More Blurred Lines: emotional support, legal inquiry and the university's obligation to address sexual violence

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Introduction to Consent on Campus[2]

In Vanessa Grigoriadis's book *Blurred Lines: Rethinking Sex, Power and Consent on Campus,* the author visits Wesleyan University, her alma mater, to examine how student culture has changed in light of a growing attention to sexual violence on university campuses. Between conversations with supposedly woke frat boys and staunch sexual violence survivor advocates, she illustrates how university students are actively promoting a new and important vision of what it means to be engaged in ethical sexual relations. One of the Wesleyan students she met deftly explains this vision as follows:

> There's a difference between illegal and unethical…life is not about doing whatever you can do. It's about *not* doing what is traumatic to another person.[3]

The "Consent on Campus" movement described in *Blurred Lines* is one that directly grapples with the ever-changing needs and expectations that students impose on their university. Through her interviews, we see that students are very discerning when evaluating how their university recognizes and deters acts of sexual violence involving its constituents. Their expectations are based on a powerful concoction of a tenacious dedication to one's ethical obligations to others, a conscientious focus on the impact of trauma and a fierce desire to be heard, supported and believed.

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[2] This paper was originally prepared for the Ontario Bar Association Annual Update on Human Rights, May 31, 2018.

[3] Vanessa Grigoriadis, *Blurred Lines: Rethinking Sex, Power and Consent on Campus* (New York: Houghton Mifflin Harcourt, 2017).

Such expectations arise in part from our historical understanding of the role of the university vis-à-vis its students. In the nineteenth and early twentieth centuries, post-secondary institutions were seen as operating *in loco parentis,* essentially replacing the parental rights of their students. This concept has evolved into a general understanding that the legal relationship between the student and the university is a contractual one. However, universities continue to infiltrate all aspects of students' lives. In addition to providing educational services, universities house and feed students, provide them with medical services, and protect them with a specialized security force. Therefore, practically and culturally, the *in loco parentis* relationship persists.

The legal relationship between the university and its students is also characterized by elements of public law, as a university's board of governors or decision-making body derives its decision-making power from legislation.[4] When issues arise with respect to the contractual obligations between universities and their students, such as university code of conduct violations, universities are permitted to engage in disciplinary action using their own specialized tribunals. These tribunals must provide parties with procedural fairness.[5]

The existence of sexual violence and the obligation to discipline students in its tribunals are not novel fixtures in the realm of higher education. What is

[4] Clive B Lewis, "The Legal Nature of a University and the Student-University Relationship" (1983) 15 Ottawa L Rev 249.
[5] *SDL v University of Alberta*, 2012 ABQB 244 at paras 46-48.

unprecedented is the degree to which students are voicing their experiences of sexual violence and their concerns about how universities respond to their sexual violence complaints. Similarly unprecedented are the statutory requirements for universities to have standalone sexual violence policies. Today, post-secondary institutions in Ontario, British Columbia and Manitoba are required to have a sexual violence policy that outlines how they address complaints and incidents of sexual violence.[6]

While these two developments – one cultural and one legislative – appear to be symbiotic, they also create an internecine conflict within a university's vast administrative vortex. On the one hand, universities are required to provide support to students who are survivors of sexual violence. This support is usually in the form of counselling and maintaining a safe school environment. On the other hand, universities are tasked with conducting investigations and providing resolutions to complaints of sexual violence. Therefore, universities that support students after experiencing sexual violence must also question the very basis for that support through a process of legal inquiry. If the Consent on Campus movement is premised on believing survivors of sexual violence, how can a university conduct an investigation that questions a complainant's subjective experience?

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[6] *Sexual Violence and Harassment Action Plan Act (Supporting Survivors and Challenging Sexual Violence and Harassment),* 2016, SO 2016, c 2 [*Bill 132*]; *Sexual Violence and Misconduct Policy Act,* SBC 2016, c 23; Bill 15, The Sexual Violence Awareness and Prevention Act (advanced education administration act and private vocational institutions act amended), 1st sess, 41st leg, Manitoba, 2016.

