columbia, whether they themselves are a member or not, can make a report at the university. They explain that the reports must be submitted to the Director of Investigations on the relevant campus (UBC, 2019). They provide additional information about external investigations, stating that individuals subject to sexual misconduct (as defined in their policy) may make a report through UBC and through external means such as the police, or civil litigation. UBC then provides information about third party allegations. They note that third parties who were not themselves the victim of sexual misconduct may also report allegations to the Director of Investigations. They do, however, note that UBC may not be able to investigate third party allegations, depending on the amount of evidence they receive. While not initially provided in their reporting section, they do later provide the ways in which an individual should report. Stating the report must be in writing, must set out the relevant details and must include any witnesses (UBC, 2019).

Queen's, like UBC, does have a section on reporting. They point individuals to the Sexual Violence Prevention and Response Coordinator (SVPRC) as the best place to get information and initiate a report. Queen's policy states that Campus Security and Emergency Services (CSES) can also help with reporting options. They then note that individuals can make a criminal report through the Kingston Police (and that the SVRPC can help with making a report), or individuals can choose to report through the university, and reports against students should be made to the CSES or the SVRPC. They also stipulate that students can choose to make an internal and external report simultaneously.

StFX's policy also provides a section on reporting. They begin by stating that students who have experienced sexual violence can disclose to any university support or trusted person

without making a formal report (StFX, 2018). Like UBC and Queen's, StFX notes that both external and internal reporting avenues can be pursued simultaneously if the individual chooses to do so. They state that those wishing to report may do so by contacting a Residence Assistance or Hall director, Security, speaking with the Residence Life Coordinator, or going to the Student Conduct Officer or the Director of Student Life. They make a small note stating that those wishing to pursue external avenues should report through the RCMP (which has local jurisdiction in Antigonish, Nova Scotia, where StFX is located).

McGill's policy is an outlier in that it does not offer a dedicated section on reporting protocols. However, they do provide information on reporting in their section on investigation procedures. McGill's policy states that reports need to be filed with a Special Investigator (McGill, 2019). They do not provide any additional information on how to make reports, only that there is no time limit for filing. Nor do they address external reporting. Of the four policies analysed for this research, McGill's offers the least instruction and guidance to people who may want to report sexual violence.

Investigation Procedures

One integral part of a comprehensive sexual violence policy is the process by which institutions investigate allegations of sexual violence. It is important to outline the processes and procedures associated with sexual violence investigations so those involved in the process know what they can expect to happen and understand their role(s) and obligation(s). It is also beneficial for the universities themselves to have guidelines to aid them with their investigations to ensure that they respond to all allegations or incidents with consistency, allowing less room for potentially inequitable differences in response to arise.

The UBC policy begins this section by stating that the Director of Investigations and Investigators is responsible for leading the investigation and will use their authority and discretion in conformity with procedural fairness (UBC, 2019). UBC's guidelines include an initial review of any reports within 14 days of receiving a formal report to determine whether UBC has jurisdiction to investigate. If the Director deems the university does have jurisdiction, he or she shall appoint an Investigator to investigate, or make a referral to an alternative resolution process. The section on investigation procedures includes the guidelines to alternative resolution process, the Investigator's role if an investigation is initiated and a detailed review of the process. For example, they state that investigations "shall be completed within 60 calendar days of the Investigator's receipt of the Report from the Director of Investigations." (UBC, 2019, p.9) They then outline what the Investigator's report will include once it's completed or what would happen if the Director deems that UBC does not have jurisdiction.

McGill, as mentioned earlier, includes who to make a report to in their investigation procedures. They state that the Special Investigators shall be impartial, and will have an expertise in investigations, as well as training in following a trauma-informed approach (McGill, 2019). Their section does not provide details of guidelines such timelines for completing an investigation like UBC does, instead their section deals primarily with the role of the Special Investigator. For example, outlining that they will follow a trauma-informed approach, maintain procedural fairness, and have an accessible place to meet with parties. McGill also provides information on jurisdiction. They note that "the university will investigate a Report where the alleged Sexual Violence occurred in a University Context and where the Respondent is, at the time the Report is made, a Member of the University Community" (McGill, 2019, p.9). The

jurisdiction in this case is “University Context”, however, they do not give any specifications as to what is considered a University Context.

Queen’s outlines their investigation procedures in a way that is more similar to UBC’s approach than McGill’s. The investigative process at Queen’s includes multiple individuals, none of whom appear to be dedicated or specialized in sexual violence. For example, an initial review will be done by the Non-Academic Misconduct Intake office (NAM) to determine whether to commence an investigation or not. If the NAM office decides to commence an investigation, they refer the case to the Student Conduct Office who will conduct the investigation (Queen’s, 2016). The Queen’s policy outlines the rights of the complainant (victim/survivor), as well as the rights of the respondent (alleged perpetrator). Queen’s also outlines the steps that would be taken if a complainant were to withdraw their report; they state that the complainant’s request to withdraw the report will be considered, but may be dismissed if the university deems it is in the best interest of the health and safety of the Queen’s community to proceed with the investigation process.

StFX follows a similar approach to McGill, in which they focus more on outlining the role of the investigator as opposed to the steps of the investigation. For example, they state that the role of the investigator is to gather relevant evidence, such as oral statements, written statements, photos, videos, and anything else they deem important (StFX, 2018). They do, however, mention that once all the evidence is gathered, that a hearing will take place, and that these guidelines can be found in the StFX Community Code of Conduct.

Prevention, Education and Training

The White House Task Force argued that training and education on the prevention sexual violence were critical for not only new students, but all students throughout their education

(White House Task Force, 2017). Specifically, they are referring to prevention and education programs on sexual violence, like modules related to bystander intervention, challenging biases and harmful attitudes, and considering the needs of vulnerable populations (i.e., women, students of colour, LGBTQ+, students with disabilities, etc.). In their article, DeLong et al. (2018) separate prevention and education from training, because training refers to preparing staff and administrators to appropriately respond to allegations of sexual violence. However, for this research prevention and education and training have been combined because references to training in the Task Force are to prevention and education measures.

Of the four policies, only McGill and Queen's provide a section on prevention, education, and training. McGill states that they will take proactive and visible measures to provide education relating to sexual violence and its impacts through means including, but not limited to, cross-campus campaigns, a dedicated website with information on the nature of sexual violence, mandatory orientation, and training for all students, academic staff and administrative support staff (McGill, 2019). Queen's states that their SVPRC will work with campus partners to develop an annual education strategy to promote a culture of consent, address issues of sexual violence, and facilitate access to support services for students (Queen's, 2016). They also state that they will deliver appropriate information relating to sexual violence to all students, but will focus on raising awareness among incoming students during their orientation week. It is worth mentioning that in their introduction, UBC makes a note about creating available programs to educate its community on the prevention of sexual violence, but they do not outline what these programs will entail.

Disciplinary Actions

All the university policies but StFX included a section on disciplinary actions. This is not to say that StFX has not defined possible disciplinary actions; rather, these are outlined in StFX's student code of conduct. Disciplinary action in this research is defined as any form of punishment or discipline that is described in a policy related to finding an individual responsible for an act of sexual violence. This includes, but is not limited to, limited access to hours on campus and resident floors, suspension, and expulsion.

Queen's disciplinary action section outlines who is responsible for determining what type of punishment, remedy or solution will take place. In the case of a student respondent, the responsibility lies with the President, in the case of a faculty member respondent, it is the faculty member's Dean, and in the case of a staff member respondent, it is the staff member's administrative head of unit. They then outline the process for determining and communicating the decision; the individual must communicate the finding and decision in writing. UBC does not provide a list of possible outcomes, rather, they state that the designated authority will determine an appropriate measure based on their findings. In the case of the student respondent, these measures can be "up to and including suspension or expulsion" (UBC, 2019, p.11).

The McGill policy provides a similar outline of disciplinary actions, in which they detail who will make the decision about the outcome, dependent on the type of respondent. In the case of a student, decisions are made by a disciplinary officer, as defined in their student code of conduct; in the case of a member of academic staff it is the Dean of the faculty; in the case of a member of administrative or support staff it is the staff's immediate supervisor; in the case of a vice-principal it is the principal, and in the case of the principal, it is the Chair of the Board of Governors (McGill, 2019). McGill, unlike UBC, does provide a list of possible outcomes. In the case of a student respondent, they list five possible outcomes, but refer further to the code of

conduct. Thus, while there are other possible outcomes, those making the decisions will have to refer to the code of conduct. They state: “[disciplinary] outcomes, in the case of a student, are described in the *Code of Student Conduct and Disciplinary Procedures* [and] may include but are not limited to: [an admonishment, a reprimand, conduct probation and associated conditions (e.g., cease and desist communications) suspension, expulsion]” (McGill, 2019, p.11). They also list the possible outcomes for those found responsible who are not students.

Queen’s’ section on disciplinary outcomes is much less detailed than the previous two policies. They provide information on the possible outcomes, but do not describe who is responsible to makes the decision about the disciplinary action. This omission may be due to the fact that Queen’s’ policy is for students only and not applicable to other university constituents like faculty and staff. Like McGill, Queen’s’ does provide a list of possible punishments, remedies, or solutions, but ultimately refer to their code of conduct as the main source of disciplinary measures. They state: “[I]f it has been determined that this policy has been violated a number of outcomes are possible pursuant to the student code of conduct, including: [written warning or reprimand, letter of behavioural expectation, education assignments, requirement to withdraw, etc.]” (Queen’s, 2016, p.11). They also mention that in addition to those outcomes, further sanctions may be in place, as referred to in their residential policy (ResRules), and their Athletics and Recreational Discipline Policy. They do not state it, but these policies would come into effect in the event that the individual found responsible was a member of residence, or of an athletic department.

