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Blog

# Justice and Grace: Investigating Sexual Misconduct on College Campuses

By David M. Johnstone

November 23, 2020

No Comments

In the early eighties I was a junior at a large research university in British Columbia. One quiet Friday evening, in the century old residence hall, a friend and I were sitting in the empty hallway while she tried to teach me how to play poker. About an hour into her unsuccessful attempts, she leaned back onto the wall and sighed. She looked straight at my inquisitive face and spoke slowly. “Last weekend

I was at a diving competition out of town.” “Yes, I remember.” “After the competition I was changing, when I was raped.”

We both sat quietly. In retrospect, I realize she was testing whether I was a true friend. I did not bolt, and she determined I was trustworthy. We did not know what to do. This was a time when resources and responses were not clear. We went together to report to law enforcement. We went together to access medical care for her. We inquired with the university. We looked for assistance but were unsuccessful. Maybe we looked in the wrong places; maybe we did not know the right questions to ask. Understandably it was a different time.

In both Canada and the U.S. resources and responses have changed, are being clarified and developed. But it was not always so.

In 1972 the US federal government passed a civil rights law in the Title IX section of the Education Amendments (see Britney Graber’s recent post: [Title IX: Why Should Christian’s Care?](#)). These laws prohibit discrimination based on sex in educational programs, activities and employment. Athletics became the major focus, but it rippled out to others areas as well. In 1975 this aspirational amendment was given greater clarity in regulations that came out of the Education Department. Sexual harassment began to be addressed under this legislation. Between 1975 and August 2020 there was much judicial interpretation and diverse guidance, but no further federal legislation.

In August of this year, new federal Title IX rules regarding sexual harassment came into effect. These are the first regulations since 1975. These new rules unpack a framework for responding to and managing allegations of sexual harassment on a campus. They are complex and controversial and will be clarified by the courts over the next years. (If interested the 400+ pages of the new regulations can be found [here](#)).

I have been helping students walk through the world of sexual misconduct for the past twenty years. My experience as a student has compelled me to ensure that student leaders know how to proceed if a peer confides in them that they have experienced trauma.

In those initial years, I walked beside and advocated for freshmen as they navigated their first year of college with peers, staff and even faculty who were not always wise in their words or actions. As years unfolded and campus climates changed, brave students have reported experiencing misconduct of varying nature and magnitude. My role has moved from advocating and being a support for students who experienced misconduct, to inquiring and investigating what occurred.

As I interview students, gather evidence, discern relevant data and seek to understand what occurred, I consistently assess my intention and actions. An inadequate metaphor for my role as an investigator, is trying to build a puzzle image. We assume that all the pieces are in the box, but are prepared for pieces to be missing. We trust that a single puzzle is in the box, but sometimes there seems to be multiple images until some clarity is discerned. Our role is to make as full an image as possible to represent all parties accurately. Unfortunately, we may

never be able to piece together the whole picture so we need to avoid jumping to conclusions and/or making assumptions.

It is hard and challenging, because we value being empathetic and compassionate human beings. We are inquiring about hard and awkward experiences full of implications, stress, anxiety and fear for both the reporting and responding parties. We seek justice for these students as well as accountability. We try to demonstrate diligence and patience, and even willingness to inquire in unexpected places.

I live and work amongst sexual beings who can make good, poor, wise, and foolish decisions. College students are physiologically adults, but intellectually still developing. These are my students, this is my community. As a follower of Jesus, how does my faith inform my support of those who have experienced sexual trauma, and those who are accused of causing it. How does my faith inform my need to clarify what took place?

I believe the *fruits* listed in the scriptural epistle to the Galatians are a good start. Some are challenging, but *patience, kindness, goodness, faithfulness, gentleness* and *self-control* are foundational to this work.

1. *gentleness* and *patience* in traumatic situations, reflecting empathy and compassion;
2. *faithfulness* and *dependability* in chaotic encounters, saying what you will and can do, then doing it;
3. *self-control* when anger, frustration and a sense of injustice arises.

I would add others that are implied or stated elsewhere in scripture:

1. *integrity* and *truthfulness* in representing testimony and evidence;
2. *trustworthiness* reflected in diligence, respect;
3. *tenacity* and *perseverance* when truth is elusive and expectations are high.

These are good virtues to aspire to in our practice. They are virtues of substance that reflect and inform my work with (what the regulations call) *complainants* and *respondents*.

I need to be diligent, thorough and accurate in gathering evidence for the women and men who function as hearing officers or adjudicators. They make weighty and significant decisions. They will make the consequential assessments informed by laws, regulations, policy and their faith. Their decisions and responses will impact both the complainant and respondent. Their verdicts can ripple through a campus culture and community in both positive and negative ways. I need to be truthful, transparent and thorough in all I do in trying to understand a concern and reporting what took place.

### **Related but undeveloped thoughts:**

One of the conversations which is related but not yet developed was suggested by **Britney Graber (2020)** in her study of student affairs on Christian college campuses. She noted that some practitioners addressing Title IX concerns “described the investigative process as being both redemptive and restorative” (p. 210). I would share in the desire for these investigations to be redemptive. I hope that the virtues of grace and mercy permeate my responses as a follower of Jesus.

Redemptive and restorative is complex and requires creativity.

*Restorative justice* hopes to repair the harm caused by poor behavior. It comes out of the justice/court system as another way to respond to criminal behavior beyond incarceration. I think it also has implications for sexual misconduct at the campus level. The hope is that by working with all involved and affected, there can be a transformation of people, relationships and communities. It goes beyond penalties, consequences and retribution. Within our campuses, I wonder if it would be another viable tool.

Our faith is laced with themes of reconciliation and justice. The goals of reconciliation and mediation found in restorative justice fits our faith easily. Ironically, it is secular systems who have embraced and developed his approach. Often, we (I) get caught up in the compliance and litigation cycle of responding to sexual misconduct according to the expectations of law. My sense is that men and women of faith can be at the forefront of developing restorative responses to decisions and behavior that leads to sexual misconduct. Bringing together both *justice* and *grace* in responding to sexual misconduct requires intentionality, creativity and tenacity. Both are essential in the investigations we conduct for our communities and students.

For more about Christian approaches to Title IX see Perry Glanzer, Ted Cockle, Elijah Jeong, and Britney Graber, *Christ-Enlivened Student Affairs; A Guide to Christian Thinking and Practice in the Field*.

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David M. Johnstone is the associate dean of students at George Fox University. His vocation has taken him to the co-curricular side of higher education for the past 20 years. He provides support and care for undergraduate students, trains student leaders, and gives particular attention to the Western student experience at faith-based institutions. He is an immigrant to the United States; the bulk of his education took place in Canada. His early education was in Brazil, with his doctoral education in the States.