This conundrum has been directly and indirectly addressed in a number of recent cases before courts and tribunals, as well as the media. In addition to a brief overview of the legislation that requires post-secondary institutions to have sexual violence policies, and the contemporary culture of Consent on Campus, this paper examines cases that illustrate how students who raise sexual violence complaints contest their university's process for addressing them. These cases also present an intriguing snapshot of the Milliennial/iGeneration cohort of post-secondary students. They are savvy, idealistic and strong-willed, particularly with respect to the concepts of consent, sexual harassment, and trauma. According to these students, universities' responses to sexual violence complaints are at best a flawed alternative to the criminal justice system, and at worst a labyrinth procedure that exacerbates the trauma of sexual violence.

It's Never Okay: sexual violence policies and procedural fairness without specificity

On March 6, 2015, Ontario premier Kathleen Wynne announced the provincial government's plan *It's Never Okay: An Action Plan to Stop Sexual Violence and Harassment*. This plan included the introduction of the *Sexual Violence and Harassment Action Plan Act,* which later became known as Bill 132.[7] This bill contained a number of amendments to the *Ministry of Training, Colleges and Universities Act* and the *Private Career Colleges Act, 2005*. These two pieces of

[7] Ministry of the Status of Women, "Backgrounder: Sexual Violence and Harassment Action Plan Act", Ontario Newsroom (27 October 2015), online: https://news.ontario.ca/owd/en/2015/10/sexual-violence-and-harassment-action-plan-act.html

legislation govern all post-secondary institutions and private career colleges in Ontario. Bill 132's amendments to this legislation required each post-secondary institution to have a sexual violence policy that provides a procedure for addressing complaints and incidents of sexual violence. The term sexual violence was defined as follows:

> "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, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.[8]

This is a comprehensive definition of sexual violence, but it is missing a key component: a definition of consent. Without such a definition, universities must either align their sexual violence policies with the definition of consent in criminal law or create their own definition. This can be particularly confusing to students who have no understanding of the definition of consent in the context of criminal proceedings, let alone disciplinary proceedings at their university. What is particularly concerning, given the prominent role of alcohol consumption in sexual violence complaints, is that Bill 132 provided no guidance on what it means to be "too intoxicated to consent" or to not have the capacity to consent. In the Council of Nova Scotia University Presidents' publication, *Changing the culture of acceptance: Recommendations to address sexual violence on university campuses,* its recommended definition of consent states that "an individual who is intoxicated is

[8] *Bill 132*, *supra* note 4 at sched 3 s 17(1).

not able to give consent."[9] This is remarkably unhelpful; it implies that any form of intoxication means that students cannot consent to sexual contact. It also highlights how universities can choose to import their own definition – and not the criminal law definition – of what "intoxication" means for the purpose of vitiating consent.

Bill 132 also included an amendment to the *Occupational Health and Safety Act* that defined 'workplace sexual harassment' as follows:

> "workplace sexual harassment" means,
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> (a) engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome.[10]

It is important to consider this definition of workplace sexual harassment, which many universities have imported it into their sexual violence policies, in light of the expansive jurisdiction of universities' sexual violence policies. Whether on campus or off-campus, in a dorm room or a classroom, this definition of sexual harassment governs not only students' sexual relations with other students, but also the things that they say to one another. Sexual harassment is often envisioned as a physical act of sexual touching. However, this definition of sexual harassment includes non-violent, though not necessarily less damaging, commentary and conduct. A conversation about another student's sexual experiences, while a common feature of university life, can quickly turn into something that can be characterized as sexual

[9] Sexual Violence Prevention Committee, *Changing the culture of acceptance: Recommendations to address sexual violence on university campuses* (Council of Nova Scotia University Presidents, 2017) 25.
[10] *Bill 132, supra* note 4 at sched 4 s 2(a).

harassment if it is stated to be, or ought to be understood as, unwelcome. Similarly, a pattern of comments that essentializes one's gender identity by constantly measuring a student against gender stereotypes likely falls within the purview of a university's sexual violence policy.