Grievances/Appeal Procedures

Only UBC and Queen’s’ provide information on appeals of decisions and disciplinary measures in their policies. UBC details where a respondent is to file an appeal, depending on

which campus they are on; UBC Vancouver Senate Student Appeals on Academic Discipline Committee at UBC Vancouver, and UBC Okanagan Senate Appeals of Standing and Discipline Committee at UBC Okanagan (UBC, 2019). However, the UBC policy does not provide information on the steps an individual must take to file an appeal, or what happens once an appeal is filed. UBC does provide information on how faculty or staff members can file an appeal, through their agreements on their conditions of employment (UBC, 2019). Queen's policy follows a similar pattern, providing information only on where to appeal—to the University Student Appeal Board—and not how to go about initiating the appeal or what is required (Queen's, 2016). Of the four universities in this research, only McGill provides information on grievances for complainants. UBC, Queen's and StFX policies only outline where respondents may appeal a decision, and do not discuss complainant appeals. It appears that if complainants are not satisfied with the outcome of the disciplinary process at these institutions, they do not have a set means to challenge the decision. The McGill policy states that if a complainant believes that the University did not adhere to the guidelines set out by the policy, they can follow up through grievance procedures through the University regulations. However, McGill does not provide those regulations in their policy, nor do they provide details on how complainants may appeal decisions (McGill, 2019).

Common Themes

While the preceding sections provided details on how the content of these policies conforms to or varies from the recommendations of the White House Task Force, to this point we have not addressed the language and construction of the policies in detail, nor their implications. The following section examines common themes that emerged in the analysis of

the language used in these four sexual violence policies: *vague criteria, certainty/specificity, impact of sexual violence, discretion, victim/survivor's rights, accused's rights, university power, and trauma informed approach.*

Vague Criteria.

A noticeable theme throughout the policies is related to vagueness. In certain situations, the language used in the policies does not provide specific information and leaves significant room for interpretation. In other words, at times the policies will make statements that do not give the reader a decisive answer to a question, but rather leave room for subsequent questions. An example of this is frequently making statements about significant harm to an individual's wellbeing, but not providing examples of what constitutes "significant harm" (UBC, 2019; McGill, 2019; Queen's, 2016; StFX, 2018). Vagueness is usually seen when the policy does not provide complete information, such as the example above, or can be identified from the use of the term "may", as in "may or may not" fall under policy guidelines.

One of the common phrases used throughout the four policies that provides an example of vague criteria, is the use of the word "appropriate". Throughout each of the policies, appropriate is often referred to in differing circumstances, such as: "Office to ensure that appropriate support services and accommodations remain in place..." (UBC, 2019, p.8); "...the appropriate disciplinary authority will determine what disciplinary and/or administrative measures are appropriate..." (McGill, 2019, p.10); "...Interim measures appropriate in the circumstances." (Queen's, 2016, p.2); "providing appropriate education and training to the StFX community about responding to the disclosure of sexual violence." (StFX, 2018, p.4). The vagueness in each of these examples is the unknown about what constitutes appropriateness and, in some cases, who determines what will be considered appropriate. The quote above from StFX

about “appropriate education and training” contains significant assumptions about what is appropriate in a way that a bold statement that situates the paradigm and focus of the training would not. A statement like “education and training rooted in trauma-informed and intersectional feminist paradigms” would remove a great deal of ambiguity and clarify the university’s commitment, if any. While McGill’s policy later explains who the “appropriate” disciplinary authorities are, they still do not provide any insight into what kinds of measures would be appropriate in a given circumstance; the same can be said for each of the other three policies.

As previously mentioned, a notable indicator of vague criteria is from the use of the term “may”. This can be seen in all of the sexual violence policies. For example: “The FIPPA *may* require UBC to remove Personal Information that is irrelevant to the investigation findings...” (UBC, 2019, p.13, emphasis added); “that there may be a risk of harm to any Member of the Community, they shall consult with the appropriate University authorities...” (McGill, 2019, p.12); “...the university will consider, and may impose, interim measures that are appropriate in the circumstance...” (Queen’s, 2016, p.8); “A filed report may result in disciplinary actions as outlined in the St. Francis Xavier University...” (StFX, 2018, p.4). Again, vagueness here is seen in the lack of additional information relating to each of the statements. For example, UBC does not give an example of a circumstance that would require them to remove personal information.

A third example of vague criteria is through the use of the term “reasonable”. Much like the previous two terms, there is no explanation of what is deemed reasonable, nor who determines what is reasonable. Reasonable is used in situations such as: “the OSVRSE, when receiving a Disclosure, shall make all reasonable efforts to do the following...” (McGill, 2019, p.7); “The University will take reasonable steps to protect every Student involved in a process pursuant to this policy from reprisal.” (Queen’s, 2016, p.1); “When the University becomes

aware of sexual violence, the University shall take all reasonable steps to ensure the safety of the University community using the appropriate policies.” (StFX, 2018, p.4). Other examples of vagueness are often seen when the universities make statements around issues that are exceptional circumstances, and/or they use the term “generally” (UBC, 2019; Queen’s, 2016; StFX, 2018). Again, they do not provide examples or information on what is considered exceptional circumstances. The use of the term “generally” would suggest that there are times where what they are referring to will not actually happen. For example, StFX (2018) states, “Disclosure does not necessarily lead to reporting of the incident; reporting is a further step, and is generally at the option of the victim/survivor.” (p.2) Thus, there are times in the aforementioned example where reporting would not be at the option of the victim/survivor, but the policy provides no example of such a situation.

Certainty/Specificity

While there are times that the language used in the policies creates vagueness, there are also times where the language does the opposite; it does not leave room for interpretation. In other words, the language use creates concrete information and seems to offer certainty. This can be seen when the university uses language such as “must” or “will” in their policies. Other examples are related to certain definitions, such as students. The schools are specific in who is and who is not considered a student (UBC, 2019; McGill, 2019; Queen’s, 2016; StFX, 2018).

One of the main examples of specificity in these policies is with the emphasis they put on the fact that the university will not tolerate any form of sexual violence and that they will provide victims/survivors with supports if they have been affected by sexual violence (UBC, 2019; McGill, 2019; Queen’s, 2016; StFX, 2018). Another way in which this theme can be understood is in McGill’s (2019) policy, which outlines rules for teacher/student relationships, it states:

[N]o member of the teaching staff may enter into or initiate a sexual or romantic relationship with a student where the member of Teaching Staff; has academic authority over the student; has an influence over the student's progress; or collaborates academically with the student. (p.5)

They explain additional information with respect to teacher/student relationships that existed prior to a student or teacher's time as a member of the school. So, if a relationship was started prior, they note that the staff member is to disclose the relationship immediately. In this example, McGill clearly articulates what is, and is not acceptable in terms of professor/student relationships.

Interim measures that can be placed when accusations of sexual violence are made can also be an example of Certainty. While I have mentioned earlier that language around interim measures can be considered vague, that vagueness centres on the term "appropriate". However, there is a level of certainty when universities describe that interim measures *will be applied* (UBC, 2019; McGill, 2019; Queen's, 2016; StFX, 2018). For example, Queen's (2016) states "[T]he university *will* put academic, housing and other accommodations in place for persons who Disclose or Report an incident of Sexual Violence..." (p.2). This should leave no room for interpretation and provide a measure of certainty with respect to the university's commitment to provide necessary accommodations and measures to protect individuals who make a disclosure of sexual violence.

Impact of Sexual Violence

The impact of sexual violence is referred to frequently throughout the policies. The policies examined mention this impact either directly or indirectly. Direct mention of the impact of sexual violence references the fact that sexual violence *may* impact an individual in a variety

of ways. Policies indirectly mention the impact of sexual violence by making note of services, such as therapy or counselling, to which they suggest individuals who have experienced sexual violence should have access.

Queen's, StFX, and McGill's policies emphasize the range of effects of sexual violence. For example, Queen's policy states: "Sexual Violence can have serious impacts on an individual's physical, mental, emotional, and spiritual health and wellness" (Queen's, 2016, p.1); St.FX describes that "Sexual violence can profoundly impact physical and mental wellbeing of individuals and communities" (St.FX, 2018, p.2); and McGill's policy "...recognizes the impact that Sexual Violence may have not just on an individual, but on communities..." (McGill, 2019, p.4). While UBC does not note directly that sexual violence may impact individuals, they do indirectly acknowledge that it does by listing the types of resources that victims/survivors might want to access. Thus, universities do not say directly that people who have been victimized/survived sexual violence may struggle with mental health issues, but do suggest that those victimized/survived might want to access mental health professionals and counselling.

All four policies indirectly refer to the impacts of sexual violence by listing the kinds of resources that victims/survivors may want to access as a result. For example: "providing information about referrals to UBC Counselling Services and UBC Student Health Services at UBC Vancouver, the Health and Wellness centre at UBC Okanagan, and the UBC Employee and Family Assistance Program" (UBC, 2019 p.2); "...inform about and support access to appropriate University service, including health and counselling services..." (McGill, 2019, p.7); "...support for Students who have been affected by Sexual Violence including counselling, health and medical care, academic accommodations and other support and accommodations as required." (Queen's, 2016, p.1); "University supports available to students who wish to disclose

are: StFX Health and Counselling Centre Staff, Including Director of Health and Counselling, and Accessible Learning, physician's nurses, and counsellors..." (StFX, 2018, p. 5). While the language used here does not directly state that sexual violence impacts victims, nor describe the range of potential effects, by mentioning the available supports and services, the university demonstrates that it is aware that sexual violence affects individuals' well-being.

Discretion

A noteworthy finding across the four policies is that of discretion. According to the Merriam-Webster dictionary (2020), discretion is defined as the power to make a free decision within certain legal boundaries. An example would be police discretion; in certain circumstances police officers may elect to not give someone a speeding ticket, but rather let them off with a warning. In this context, while they are legally empowered to hand out the speeding ticket, they are exercising their discretion to allow a different outcome. For the purpose of this research, discretion will be understood as the freedom or power to make a decision with regard to a particular situation, whether or not there is already a guideline for said situation. The policies offer opportunities for those conducting the investigations and outlining the punishments, and for victims/survivors of sexual violence to exercise discretion and make decisions. However, policies on sexual violence seem to grant the most significant discretion to university officials and staff.

Discretion on the part of victims/survivors is mostly with respect to whether or not they choose to disclose or report an incident of sexual violence. For example: McGill's policy states that the university will "...respect the Survivor's privacy, confidentiality, and decision about whether to report to law enforcement authorities..." (McGill, 2019, p.7). Queen's confirms that "The decision to Disclose and the decision to Report are discrete from one another and are each

normally at the discretion of a Student affected by Sexual Violence...” (Queen’s, 2016, p.6); and StFX states that “A student who has experienced sexual violence *may* make a formal report for the purpose of requesting an internal investigation into the incident.” (StFX, 2018, p.5, *emphasis added*). Individuals who have experienced sexual violence may exercise discretion and to make a report, or to decide not to make a report, however, institutional discretion can also be used to disregard the discretion afforded to the victims/survivors.

As previously mentioned, discretion within SVPs most often emerges in reference to university actors. One of the ways a university might exercise its discretion is by disregarding a student’s decision to report or not report. For example: “To the greatest extent possible, UBC will respect an individual’s choice to not make a Report and will keep the Disclosure confidential.” (UBC, 2019, p.4); “If a Report is withdrawn, the university will consider the Complainant’s request but may decide to proceed, in the interest of the health and safety of the Queen’s Community.” (Queen’s, 2016, p.9); “...in exceptional circumstances, the Head of Student Services, in consultation with the President, retains the right to conduct an internal investigation and/or request the RCMP to initiate a criminal investigation, *even without the consent of the victim/survivor...*” (StFX, 2018, p.3, *emphasis added*). This discretion appears to have some limits, as it is intended to be used in “exceptional circumstances,” as described by the university. However, the university does retain this discretion and does not define or limit what might constitute “exceptional circumstances.”

The final major way discretion is written into SVPs is in the area of disciplinary actions. This, along with the Queen’s example of the university considering a complainant’s request to withdraw a report, can be also understood as examples of vagueness, as they use the term “may,” rather than the more definitive “will” or “will not.” However, ultimately, the decision was made

to code the following clauses as indicative of discretion rather than vague criteria. Examples include: “In the case of a student Respondent, to the President who will then determine what disciplinary or other measures are appropriate...” (UBC, 2019, p.11); “In the case of a faculty member Respondent, to the faculty member’s Dean [...]who will then determine what disciplinary or other measures are appropriate...” (UBC, 2019, p.11); “In the case of staff member Respondent, to the staff member’s Administrative Head of Unit [...] who will then determine what disciplinary or other measures are appropriate...” (UBC, 2019, p.11); “Disciplinary outcomes, in the case of a student, are described in the *Code of Student Conduct and Disciplinary Procedures* may include, *but are not limited to*: an admonishment, a reprimand...” (McGill, 2019, p.11, *emphasis added*); “Disciplinary outcomes, in the case of an employee [...] may include, but are not limited to: a letter of reprimand; suspension without pay...” (McGill, 2019, p.11); “If it has been determined that this policy has been violated a number of outcomes are possible pursuant to the Student Code of Conduct including: (i) written warning or reprimand (ii) letter of behavioural expectation [...] (ix) requirement to withdraw.” (Queen’s, 2016, p.11). McGill’s policy sets out a range of possible outcomes but explicitly writes university officials’ discretion into the policy by stating that the disciplinary outcomes are not limited to the list provided. Discretion is also offered to the designated university official to choose the outcome that s/he deems “appropriate.” In this case, while there are some guidelines, disciplinary actions are often completely up to those handing them out – that is, the university - thus exemplifying discretion.

Rights for Victims/Survivors

All four of the policies in this study reference the concept of “rights.” Rights are legal principles that are meant to protect the victims/survivors, and the accused and ensure due

process. However, as mentioned earlier, there are situations where these rights could be overridden by university officials; rights in the context of a University Policy are not guaranteed and are therefore not legally enforceable. Therefore, rights specific to university sexual violence policies are understood as principles that are granted, but not guaranteed to victims/survivors, accused, and any other members of the university. Examples of these rights are the right to be free from retaliation, right to be believed, and right to report or not report, to name a few.

The main right that is common throughout the policies is the right to not participate in an investigation (UBC, 2019; McGill, 2019; Queen's, 2016; StFX, 2018). Those students who wish to make a formal report, may do so, and make the decision to have an investigation be opened, but to not actively be part of it. The importance and emphasis of this right is best seen in the policy at Queen's University, where they set this information in bold type to emphasize its effect and importance. The right to report an incident of sexual violence for the purpose of an investigation is also outlined as a right under the policies analyzed (UBC, 2019; McGill, 2019; Queen's, 2016; StFX, 2018). Finally, survivors are given the right to access the support services offered by the schools, and the right to privacy (UBC, 2019; McGill, 2019; Queen's, 2016; StFX, 2018).

Rights for Accused

Individuals accused of sexual violence are also granted rights under university sexual violence policies. These rights are often meant to protect the accused from unfounded allegations via the protections of due process, or to prevent retaliation. One of these rights is the right to be informed about allegations made against them. For example, the policy enacted at UBC (2019) states, "the respondent will be fully informed of the allegations made against them, and will be given the opportunity to respond." (p.10). This right is granted in this case to ensure procedural

fairness. Another right that is granted to them is the right to have an advisor or support person with them, when they meet with the investigators (UBC, 2019; Queen's, 2016). This is a right that is also allocated to victims/survivors. Rights granted to the accused are also protection from harassment or retaliation (Queen's, 2019). It is important to note that this right is also granted to victims/survivors. Finally, they are granted the right to privacy (UBC, 2019; McGill, 2019; Queen's, 2016). This is a right that is protected, unless there are certain circumstances that would make the protection of privacy problematic. An example of this would be, as mentioned in vague criteria, the possibility of significant harm to someone. Another reason would be legal obligations to report, for example, if the individual subject to sexual violence was a child under the age of consent.

University Power

Another theme that was apparent throughout the policies is the power of the university as an institution. Specifically, in this context, university officials are in charge of investigations, and hold authority over those who are conducting the investigations. For example, the Principal or Provost can exercise their power to request additional information after they have read a report. University power is understood as the ability of the respected university (or members of the investigation of the university) to make decisions in a given circumstance. Also, I use the term "university" in this context as an umbrella term that denotes anyone in a position of authority employed by the university and empowered to make decisions on behalf of the university. University power has a strong relationship with discretion, as when individuals who are working as university representatives exercise their discretion in a given case, they are also exercising power.

One of the ways University Power is exercised is through the decision of what punishments or disciplinary measures will be imposed. For example: "...the President, who will then determine what disciplinary measure are appropriate..." (UBC, 2019, p.11); "...the faculty member's Dean [...] will then determine what disciplinary actions or other measures are appropriate" (UBC, 2019, p.11); "Upon being referred a copy of the investigative report from the Provost, the appropriate disciplinary authority will determine what disciplinary and/or administrative measures are appropriate..." (McGill, 2019, p.10). Similar to this, is the decision to impose interim measures throughout the investigation. For example: "UBC will normally inform Complainants of any restrictions that may have been imposed upon the Respondent's movements or activities" (UBC, 2019, p.13); "...the university will consider, and may impose, interim measures that are appropriate in the circumstances..." (Queen's, 2016, p.8); "Human Resources will immediately consider whether interim measures are necessary." (Queen's, 2016, p.14). Importantly, the need and importance of interim measures is determined by the university and may not correspond to what the complainant (victim/survivor) believes is necessary for their safety and comfort.

Other ways in which university power is exercised is through the decision to disclose punishments that are imposed on respondents to the complainants (StFX, 2018). Additionally, the university has the power to make the decision to continue, or proceed with an investigation without the consent of the victim/survivor (Queen's, 2016; StFX, 2018). Another example is in Queen's' case, where the Provost may choose to designate additional people to exercise their authority under their sexual violence policy, in addition to those who already have that right, such as the director of investigations (Queen's, 2017).

I want to reiterate, that in this context, University Power is understood in its basic form. It is the power and ability that members of the investigation or University involved in the sexual violence case (excluding accused and victim/survivor) have to make decisions that may contradict what is outlined, or make decisions that do not have guidelines. While universities may take into account the wishes and needs of complainants and accused, they ultimately have the power to define which situations are deemed in violation of sexual violence policies, and to determine what decision should be taken for the best interests of the university and the university community.

Trauma Informed

The theme of trauma-informed response to sexual violence is also prevalent in the sexual violence policies that were the subject of this research. A trauma-informed approach takes into consideration the negative effects that sexual misconduct may have on a victim/survivor, such as its impact on peer relationships, academic progress, and long-term physical and mental health (McCauley & Casler, 2015). A trauma-informed approach to sexual violence seeks to empower the individual who has experienced sexual violence. Part of a trauma-informed approach is understanding and dismantling rape myths. For example, understanding that victims respond to sexual violence in different ways—that is, not everyone will physically resist and yell for help—and that failure to actively resist an assault cannot be taken as an indication of consent. Dismantling these rape myths is an important part of recognizing that the trauma of sexual violence has an impact on individuals' decision-making and behaviour, and cannot be discounted in evaluating sexual violence reports. Following a trauma-informed approach would mean understanding that an individual may still have been assaulted, even if they did not exhibit those

“normal” behaviours, and that they should be believed when making a report (Not Alone Report, 2014).

One of the main ways that a trauma-informed approach is invoked throughout the policies is by addressing the intersection between sexual violence and discrimination. For example: “...Sexual Violence and its consequences may disproportionately affect members of social groups who experience intersecting forms of system discrimination or barriers (on grounds for example, of gender, sexual orientation, gender identity and expression, race, religion, indigenous identity, ethnicity, disability or class)” (McGill, 2019, p.1); “...however, there is often an intersection of Sexual Violence with discrimination and harassment, and those who experience the intersection of multiple identities such as, but not limited to, indigenous people, persons with disabilities, racialized people...” (Queen’s, 2016, p.1).