Bill 132 came into force on March 6, 2016. By January 1, 2017, the amendments from Bill 132 were supplemented by a series of regulations (the "Regulations") that outlined the required elements of universities' sexual violence policies. In the Regulations, the duties to both support survivors of sexual violence and investigate their complaints is directly stipulated:

> 2. (1) Every college or university described in subsection 17 (2) of the Act shall ensure that its sexual violence policy,
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> (a) provides information about the supports and services available at the college or university for students who are affected by sexual violence, and identifies the specific official, office or department at the college or university that should be contacted to obtain such supports and services;
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> […]
>
> (e) includes the information set out in subsection (2) respecting the college's or university's process for responding to and addressing incidents and complaints of sexual violence, as required by clause 17 (3) (b) of the Act.[11]

The Regulations specifically state that students can access supports for sexual violence offered by the university without filing a complaint. However, to provide students with adequate support, their complaints may need to be investigated. For example, the legislation requires universities to protect complainants who report an

[11] *Sexual Violence at Colleges and Universities*, ON Reg 131/16 [*ON Reg*].

incident of sexual violence.[12] It is likely that those protective measures may affect a respondent's access to their university education. Therefore, the complaint would likely need to be investigated to justify such limitations on a respondent.

The Regulations require procedural fairness to be part of the University's sexual violence policy but they do not outline what elements it must include; they only hint at them. For example, the Regulations require a University's sexual violence policy to include an explanation of whether students are entitled to legal representation, but the Regulations do not require universities to allow students to have legal representation.[13] The answer to the question of what procedural fairness elements are required for university tribunals varies depending on the context; however, based on a number of judicially reviewed cases from university tribunals, it is likely that there would be a high level of procedural fairness for parties to a sexual violence complaint, including the opportunity to be heard and the right to legal representation.

In a judicially reviewed university tribunal case involving a law student who was at risk of losing a year of their education due to failing a course, the Court determined that the student was entitled to an oral hearing and an opportunity to respond to the evidence used to substantiate the alleged violation of an academic policy.[14] In another case involving a student who engaged in non-sexual harassment,

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[12] *Ibid* at s 2(1)(d).
[13] *ON Reg, supra* note 9 at s 2(2)7.
[14] *Khan v. Ottawa (University of),* 1997 CanLII 941 (ONCA).

the Court indicated that procedural fairness would likely allow a student to have legal representation if the case involved issues of credibility and the proposed sanctions included suspension or expulsion.[15] Finally, in one case involving a student accused of sexual assault, the Court determined that the respondent was entitled to cross-examine the complainant before the university's tribunal.[16] This last procedural fairness element may lead to future contentious debates, as the Regulations appear to allow complainants to refuse to participate in the investigation and decision-making process.[17] How would this be allowed if procedural fairness demands that the respondent be given an opportunity to cross-examine the complainant to a sexual violence complaint? Given the novelty of Bill 132 and the Regulations, we have yet to see whether the requirements for procedural fairness in universities' sexual violence policies are sufficient.

Sexual violence activism and amplification

There is a vibrant and storied history of activism around the issue of sexual violence on Canadian university campuses. In 1992, METRAC, the Metropolitan Action Committee on Violence Against Women and Children, launched its first Campus Safety Audit Process to determine how a university environment poses risks to the physical safety of women. Their audit process continues to be used by universities and colleges today.[18] In 1996, a student-run sexual assault survivors'

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[15] *Telfer v. The University of Western Ontario*, 2012 ONSC 1287 at para 32.
[16] *Healey v. Memorial University of Newfoundland*, 1992 CanLII 2756 (NL SC).
[17] *ON Reg, supra* note 9 at s 2(2)4.
[18] METRAC, *What we do – Campus,* online: https://www.metrac.org/what-we-do/safety/campus/?doing_wp_cron=1525180304.7567310333251953125000

support line (SASSL) was established at York University. SASSL continues to provide support to students and has expanded its programming to include outreach, public education and collective action campaigns to shed light on the issue of sexual violence on York University's campus.[19]