The other way in which a trauma-informed approach is embedded in the policies is by addressing rape myths and rape culture. UBC (2019) states that they are “committed to countering rape culture, a term that describes broader social attitudes about gender, sex and sexuality that normalize Sexual Misconduct and undermine equality.” (p.1). StFX (2018) also refers to rape culture and rape myths by stating that they will be “[a]ddressing harmful attitudes and behaviours (e.g. myths about sexual violence) which reinforce that the person who experienced sexual violence is somehow to blame for what happen.” (p.4). McGill does something slightly different than the previous two schools, but still follows the same idea of addressing rape myths. They note:

The University recognizes that some individuals may be hesitant to disclose or report sexual violence in cases where they have been drinking or using drugs at the time Sexual Violence took place. The University will provide the Survivor with support and

information about making a Report regardless of whether the context in which sexual violence occurred involved alcohol or drug use.” (McGill, 2019, p.2).

McGill, along with UBC, also notes that they follow a trauma-informed approach when investigating allegations of sexual violence (McGill, 2019; UBC, 2019).

Each of these findings emphasizes the importance of carefully considering the language that is used in sexual violence policies and its implications. The next chapter offers further discussion and analyses of the importance of discourse and language use in sexual violence policies, with reference to each of the findings in chapter four.

Chapter Five: Analysis

Policy Comprehensiveness

Policy comprehensiveness is an important topic to consider when discussing and developing sexual violence policies. Lee and Wong (2019) note that policy comprehensiveness is important because of the complex nature of sexual violence, and that when dealing with sexual violence, universities will face multiple obstacles. As such, comprehensive policies may aid in appropriate handling of sexual violence cases. When thinking about comprehensiveness and what that means, each category outlined by DeLong et al. is therefore also important. First, introductions should state their commitment to addressing sexual violence, as well as outline the school's zero tolerance policy for sexual violence (DeLong et al., 2018). This will allow the schools to contextualize the purpose of the relevant policy, and clearly delineate what the policy is intended to achieve.

Second, the scope portion of the policy is intended to outline to whom the policy applies, such as victim/survivors of sexual violence, those who are accused of committing an act of sexual violence, or any other member of the university. Part of scope also includes definitions of what is considered sexual violence. Sheehy and Gilbert (2017) note that ambiguity is removed when policies clearly articulate what is considered sexual violence, and recommend including terms such as sexual assault, sexual misconduct, sexual harassment, and a statement that sexual violence includes, but is not limited by said terms. This provides clear direction which allows readers to know whether or not the policy extends to them. For example, whether the policy is applicable only to students, if it also applies to faculty and employees of the university, or if there is a separate policy that extends to them, and whether individuals who are not members of

the university community are able to initiate proceedings under the policy are all important clarifications.

Due to the severity of the impact of sexual violence, it is incredibly important that Options for Assistance are included in policies. Comprehensiveness is defined as an inclusion of as many categories of a topic possible. As such, incorporating a section of policy that outlines the options for assistance available to a survivor is imperative for ensuring comprehensiveness. Additionally, including this section is also important for following a trauma-informed approach. Rossiter, Porteus, and Dhillon (2020) note that institutions must minimize re-traumatization of victims/survivors, and include an understanding on the psychological, physiological, social, and financial impacts of sexual violence and trauma. Part of this is including a clear outline on what Options for Assistance victims/survivors have access too, regardless of a formal report. According to the White House Task Force (2017) even when services are available on campus, survivors may seek off-campus assistance instead. They mention that this could be for various reasons such as protection of privacy, or due to a pre-existing relationship with outside service providers. In fact, Rossiter, Porteus, and Dhillon (2020) note that victims/survivors are more likely to use off-campus services. Therefore, it is important for universities to provide information for both off-campus supports as well as on-campus resources. Additionally, it would provide the students who are seeking out these services a greater variety of options to choose from, which might help to ensure more effective forms of support. In fact, the White House Task Force (2017) suggests that universities should cooperate and coordinate their services with off-campus services. While it is unknown whether the universities included in this study cooperate with off-campus supports, the policies nevertheless provide information about off-campus

services, allowing those who feel more comfortable using these off-campus supports both the ability, and information to do so.

Definitions are integral for any type of substantive policy, as they clearly and concisely provide a uniform understanding for everyone accessing or applying the policy. In the case of sexual violence policies, definitions are a crucial component of explaining what the university considers an act of sexual violence, assault, harassment, or misconduct that would be subject to the policy, as well as providing additional information on any terms the reader may need to know in order to properly interpret the policy. As previously stated, definitions can remove ambiguity when they are clearly articulated (Sheehy & Gilbert, 2017).

One of the important aspects of Reporting Policies is that it is important to create an environment that encourages individuals to come forward and make reports. Without this, victims and survivors of sexual violence would be less likely to report, if at all, due to a lack of guidelines or information on how to report. Notably, Rossiter, Porteous, and Dhillon (2020) state that there are multiple reasons why victims/survivors may not report or disclose, such as feelings of humiliation, they may feel embarrassed, or fear they may be blamed or already have feelings of blame. Therefore, including a section on Reporting Policies should make every effort to inform survivors about all disclosure and reporting options (Rossiter, Porteous, and Dhillon (2020). However, merely having this section is not enough, Rossiter, Porteous, and Dhillon (2020) note that universities need to consider the barriers mentioned, and not make reporting mandatory, but rather an option that is well-supported with resources and responsive staff. Additionally, having Investigation Procedures outlined may also create a pro-report environment, as it provides proof that the universities will be investigating claims of sexual violence, as they

are mandated to do so by their own policies, and it lets individuals know what to expect when they report.

Moreover, it is important to have Investigation Procedures as this creates uniformity when investigating allegations of sexual violence. Establishing these procedures will ensure that investigators, who may change depending on the case, can follow the same steps they did in the past, or as their investigator counterparts have, ensuring that all cases are responded to thoroughly and equitably. The second reason is that these procedures provide transparency to the members of the university in question. Not only will this allow those involved to know what is going on, but it can help them to understand what is required of them and their role in the process. For example, knowing that investigators will be gathering evidence in the form of oral and written statements can give individual(s) the ability to prepare.

“Education, Prevention, and Training” is arguably one of the most important categories to include in a Sexual Violence Policy, as the university must articulate its responsibility to educate individuals on the issue of sexual violence and engage in preventative work for a safer campus. According to Lee et al. (2007), education is an important factor when considering sexual violence prevention. They note that using an education approach that combines awareness of the cultural and social roots of sexual violence with a systematic approach to healthy behaviours is best for sexual violence prevention. To be specific, they explain that feminist theory understands rape as a cultural phenomenon and therefore recognize that sexual violence occurs in the context of rape culture. That is, rape culture as a complex system of beliefs that encourages male sexual aggression that supports sexual violence against women (Lee et al., 2007). Systemic behaviours on the other hand refers to risk factors associated with sexual violence. Lee et al. (2007) note that risk factors with victimization are being female and past victimization, and risk factors for

perpetration are being male, hostility towards women, history of childhood victimization, male superiority, male sexual entitlement, etc.; this is not to say that any one of those factors will lead to sexual violence perpetrator or victimization, only that they are at a higher risk. Lee et al. (2007) go on to provide information on Education Sessions, which is a prevention approach that educates individuals on attitudes about sexual assault, gender roles, healthy relationships, consent, conflict resolution, respecting personal boundaries, and skill building. To add, Sheehy and Gilbert (2017) state that the need to educate students, faculty, staff, teaching assistants, student resident leaders, student leaders, and sports teams is critical. They outline that studies suggest roughly 67% of the Canadian population do not understand the legal definition of consent for sexual encounters. Sexual violence prevention depends on a widespread education effort, and as such, it is necessary for SVP to include a section on how they plan to educate university members of the issue of sexual violence (Sheehy & Gilbert, 2017).

While not included in DeLong et al. (2018), having an outline of punishments, remedies or solutions is imperative in terms of policy comprehensiveness. Seeing as comprehensiveness means incorporating nearly all, if not all, relevant elements, disciplinary action is important when dealing with these policies. If someone is found responsible for committing sexual violence, investigators would need to know what to do next. If not included in the sexual violence policy, they would need to look at other policies to decide what happens. Furthermore, the importance of outlining disciplinary action as well as Grievance Procedures is similar to that of investigation procedures—creating transparency and uniformity. Knowing that there are disciplinary actions when someone is found responsible for committing acts of sexual violence may provide comfort or justice for victims/survivors. While disciplinary actions may not deter sexual violence, it is still necessary to impose punishments when it takes place.

The importance of outlining grievance procedures is similar to the importance of disciplinary actions. When a punishment is set out by the school for an individual who is found responsible for committing an act of sexual violence, they are generally given the right to appeal this decision. Consequently, schools would need guidelines on how to proceed when this happens, therefore needing to incorporate this in their policies in order to meet the criteria for a comprehensive policy. Additionally, individuals found responsible would need to know how to file an appeal.

Overall, the four policies analyzed for this research project include some, but not all of the categories to meet the standard of comprehensiveness as outlined by DeLong et al. (2018). Each of the policies include: Introduction, Options for Assistance (or some information on options), Definitions, Reporting Procedures and Protocols, and Disciplinary Actions (or some information on them). What is not included in all policies is Investigation Procedures (3 of the 4), Grievance Procedures (2 of the 4), and “Education, Prevention, and Training” (2 of the 4). While it is difficult to determine whether they are, or are not comprehensive, as DeLong et al.’s research was quantitative in nature, the policies include much of the required information. However, each element is important to include in sexual violence policies and there is concern that they are not included in all the policies. For example, the category of “Education, Prevention, and Training” is missing in UBC and StFX’s policy. As previously mentioned, education is important when considering the prevention of sexual violence. Therefore “Education, Prevention, and Training” is an integral component for universities to include in their policies. Each university’s sexual violence policy should have a section dedicated to how the university will implement a program to educate their students, faculty, and other staff/members of the school.