Today, the mainstream media has begun to pay greater attention to the experiences of students who raise sexual violence complaints at their universities. In 2016, The Globe and Mail conducted a study of more than 20 post-secondary institutions and analyzed their responses to complaints of harassment and discrimination made by staff, faculty and students. On average, less than 10% of complaints received by these institutions resulted in a formal investigation. This was worrisome to many students, as it appeared to leave important decisions on the appropriate course of action to the whim of administrators.[20]

What appears to confound students is that for the university to impose punitive measures against respondents to sexual violence complaints, they must engage in a fact-finding process to substantiate their reasons for such discipline. Unlike support services for survivors of sexual violence, such fact-finding processes

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[19] Jenna M. MacKay, Ursula Wolfe & Alexandra Rutherford, "Collective Conversations: York University's Sexual Assault Survivors' Support Line and students organizing for campus safety" in Elizabeth Quinlan et al, eds, *Sexual Violence at Canadian Universities* (Waterloo: Wilfred Laurier U Press, 2017) c 12.
[20] Simona Chiose, "Justice on Campus", *The Globe and Mail,* (1 April 2016), online: https://www.theglobeandmail.com/news/national/education/canadian-universities-under-pressure-to-formalize-harassment-assaultpolicies/article29499302/

generally value neutrality and objectivity over the subjective experiences of complainants. Specifically, these processes do not operate on the basis of believing complainants. Rather, they import the legal principle of credibility.

The notion of assessing credibility can be particularly upsetting to students for two reasons. First, these students have often chosen to address complaints of sexual violence within their university instead of the criminal justice system to avoid the experiences that are associated with testing their credibility, such as intense cross-examination by defence counsel and the (albeit limited) prospect of being questioned about their sexual history. Therefore, they may enter the investigation process on the assumption that their story will be believed and no efforts will be made to undermine it. Complainants who are not familiar with a fact-finding process may then feel attacked when a university-appointed investigator asks them probing questions about the amount of alcohol they consumed, precise details about the events that comprise the student's sexual violence complaint, and inconsistencies in their evidence. Second, the culture of Consent on Campus promotes the notion that the experiences of sexual assault survivors ought to be unequivocally believed. In *Blurred Lines,* Grigoriadis describes this trend as a reversal of the traditional response to complaints of sexual violence, wherein complainants would be ostracized after making complaints and would blame themselves for the sexual violence that occurred:

> As college-assault testimonies and news reports began to be consumed in nighttime dorm rooms, a smartphone's backlit screen shining beneath a fleur-de-lis duvet, this dynamic began to flip. The power of web-based

> sharing met the power of belief, creating an epistemic certainty among girls about the frequency of assault.[21]

She goes on to call the sharing of individual experiences of sexual assault "our culture's latest and greatest upwelling of truth."[22] If there is epistemic certainty that arises from sharing stories of sexual violence, then there may be little room for questioning the veracity of students' sexual violence complaints once it has been shared with friends, counsellors or the media.

Students have recently found a voice in the mainstream media for expressing concerns about their university's approach to sexual violence complaints. Below are two stories about post-secondary students who were dissatisfied with their university's response to their sexual violence complaints:

- **Carleton University**

  A student raised a complaint of sexual violence against another student who lived next door to her in her dorm. At first, the university gave her the option of moving to a different room in the same dorm as an accommodation, despite the respondent having key-card access to the dorm. The school eventually moved the respondent out of the dorm, but it took six days for it to do so. The student asked for an investigation into why it took the school six days to remove the respondent from her residence. Representatives from the university said it could not do so because she had already contacted the police. The university also did not accommodate her need to continue one of her courses online because she was too traumatized to attend in-person, in part because the course was not designed as an online course.[23]

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[21] Grigoriadis, *supra* note 1 at c 5.
[22] *Ibid* at c 11.
[23] Lisa Xing, "Sexual assault policies at universities fail the people they're supposed to protect, students say", *CBC News* (12 September 2017), online: http://www.cbc.ca/news/canada/toronto/campus-sexual-assault-policies-in-ontario-don-t-meet-student-expectations-1.4281177

- **University of Ontario**

  A student raised a complaint of sexual violence against another student, her boyfriend. The university pursued her complaint under the school's code of conduct policy instead of its sexual violence policy. The student was concerned that the university did not "keep her in the loop" about the investigation. The student was also upset that during the investigation they were asked questions about the amount of alcohol she consumed on the night of the alleged act of sexual violence and whether there was consent. Although the university determined that the respondent had violated its code of conduct, the student found that the sanctions – an essay, as well as suspension from school and participation in the university's athletic teams for the remainder of the year – were too weak. The student eventually filed a police report against the respondent.[24]

Even though we only see the complainants' perspectives, these are gripping stories. In both cases, students who opted to address issues of sexual violence at their university were dissatisfied and turned to the criminal justice system for help. What is particularly troubling is that despite universities' efforts to address complaints of sexual violence, in the eyes of their students, they are coming up short.

Below are two recent cases that further demonstrate how students are dissatisfied with universities' sexual violence policies, and how they are advocating to change them.

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[24] Lisa Xing, "'It was horrifying': Former student says university revictimized her during sexual assault investigation", *CBC News* (11 September 2017) online: http://www.cbc.ca/news/canada/toronto/university-sexual-assault-investigation-leads-to-human-rights-complaint-1.4275622

Student Y vs. Student X

This is a case involving two students – the complainant Student Y and the respondent Student X - at Acadia University in Nova Scotia. Student Y raised a complaint of sexual violence against Student X under Acadia's "Non-Academic Judicial Policy." That complaint was investigated and adjudicated before the Acadia's Judicial Board. The Judicial Board found that the complaint was substantiated. However, their decision was overturned on appeal to the University Disciplinary Appeals Committee (UDAC). After a one-day hearing, the UDAC provided the following decision:

> Based on the information presented on May 3rd at the hearing, the UDAC had determined that there was insufficient evidence to confirm guilt. The UDAC therefore finds Student X not guilty.[25]

Less than one month after the UDAC rendered its decision, Student Y contacted Acadia's Equity Office and initiated a formal complaint that was based on the same set of facts that were at issue in the case before the UDAC. This time, the complaint was made under Acadia's Equity Policy, which covered sexual violence complaints. In response, Student X sought an injunction to prohibit Acadia's Equity Office from conducting their investigation into Student Y's complaint on the basis that it was *res judicata*.

The Court found that the Non-Academic Judicial Policy and the Equity Policy each engaged in distinct inquiries into what was, admittedly, the same set of facts.

[25] *Student X v Acadia University*, 2018 NSSC 70 at para 16 [*Student X*].

This finding was based on the fact that the Non-Academic Judicial Policy imported a criminal standard of proof – beyond a reasonable doubt – as opposed to the Equity Policy, which used the civil standard of proof – a balance of probabilities.[26] The Court also found that because of the brevity of UDAC's decision, which it noted was a clear breach of its duty of procedural fairness, it was impossible to know what factual findings were made in this decision. Together, these factors meant that there was no basis for a finding of issue estoppel.[27] Therefore, the investigation by Acadia's Equity Office could proceed.

When there are two policies that cover similar offenses, as was the case here, there may be an option to choose between two disciplinary processes. This not only presents the possibility of duplicative proceedings, it means that parties do not get a sense of finality with respect to how their conduct may result in discipline by the university.

Do note that Student Y is a smart litigant. There was an obvious issue of procedural fairness in this case because of a lack of sufficient reasons in the UDAC decision. Instead of judicially reviewing this decision, which could result in a *de novo* hearing, Student Y engaged in a new decision-making procedure with a lower burden of proof. Complainants in these cases may be troubled by the duration of their university's investigations into sexual violence complaints. However, Student

[26] *Student X, supra* note 23 at para 114.
[27] *Ibid* at paras 128-134.

Y's litigation strategy implies that they were willing to pursue their complaint and related investigation a second time in hopes of a more favourable outcome.