To add to this idea of comprehensiveness, the idea of policy objectives is missing from DeLong et al. (2018), and the WHTF's *Checklist*. The importance of having policy objectives is that they are important when considering vague language, such as "appropriate" and "reasonable". One of the major findings in this research is that policies offer a great deal of latitude to university officials to determine those measures that are appropriate and "reasonable". Having policy objectives makes answering this question and measuring the "appropriate-ness" and "reasonableness" much easier. In other words, we cannot measure "appropriate" and "reasonable" without policy objectives that we can measure against. For example, one of StFX's (2018) objectives is "to establish an environment free from any form of sexual violence, through clearly articulate and enforced guidelines." (p.1) In this sense, their objective can be measured by the rates of sexual violence, and whether they go up or down. Additionally, this will influence how they decide what is and is not appropriate, as well as influence how their discretion is used. Furthermore, consider what the objectives of the disciplinary measures are? Are they meant to be retributive or restorative? Are they meant to make the survivor feel safe, or the entire university community feel safe? These objectives would make answering what is "appropriate" and "reasonable" clearer. For example, if the objective is to be punitive and the disciplinary measure were simply a written reprimand, it could be argued that this decision would not be "appropriate" given the objective.

Notably, an issue related to the idea of what is reasonable is that the term is used to protect institutions and individuals. Specifically, if institutions are able to prove that they took all reasonable steps in a scenario, they cannot face legal ramifications. As such, it is important for them to provide information on what they may consider reasonable and how the measures were

reasonable, in light of the policy objectives. Providing clear policy objectives would aid university officials and university community members in this determination.

Lack of Consistency

One significant finding of this research is that there is a noticeable lack of consistency across the structure of university policies. For example, the introduction of each policy was found under a different subheading which makes locating the introduction a difficult task in that you could not simply scan the policy for the signal word “introduction”. The same can be said for the Scope of the Policy, where St. FX uses the word “scope” as their heading, and McGill uses the term “General”. This lack of consistency can create some confusion when trying to figure out where scope is within certain universities relevant policies. For example, in McGill’s case, locating their scope was only possible because the researcher had a pre-existing knowledge of the definition of ‘scope’, otherwise it may not have been obvious. Additionally, in UBC’s case, information that one might deem to be the ‘scope’ was outlined in their Sexual Violence Prevention and Response Office section. While they are similar in some information they present, such as stating who the policy extends to, there is a significant difference in that McGill states their policy extends to all forms of Sexual Violence.

The policies can also be said to lack consistency in their definitions of terms. For example, while Queen’s, StFX, and McGill have a similar definition of Sexual Violence, there are noticeable difference among them. The definitions are as follows: Queen’s (2016) states that sexual violence, “means any sexual act or act targeting a person’s sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person’s consent” (p.4); StFX (2018) states,

“sexual violence describes any act targeting a person’s sexuality, whether physical or psychological that is committed, threatened or attempted against a person without their consent” (p.2); and McGill’s (2019) states that sexual violence, “means sexual act or acts targeting a person’s sexuality, gender identity, or gender expression that is committed, threatened, or attempted against a person without the person’s consent” (p.3). The noticeable difference between the definitions is the inclusion of physical or psychological acts in StFX and Queen’s policy, and its absence in McGill’s. Additionally, differences surrounding is the inclusion of gender and gender identity in Queen’s and McGill’s policy, and its absence in StFX’s policy. This is important because the inclusion, or absence of gender and gender identity in the definition can have serious implications when thinking about sexual violence. When including gender and gender identity in sexual violence policies, it is assuming that being targeted for one’s gender and gender identity is a form of sexual violence; something that needs to be taken seriously. For example, if someone were to be assaulted because they identify as transgender, then this would be considered an act of sexual violence, as they are being targeted for their gender identity. Therefore, the assault goes beyond mere violence or threat of violence and is considered a form of sexual violence.

Furthermore, the definitions provided in these policies are at times inconsistent with the definitions in the Criminal Code of Canada. For example, UBC’s (2019) definition of voyeurism is “non-consensual viewing, photographing, or otherwise recording another individual in a location where there is an expectation of privacy and where the viewing, photographing or recording is done for a sexual purpose...” (p.9). However, Section 162 (1) of the Canadian Criminal Code (1985), defines voyeurism as the following:

Everyone commits an offence who, surreptitiously, observes — including by mechanical or electronic means — or makes a visual recording of a person who is in circumstances that give rise to a reasonable expectation of privacy, if

- **(a)** the person is in a place in which a person can reasonably be expected to be nude, to expose his or her genital organs or anal region or her breasts, or to be engaged in explicit sexual activity;
- **(b)** the person is nude, is exposing his or her genital organs or anal region or her breasts, or is engaged in explicit sexual activity, and the observation or recording is done for the purpose of observing or recording a person in such a state or engaged in such an activity; or
- **(c)** the observation or recording is done for a sexual purpose.

The major difference between the two definitions is the idea of sexual purpose. In UBC's definition, voyeurism is understood when the act defined is for the purpose that is sexual in nature. The Criminal Code of Canada on the other hand, has a broader definition, that does not require that the intent of the observation or recording be sexual; this is only one of three ways the act can be understood as voyeurism.

The implications of the lack of consistency between definitions employed at various schools, as well as the lack of consistency between definitions employed by schools and those outlined in the criminal code are significant. One issue is that a lack of consistency among definitions could create issues if the individual decided to make a formal report. For example, what might be considered voyeurism under the Criminal Code, may not be considered voyeurism by the school's definition if the element of "sexual purpose" is absent or unproven. Additionally,

if students were visiting other Universities and had an understanding of their school's definitions of sexual violence, but not the one they are visiting, this could be problematic. This brings up ideas of the power that universities have to put parameters on the definition of what constitutes sexual violence on campus. Furthermore, it may limit victims' and survivors' avenues for reporting, as they may be limited to only making a report through their universities, and therefore could hinder their right to make external reports.

Specific vs Vague

When it comes to policy, as is the case with the Sexual Violence Policy, there is debate between the merits of being specific or vague. In this context, I would argue that being both specific and vague at different times can hold importance with the Sexual Violence Policies, however, it is a difficult balance to find. One example is the use of vague criteria. The examples used in the findings section often refer to the term "appropriate." This term allows for decisions to be decided on a case by case basis, as opposed to a one-size-fits-all approach. Appropriate support services and accommodations according to UBC's policy states an appropriate service for one individual, may not be the same for another. In some cases, this could take away the power to decide from victim/survivors and instead effectively dictate what their needs are in terms of support services. It is therefore important to have some flexibility. Moreover, there could be some issues with eliminating vagueness entirely. Endicott (1997) uses the example of "reasonable time" for court proceedings. He notes that if courts were to provide specific time standards on charges being processed in "reasonable time", this could interfere with a prosecution's time needed on more serious cases. The example he provides suggests that standards related to the expedient processing of shoplifting charges may interfere with the time

needed on a more serious charge like stock market fraud. The issue in the case of “appropriate services” could be similar. If the standard of appropriate services were the same for everyone who seeks to use them, the services may not have the time, or the resources for all who endeavour to access them.

At the same time, it is important to have some specificity/certainty throughout the policies. One example is when policies note that they will not tolerate any form of sexual violence. Vagueness in this context would not be beneficial, as it would assume that in some cases, sexual violence could be acceptable, when this should not be the case. Another example would be in terms of punishments. While the policies analyzed are vague with respect to the types of disciplinary action they impose, they provide certainty that one would be punished if they are found responsible for sexual violence. A third example, with respect to the example of vagueness and support services would be McGill’s case where they provide information on teacher/student relationships. They provide specific guidelines and rules on when these relationships are, and are not acceptable. If the language here were to be vague, it could create major problems as individuals may find loopholes in the policy. A specific example of this could be if the language stated that professors “could not be in relationships with their own students”. This type of language would eliminate a restriction on professor-student relationships, if the student is in another department for example. The implication of this specific example could be abuse of power, or students feeling coerced into certain situations. Just because a professor does not teach a student, does not mean there is no power dynamic between the two.

On the other hand, there is no information on who decides what is, and what is not appropriate. Therefore, the individual deciding what is and is not appropriate, may not understand, or provide an individual with an appropriate service. This is the same for when

sexual violence policies use the term “reasonable”. Queen’s (2017) for example, notes that they will take all reasonable steps to protect students, but what is reasonable to one individual, may not be to the other. Finding a balance between vagueness and specificity could be challenging, but it would be worth policies attempting to find a middle ground. Perhaps when they discuss appropriate services, they should note that this would mean whatever the individual seeking these services would consider appropriate, within the school’s ability to provide it. However, what is even more problematic is when the universities do not provide clear objectives (bringing up the idea of policies missing an Objectives section). This creates a problem when trying to determine an “appropriate” response, or “appropriate measures”, if there is no criteria to meet. For example, if the objective of the university is only to provide “educational” support (such as additional time on assignments) for victims, survivors, and complainants, then accommodations would be different if the objectives were all types of support, including education, health and medical, and legal supports. Another example would be that in UBC and McGill’s case, they are not specific in their objectives related to providing support for victims and survivors, whereas StFX, and Queens note that they would offer all types of supports. Even more specific, Queen’s (2019) notes that these supports will be “appropriate to individual circumstances” (p.1). In this case, “appropriate” is influenced by the individual who the supports are being put in place for. Therefore in Queen’s case, there is more simplicity to providing appropriate services, whereas this may be prove more difficult for UBC and McGill, as they do not provide clear objectives for supports that can be measured or evaluated.

When discussing terms such as “reasonableness” and “appropriateness”, it is also worth considering who is interpreting these terms and deciding what is and is not reasonable and/or appropriate. Additionally, it is worth thinking about what the implications are with respect to

who is deciding what is reasonable and/or appropriate. It is therefore important to give thought to questions such as: how do we choose these people? How do we ensure they are qualified and reputable? How do their interpretations come to affect victims/survivors of sexual violence or those who are falsely accused? An issue that could arise is that individual bias and perspectives also affect how individuals interpret the terms and the outcomes. Understanding that lived experiences inform a person's knowledge and perspective is important, and this could inherently lead to inconsistent or unfair punishment or inadequate punishment. For example, if the individual delivering the punishment had no experience with sexual violence and did not understand the severity of the implications, they may not consider the victim/survivor's experience, and as a result choose an outcome that the victim/survivor or others may not believe is appropriate or reasonable. In other words, a decision-maker's lack of first-hand experience with an act of sexual violence, or with being a victim of sexual violence may result in decisions that are inadequate in the eyes of a complainant. This could ultimately impair or restrict the recovery of victims and survivors if they feel justice has not been served.

University Power and Discretion

I will be discussing the topic of university power and discretion under the same heading, as they are two interrelated ideas. The relationship between discretion and power is a strong one, as discretion is a method, or tool of power. When university officials are choosing to exercise their discretion on a given matter, they are exercising their power. It is important to note that power will be understood in two ways. The first is 'power as tool'; so, the power to make decisions. Discretion for example, is a mode of power that the University uses to make decisions, such as to continue an investigation even if a victim/survivor withdraws their claim, or the power

to decide what kind of disciplinary action is to be imposed on the perpetrator. The second mode will be understood as the ‘power as knowledge’, as explained by Foucault. In this context, power will be conceived of as the understanding of definitions and language used in the policies.

First, based on the findings gathered from the four policies, it is evident that when looking at power, much of it is reserved and belongs to members of the university that are already in positions of power, or, those who are in-charge of investigations. One of the ways this is seen is through the discretion in decision making, particularly around the type of disciplinary action that would be imposed on those who are found responsible of sexual violence. UBC, McGill, and Queens all outline in their policy that there is a variation of possible disciplinary outcomes that can be imposed; there are not fixed rules for determining punishments. They can range all the way from a written reprimand to expulsion. A positive of not having fixed rules around disciplinary outcomes is the ability for those making the decision to think outside the box, and possibly impose sanctions that are less punitive, and more restorative. Gustafson (2005), Wager (2013), and Koss (2014) as cited by the Department of Justice (2018) note that victims’ participation in restorative justice approaches may be beneficial for the psychological wellbeing of victims/survivors by decreasing symptoms of stress and post-traumatic stress. Negative implications would be as discussed earlier with respect to specific versus vague; a sanction may be imposed that seems reasonable to the individual in charge, but may be perceived differently by the individual who was the victim of sexual violence. Nevertheless, having the ability to use these approaches could be beneficial.

Furthermore, investigators and directors have the right to dismiss a victim/survivor’s wish to withdraw and to proceed with the report/investigation, or not go forward with a report/investigation. This empowers the university to effectively disregard the wishes of a

victim/survivor, and in doing so, dilute the victim/survivor's agency over their own traumatic experience. This is similar to Driessen's (2020) findings in the competition for power in American sexual violence policies. She notes that while the language suggest a support for victim/survivor's request, there may be a lack of power in navigating reporting. In the context of the policies analyzed in this research, though the language notes the victim/survivor may choose to report or disclose, and withdraw a report, this decision may be dismissed by university officials, creating an imbalance of power similar to Driessen's (2020) findings. This can have serious implications. One of these implications is disempowering those who have been impacted by sexual violence. These acts are centered around taking power away from victims, and when universities disregard the choices made by victims/survivors, they are continuing to take power away from them. This contradicts ideas set out by a trauma-informed approach; and this contradiction is problematic as following a trauma-informed approach is important when considering victims and survivors.

Power and Knowledge

The second way power is seen is in his written piece *Knowledge/Power*, Foucault (1972-1977) argues that the idea of power and knowledge are deeply related. In fact, he argues that knowledge is an exercise of power, as those who create knowledge are creating widely accepted truths. For example, sexual violence is defined, and this definition is then considered a form of knowledge, i.e., a known fact. That piece of knowledge then holds power, as society accepts it as a known truth (or fact). Therefore, whoever creates the accepted definitions of sexual violence (whether it be an individual or a group), is exercising their power, as the definition is not an objective determination of what is and is not sexual violence—the people who craft that

definition are defining those parameters. Thus, I argue that power is not only granted to those from the university who are on the front lines, such as investigators, but also the policy makers themselves. Another example of this would be with respect to the definitions imposed by the policy, and definitions imposed by Canadian law. As previously mentioned, UBC's definition of voyeurism was slightly different than the definition in the Canadian Criminal Code. In this case, there can be two accepted definitions of the same term. This can create conflict between what we accept as the truth. Regardless of which one we accept, the definition, or knowledge, holds power in that the chosen definition will decide what the act is and how the act is responded to. For example, while a sexual relationship between a student a professor who are both legal adults may not be a criminal code violation, it may violate the sexual violence policy at the institution, such as UBC, where these relationships are forbidden. Therefore, pursuing external avenues (such as through criminal charges) would prove to be difficult (or impossible). Additionally, if a policy did not have any restrictions on professor/student relationships, this could lead to the university/university culture that accepts these relationships as legitimate. In this context, based on Foucault's understanding of power/knowledge, there would be an accepted truth that professor/student relationships are acceptable, and this would dictate the way universities respond to them. Another example of this would be in the case of the definition of sexual violence. While each university has a definition of sexual violence, there is no such definition for "sexual violence" under the Canadian Criminal Code, as they instead use the term "sexual assault". Some of what may be incorporated into sexual violence policies may in fact not meet the threshold for criminal charges—it is not necessarily "illegal"—but would meet the standard for censure under university policies.

Another example would be considering ideas of using restorative justice or retributive justice approaches. If universities only provided options for one or the other, it could influence the way justice is understood. For example, consider a university that does not provide information on restorative justice as a legitimate avenue for handling sexual violence. This would create a university culture where only retributive justice is accepted. Thus, if a victim or survivor had previous knowledge of RJ approaches and asked to use it, the university may not agree as to it as a solution. This could then hinder the victim or survivor's ability to heal and feel a sense that justice has been served.

Going one step further, the entirety of the policy itself can be considered a form of power. Universities and their members will look to the policy for aid and abide by its guidelines as a form of knowledge or truth that can be enforced by the institution. Therefore, in this context, the policy itself is exercising power with regard to the way investigations and reporting procedures are understood. Investigators and individuals who report will follow what is outlined as they will understand the policy as setting out the approved course of action. In other words, if someone wants to make a report of sexual violence through McGill, they must do it with a Special Investigator. According to McGill's policy, this is how a report is made. If someone were to try to make a report through a professor, or dean of students, based on the information provided by McGill's policy, no official report would be made. In this case, it is important for both students and faculty members to understand this definition, as when students disclose sexual violence to professors they trust, it needs to be clear whether the student wants to make a formal report, or if they are seeking informal supports. Through Foucault's understanding of knowledge and power, the information laid out in sexual violence policies dictates how we understand and respond to sexual violence on university campuses.

It is important to consider how language and discourse of sexual violence plays a role in shaping a culture and environment of understanding of sexual violence. The relationship between power and knowledge as defined by Foucault has major implications in the creation, implementation, understanding, and use of sexual violence policies, as it dictates how universities and university members respond to sexual violence. Consider further the use of the language “options for assistance” and “interim measures” and how the use of this language further perpetuates the idea of discourse and knowledge. To elaborate, “options for assistance” and “interim measures” both have underlying meanings. Options for assistance on one hand tells us that the university recognizes the harm that may be done by sexual violence by providing victims/survivors with resources to help them, such as counselling. Additionally, there is an assumption that there is no time limit, or restrictions on the length of time these “options” may be used. On the other hand, while “interim measures” also acknowledges the harm done by sexual violence, as measures such as no-contact directives are protecting victims/survivors from their perpetrators, there is an assumption of a time limit. These measures are only in place for a short while. In the case that a finding of “not-responsible” was determined for example, the measures would likely be removed. However, the victim/survivors in this case could access the resources covered by the “options for assistance”. As such, there is still the acknowledgement of harm done by the sexual violence, even though the finding was “not responsible”. So, how is it possible to acknowledge harm done by sexual violence, when the university may have found that there was no sexual violence that took place? Foucault’s power/knowledge in this case would argue that universities are strategic in how they protect themselves with respect to the harm done by sexual violence through their use of “options for assistance” and “interim measures”. Having this in the policy makes it known that there are real harms associate with sexual violence, and the

university has a role in mending, and helping with this harm. However, by including both “options for assistance” and “interim measures” shows conflict in addressing and acknowledging the harm done as it’s possible to acknowledge the harm, and still find someone not responsible. This shows that while there is an attempt and clear sign that universities have a role in responding to sexual violence, that these policies may not be exclusively used to protect, and bring justice to victim/survivors, but rather are used to protect universities themselves.

To conclude, the concept of power and Sexual Violence Policies goes beyond ideas of university discretion. While members of the university who given responsibility for investigating sexual violence do hold power, it is also those who create the policies that are exercising power by defining the situation. In this sense, power is understood in the ways that policies and language are used to create a form of accepted knowledge or truths. This accepted knowledge is an example of power as it determines how individuals understand and react to sexual violence, and sexual violence policies.

Chapter Six: Discussion

As mentioned previously, the main objectives of this research project were: first, to see how, if at all Canadian sexual violence policies meet the criteria for a comprehensive policy as outlined by DeLong et al. (2018) and by the WHTF; and second, to understand how ideas of power are embedded in Canadian sexual violence policies. According to the analysis of four major Canadian university sexual violence policies, there are a few important factors missing from DeLong et al. (2018) and the WHTF's criteria for comprehensiveness, notably disciplinary actions and policy objectives. Additionally, it was found that Canadian university policies at times fail to meet the criteria of policy comprehensiveness as they do not include important elements of this comprehensive model. It was also found that power is used in a variety of ways within these policies; where individuals are allowed to exercise their discretion (a form of power) in different ways. Finally, power is also embedded in the policies through the acceptance of them as knowledge and truth and the ability to define sexual violence and its parameters.

Policy Comprehensiveness, Missing Factors

Comprehensiveness is understood as including nearly all, if not all, elements of something, such as a policy. In the context of policy comprehensiveness, it is the policy including as many elements as possible. According to DeLong et al. (2018) and the WHTF, the elements included to measure comprehensiveness are: *Introduction, Scope of the Policy, Options for Assistance, Title IX Coordinator, Definitions, Reporting Policies, Investigation Policies, Grievance Procedures, and Prevention, Education, and Training*. However, missing from this list are two important elements: *disciplinary actions* and *objectives*. Notably, when looking at comprehensiveness through a Canadian lens, the need to include *Title IX Coordinator* is

redundant, as Title IX only applies to America. Instead, it is important to include disciplinary actions and objectives in lieu of *Title IX Coordinator*.

Disciplinary action serves as a tool used to impose sanctions on students who are found responsible of violating a university's sexual violence policy. If not included in the SVP, universities would need to refer to other policies to determine what disciplinary action can be imposed on the student, if found responsible, as is the case at StFX. Of the four policies analyzed for the research, three of them included some form of guideline of information on disciplinary action. While there were some issues with the disciplinary actions as there was a level of vagueness to them, it is nevertheless positive that the majority of the policies included an outline for disciplinary action, especially given that this was not mentioned in DeLong et al. or the WHTF's requirement for comprehensiveness. In their chapter in Quinlan et al. (2017), Sheehy and Gilbert (2017) mention that the Obama task force (White House Task Force) indicate that university sexual violence policies should develop a clear and accessible online format to provide victims/survivors with information on how to request emergency services, counselling and support, interim measures, and disciplinary response. Sheehy and Gilbert (2017) note that Ontario has followed suit in suggesting online resources, and they note that whatever disciplinary process the university adopts, should be clear and as detailed as possible. This should extend beyond online resources, and be present within the University's sexual violence policy.

Also not included was the category of *Objectives*. This was an oversight by DeLong et al. and the WHTF. Objectives is considered an important category, not only when considering comprehensives, but when considering other factors related to SVPs. Objectives are an integral part of policy as they set out what the policy is trying to do. Notably, The Ontario Women's Directorate, as cited by Bourrassa et al. (2017), note that well-communicated policies are integral

to create an environment where those on campus know that sexual violence is unacceptable, what services victims/survivors can receive, and that perpetrators will be held accountable. Part of a well-communicated policy should include an Objectives section, in order to clearly articulate to everyone on campus what the objectives of the university's sexual violence policy are. In addition to this, they can be used as a tool to measure vague terms, such as "appropriate" and "reasonable". A main takeaway from this research was around the vagueness of the terms used such as "reasonable" and "appropriate", specifically because there are no guidelines on how to measure what is and what is not reasonable or appropriate. For example, it was mentioned earlier that the examples of vagueness were deemed vague as it was unknown what was considered appropriate or reasonable. For example, StFX's (2018) policy states: "providing appropriate education and training to the StFX community about responding to the disclosure of sexual violence." (4). Thus, the reason this quote is considered vague is because they have not identified the objectives or purposes of the policy; specifically in this case, the purpose of education and training. If this were done, then it would be easier to determine what is and what is not "appropriate". Therefore, including a section of policy objectives will not only outline a university's policies objectives, but can also be used as a tool to measure the degree of reasonableness and appropriateness. In other words, universities could decide what is reasonable based on the objectives they set out.

Of the four policies inspected, only one policy had a standalone section for Objectives. In addition to this, no policy included all of the ten categories outlined by DeLong et al. and the WHTF. Missing categories in the policies were Investigation Procedures, Grievance Procedures, and Education, Prevention and Training. Ultimately, when it comes to comprehensiveness, Canadian sexual violence policies have much room for improvement. Universities should

consider the importance of being as comprehensive as they can be and make a greater effort to include necessary information in their policies, with special consideration given to including Objectives.

Embedded Power

Ideas of power are seen throughout the analyzed policies in two distinct ways. The first is the power that is granted to university officials and individuals responsible for investigation of sexual violence accusations. These individuals are granted the power to exercise their discretion in different ways, such as whether or not to pursue an investigation, or which disciplinary actions will be imposed on someone found responsible for violating the SVP, and dismissing a victim/survivor's decision to withdraw a sexual violence report. This idea of power is important to recognize as it demonstrates how power that is distributed in SVPs affects both those who are victims of sexual violence, and perpetrators of it. For example, if investigators choose to dismiss a request to withdraw a report, they are exercising power over the individual impacted by sexual violence and eroding their agency to make determinations about how best to process and respond to the trauma they have experienced. This is contradictory to what is laid out in certain policies with respect to following a trauma-informed approach. Holland, Cipriano, and Huit (2020) note in their research that the universities examined in their study also have a guideline that allowed the university to ignore a request to not investigate. They note that service providers have issues with this mandate as it takes control away from survivors and may be re-traumatizing (Holland, Cipriano, and Huit, 2020). Finally, in their study they found that survivors experience greater psychopathological issues (such as depression and PTSD) when service providers try to control their decisions – one can infer that universities trying to control their decisions could have

similar impacts. As such, it is imperative that greater attention is paid to this issue because acts of sexual violence are often an exercise of power over an individual, specifically, as Yonack (2017) describes, a perpetrator's need for dominance and control. Therefore, if those who are meant to investigate and bring justice to these individuals are continuing to disempower victims and survivors, then they are re-victimizing them, which could cause additional trauma.

The second way in which power is embedded into SVP is through the policy creating common knowledge. When the policy becomes an accepted form of knowledge or truth, it becomes a source of power, as it will dictate the way individuals understand sexual violence. Foucault argued that knowledge and power are linked and that the ability to shape what we accept as knowledge is a source of power (Foucault, 1972-1977). This is because when we accept information as knowledge, that becomes a known truth. Information included, or not included in policies are therefore important as it plays a role in understandings of sexual violence. For example, definitions of what constitutes sexual violence in sexual violence policies will establish what is and is not an act of sexual violence, and ultimately, how we understand it. Beyond this, the way in which investigations of SVP are supposed to take place can also be considered an accepted form of knowledge. In that case, investigators may be restricted by what is written in the policy, as they will understand it as the only accepted way. Conclusively, policy creators exercise a great deal of power with respect to SVP as they not only dictate the information or knowledge that is put in them, but they also decide who will be granted power within the policies, such as investigators. In this case, Foucault's concept of knowledge as a form of power is deeply ingrained in sexual violence policies, as when policy makers create these policies, they are also creating piece of knowledge that will be accepted. While these policies are meant to provide ways to respond to sexual violence, it is also important to understand that they

are meant to protect universities as well. Foucault argued that knowledge and power is restricted as individuals may want to exercise control over it, however he also argued that knowledge can be freeing, as it provides new ways of thinking (Foucault, 1972-1977). It is more important for universities and policy makers to understand, and focus more on the latter, and look at new ways of thinking about sexual violence, to provide protection and justice for those who are affected by it.

Foucault's concept of discourse is also important to consider with respect to embedded power. Particularly because of the conversations and movements surrounding sexual violence that is currently taking place, such as #MeToo. As mentioned previously, Foucault (1972-1977) argues that there are certain moments that can change and transform what we understand as common knowledge, and accepted truths. As it becomes an issue that is discussed more openly in society, universities will feel more pressure to respond adequately when sexual violence takes place. I have previously mentioned how sexual violence policies can be an example of a knowledge system that creates accepted truths. However, political movements such as #MeToo can also be considered a knowledge system, as they dictate what is and is not acceptable in society. Therefore, societal discourse (for example #MeToo) and political social change can have an impact on how sexual violence policies are written, while at the same time, those policies can influence how we understand sexual violence.

Understanding of how sexual violence policies are an example of Foucault's concept of power/knowledge is imperative to understand and discuss, as policy makers are not only creating policies to respond to sexual violence, but are creating accepted truths that dictate the way members of universities (students, faculty, executives, board members, donors, employees, university health care workers ,etc.) understand, and subsequently respond to sexual violence.

Consider my discussion on the implications of “interim measures” and “options for assistance”. As it relates to Foucault, this demonstrates how schools respond to sexual violence, such as providing those affected with resources, and even interim measures, such as no-contact directives during investigations to protect and help those who have been victimized. In this case, it is accepted that sexual violence creates real harm, and that measures to care for victims are in place, at the same time these policies are meant to protect the *universities*, not only those harmed by sexual violence. Additionally, they are responsible for what is and what is not consider sexual violence, who has power in the investigations, who is responsible for disciplinary actions, and who is protected under the policies; in essence, they hold power in the way university cultures react to sexual violence. Thus, knowing *who* and *how* sexual violence policies are created is of paramount importance.

Alternate/Restorative Justice Process

Restorative Justice processes, or alternative justice processes are tools that universities can use to respond the sexual violence. Only the University of British Columbia’s policy mentions the possible use of alternate justice process (which they term alternative dispute process). They note that the Director of Investigators is in charge of deciding whether or not an alternative dispute process is appropriate. UBC’s (2019) policy notes that participation is entirely voluntary, and that both the complainant and respondent need to agree in order for it to take place. They do not however, outline what these processes may look like, or how they take place.

As mentioned in my literature review, there are mixed feelings, and a debate on whether or not alternative process are appropriate for sexual violence cases. Scholars have argued that these policies may not be beneficial for victim/survivors, and that when used in university

policies, do not outline any of the benefits of restorative justice (Nelund, 2020). Additionally, the critique is that there is a lack of clarity surrounding alternative justice processes (Del Gobbo, 2020), and that following a “carceral feminist’ lens is the best approach (Law, 2014). On the other hand, Holland, Cipriano, and Huit’s (2020) research notes the issues with control being taken away from survivors, and research found that participation in alternate resolution process may be beneficial for the psychological wellbeing of survivors (Wemmers, 2018). With this in mind, I align with Del Gobbo (2020), who argues for a complainant-centered approach, which means that the survivor’s view of what constitutes justice is prioritized. A complainant-centered approach allows victims/survivors to decide whether or not they want to follow a restorative or alternative justice approach. In turn, this would put power, which seems to be granted mostly to Universities, and put it back in the hands of those who are more affected by sexual violence. As such, university sexual violence policies should include, like UBC, the option for alternative or restorative justice process. However, they should include a description of what this is, as well as a list of possible options that are included or considered alternate/restorative. Finally, the option to use them and decide whether they are appropriate should also be granted to the victims/survivors, not only to the universities in question.

Recommendations

Within their policies, universities should include, as part of their introduction, an outline of what is included in the policy. For example, outline what definitions, reporting protocols, scope, grievance procedures, etc. will be discussed throughout their policies. I suggest that universities should provide a table of contents in order to assist readers in finding the specific point of interest within a policy. For example, Queen’s University would outline that definitions

are on page six of their policy (if a table of contents was utilized). In addition to this, Canadian university sexual violence policies should include an Objectives section in their policy. This section would outline what their policy intends to do. In fact, it would be beneficial if Canada established a recommended outline of what is necessary to include in sexual violence policies. For example, it should be a requirement to have Objectives, Introduction, Scope, Options for Assistance, Definitions, Reporting Procedures, Investigation Procedures, Disciplinary Action, Grievance Procedures, and Trauma-Informed Approaches all included within sexual violence policies. This is merely a suggested list based on DeLong et al. and the findings of this research, however, this should be revised by experts and individuals who have experience with sexual violence in order to provide policies better suited for achieving justice and facilitating recovery and support of the victims and survivors of sexual violence, based on accumulating a greater knowledge of what they need from these policies. Additionally, to comply with the concept of comprehensives, policies should include as much relevant information as possible, and provide specific examples. For example, in Bourassa et al. (2017) research, they look at the exclusion of Indigenous women in discourse on sexual violence in policy – while they could not make any conclusions regarding sexual violence towards indigenous women on campus, they raise an interesting point about inclusion. The policies used in this research all mentioned how sexual violence disproportionately affect individuals from marginalized communities and backgrounds, however, there is no mention of specific examples, or how the universities are responding to and trying to respond to this issue (UBC, 2019; McGill, 2019; Queen's, 2016; StFX, 2018).

Another suggestion is to create a reporting process that is simpler for individuals to navigate in order to help facilitate/establish a pro-reporting environment; this process may have multiple possible points of entry to make it as easy as possible for victims to report an incident of

sexual violence. At the same time, universities should outline as much detail as possible in their policies about the reporting process and subsequent steps. Looking at UBC for example, while they provide detailed information, there is more information that could be added. Their reporting procedure is as follows:

“Reports must be made in writing, and should set out the relevant details with regard to the alleged Sexual Misconduct. Reports should include a list of any potential witnesses, along with a description of the information of those witnesses are expected to be provide. Any relevant documents, including any social media communications, should also be included in the Report.” (p.8)

Additional information that could be added to UBC’s Reporting Procedures includes adding more details providing a deeper explanation on what they mean by the term ‘relevant’. While they want to keep this as open-ended as possible, as any information could be considered relevant, having a detailed guideline could help those who wish to make a report understand what is needed from them, and what information is “relevant”. Additionally, if those making reports of sexual violence are granted discretion in how they report. For example, if they feel more comfortable reporting to a professor, there should be recommendations and steps for these individuals on how to do so, as well as what a professor in this case, is to do. The university might also consider appointing an advocate who could assist victims of sexual violence to make a written report and would assist the reporting victim to include as much information as possible in their report.

Moreover, sexual violence policies should have a section dedicated to *Education, Prevention, and Training*, stating the university’s dedication to providing this service/support to its students, faculty, and other members of the university. In fact, I would suggest that

universities go one step further, and make *Education, Prevention, and Training* mandatory for all members of the school. In terms of students, universities could create a mandatory course. For example, at Wilfrid Laurier University- Brantford, all students are required to take four half credit classes in order to graduate; this could be utilized in a similar way. Schools and professors could develop half credit classes that teach students about sexual violence, its implications, and prevention strategies. As for faculty and non-student members, a similar training could take place, where to be a professor for example, they would be required to complete a course on *Education, Prevention, and Training* before being offered employment. This could be beneficial to include in SVPs for in the case of an event that a student chooses to confide in a professor about their experience with sexual violence, the professor would have knowledge on what steps to take next (whether it be providing informal supports, such as hearing the student out, or more formal issues, such as aiding them in going through the process of making a report, or pointing them in the direction of possible services that could aid the student) and in turn, would have more power.

Another recommendation would be for those directly involved with the investigations to have mandatory trauma-informed training. While some policies already state that investigators will follow a trauma-informed approach, I argue that all university Sexual Violence Policies should adopt this approach. Notably, universities need to do more in addressing the realities that individuals who identify as Indigenous or PIBOC are at a greater disadvantage as not only are do they experience sexual violence at higher rates, but the justice system, a system that these policies are similar to, have often contributed to the oppression these individuals face⁷. This,

⁷ The decision to not include a section in the analysis and discussion was made as this topic could be the basis for a research project in-itself. However, it is still important to note that based on the findings, universities need to be doing more in addressing the issues that Indigenous, Black and other racialized people face. .

along with policies including an Objectives section, could aid with issues in determining “reasonableness” and “appropriateness”, as those involved with the investigations will have more information to help understand the lived experiences of victims/survivors.

A final recommendation is to consider who is creating these policies. Specifically, Cahill (2017) argues that policy creators should look to consider the expertise of experts in the field of sexual violence research (such as faculty whose expertise is sexual violence), and those who have been directly affected by sexual violence when creating SVPs. Cahill’s recommendation to include experts in policy development should be seriously considered.

Chapter Seven: Conclusion

The purpose of this research was to analyze how different Canadian universities across the country were responding to sexual violence according to their sexual violence policies. The aim was to answer the following research questions:

4. How, and in what ways, if at all, do Canadian Sexual Violence Policies meet the criteria for comprehensiveness, as defined in DeLong et al. (2018)?
5. How is institutional power/knowledge embedded in definitions and policies around sexual violence?
6. What are the implications of institutional power/knowledge and the power to define when creating Sexual Violence Policies?

Four policies were analyzed to answer the research questions: McGill University's *Policy Against Sexual Violence*, St. Francis Xavier University's *Sexual Violence Policy*, Queen's University's *Policy on Sexual Violence Involving Queen's University Students*, and The University of British Columbia's *Sexual Assault and Other Sexual Misconduct Policy*. The first part of the research project looked at how these policies meet the criteria of Policy Comprehensiveness as outlined by DeLong et al. (2018) and the WHTF. After coding each policy based on the categories provided by the literature, it was found that Canadian policies at times are both consistent and inconsistent with DeLong et al. and the WHTF. However, it was also found that the literature did not include an important category, that of *Objectives*. Including this category is important when considering comprehensiveness, as explained in DeLong et al. (2018) and the WHTF (2017). Additionally, it is important when considering how to measure terms such as "reasonableness" and "appropriateness". Both these terms are vague, however if universities were to have a list of objectives, it would be easier to measure what is and is not

reasonable and appropriate, based on what the objectives of the policies are. Furthermore, Canadian Sexual Violence Policies do not always include the necessary categories that are deemed important for comprehensiveness. This shows that there is room for improvement for Canadian Universities to make their policies more comprehensive.

The second part of this research was to look at how institutional power is embedded in sexual violence policies. Based on the analysis and findings of the four policies, power is embedded in Canadian SVP in two ways. The first way is through the power awarded to university officials in charge of overseeing investigations of sexual violence reports. This is seen through the discretion given to these officials. It is also seen in the through terms such as reasonable and appropriate. Specifically, when considering these terms, it is important to think about who is deciding what is reasonable, and what is appropriate. In some cases, the interpreter are universities officials, and they are provided with discretion to determine what is and is not reasonable or appropriate. The second way power is embedded in Canadian SVP is through the understanding of knowledge and power proposed by Foucault. Based on this theoretical framework, policies themselves are a source of power through the acceptance of them as a form of common knowledge. When policies are created, and used to respond to sexual violence, they are understood as a piece of factual information, and the information provided by them becomes a source of knowledge; we accept what is written in the policies as true. This in turn dictates how we understand sexual violence, and how to respond to it using the SVP. Ultimately, when looking at SVPs, policy makers are the ones with the most power, as it is them who create the information, or knowledge that we accept.

Challenges and Limitations

Only four policies were chosen for this research project: one from the East Coast, the West Coast, one from Ontario, and one from Quebec. This is a very small representation of Canadian university sexual violence policies, as there is a total of 96 universities across Canada. While this research has provided some insight into SVPs, various challenges and limitations arose. First, DeLong et al. (2018) research was used as a guide to examine how comprehensive Canadian SVPs are. However, their research was quantitative in nature, and this research project is qualitative. Therefore, it was not possible to examine whether these policies were comprehensive, solely measured by the criteria set out by DeLong et al. (2018).

Another limitation present in this research is that at the time of the data collection, all policies were up-to date. However, since then, StFX have changed their policy. While the findings in this research are still important to consider, they may no longer apply directly to StFX's updated policy.

Future Research

Future research should aim to look at university policies in practice. Research should look at how these policies are used in practice when an individual comes forward with allegations of sexual violence. Research should ask: how are these policies used to respond to allegations? How are these policies followed, if they are followed at all? Additionally, future research should also seek to understand the process of how sexual violence policies are created by policy makers, and inquire about who is qualified or delegated to create these policies? For example, are sexual violence policies created by a small group of men, or are they created by groups who are more likely to be affected by sexual violence? Are groups created with the intention to include equal representation of diverse groups of people, such as cis-gendered men and women, trans men and women, and men and women of colour? Additionally, when creating

sexual violence policies, do creators seek outside support and research that would paint an accurate picture of the impact that sexual violence has on victims/survivors? Examining how policy makers choose the information they include, such as when defining the term “sexual violence” would also be beneficial.

More research is needed in the area of sexual violence policy and the language used. While this research provides some insight into the topic, considering how discourse and knowledge and power can impact understandings of sexual violence policies is important for future sexual violence policy creating and policy review. These policies are used to protect students, but are failing to consider how they are also used to protect the universities can be problematic. Sexual violence policies should focus primarily on the protection of victims, survivors, and all others affected by sexual violence.

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