Obo others

This case, involving a number of students at the University of British Columbia (UBC), was the subject of an episode of CBC's *The Fifth Estate* entitled "School of Secrets." The episode revealed the experiences of students in UBC's history department who raised complaints of sexual violence against one particular respondent, also a student in that department. One of those students brought a complaint against the respondent after he took the complainant to his room, "forced himself" on her and tried to have sex with her when she was drunk. In a message to him after the incident, the complainant explained what happened:

> I thought I made it clear I didn't want to have sex. I thought we were just going to talk. I was really drunk and unaware of what was happening. I'm not saying that excuses my behaviour, but when someone is that drunk, you shouldn't be inviting them back to your room – that's non-consensual.[28]

On its face, this message illustrates the degree to which students have their own understanding of when intoxication vitiates consent to engage in sexual contact. This message shows that the student has some recollection of what happened – the purpose of their encounter and its location – but also a lack of memory about

[28] Ronna Sayed, *Fifth Estate - School of Secrets,* ed online: http://www.cbc.ca/fifth/episodes/2015-2016/school-of-secrets (18:23)

precise details of what occurred. This lack of memory appears to be what compels the complainant to believe that she was too intoxicated to "consent." Interestingly, while she is using the term "consent" in what she may consider as a legal concept in the context of sexual assault, she is applying it to conduct that is not explicitly sexual – asking someone to come to their room. In so doing, the student may be conveying that the respondent's behaviour, if not illegal, was unethical because it put her in a vulnerable position and revealed that he may have wanted to have sex with her when she was drunk.

By 2014, UBC's Equity and Inclusion office (the "Office") had received at least six formal complaints about the respondent. According to Glynnis Kirchmeier, a student in UBC's history department, the Office told complainants that they should not discuss the complaint with anyone. The Office also suggested mediation to at least one of the complainants. When that complainant refused, they suggested that she get legal counsel. Throughout this time, the respondent continued his studies. It was not until May 2015 that UBC initiated a formal investigation into the respondent and banned him from UBC Campus until its investigation was completed. At the time of these events, UBC did not have a standalone sexual violence policy.[29]

Ms. Kirchmeier launched both an individual and a class complaint against UBC at the BC Human rights tribunal (BCHRT), alleging that UBC failed to respond

[29] Sayed, *supra* note 26.

appropriately to complaints of sexual misconduct by the respondent, as well as any other male student, in the period between January 8, 2014 and November 16, 2015, and in so doing discriminated against female UBC students.[30] A decision, which will evaluate how universities should respond to complaints of sexual violence by its students, is forthcoming.

Ms. Kirchmeier's BCHRT complaint served as a platform for an ideal vision of how universities should respond to complaints of sexual violence from the perspective of students. In addition to suggesting that UBC creates a "fully funded independent, trauma-sensitive advocacy centre, and ensures complainants are assisted by an advocate",[31] Ms. Kirchmeier's application suggested that investigations into sexual violence complaints be conducted in a manner whereby equal disclosure is provided to the parties involved, yet the investigation process must also "treat sexual harassment complaints as an issue to be addressed for the benefit of a complainant."[32] Ms. Kirchmeier's application also suggested that investigations be privileged, but that parties to sexual violence complaints be allowed to discuss their complaints publically during the course of an investigation.[33] Not only would discussing the nature of a complainant's complaint affect the integrity of any ongoing investigation, public discussion would open the door to the very issue that discourages complainants from coming forward – a

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[30] *Kirchmeier obo others v. University of British Columbia (No. 2),* 2017 BCHRT 186 at paras 41 & 44.
[31] *Ibid* at para 10.
[32] *Ibid.*
[33] *Ibid.*

public rejection of the complainant's version of events. However, it is possible that the cultural tide has turned such that comments by members of the student body that undermine a complainant's version of events may be considered sexual harassment and therefore prohibited. Ultimately, this vision for sexual violence policies allows complainants to publically comment on their experiences with sexual violence, while maintaining confidentiality with respect to the investigation, the findings of which may or may not align with the complainant's experience.

Blurred Lines: emotional support and legal inquiry

The title of Ms. Grigoriadis's book – *Blurred Lines* – conveys the confusing and challenging nature by which sex and the concept of consent play out in the dorm rooms and boardrooms of universities. What Bill 132 and recent cases show us is that in creating their own sexual violence policies, universities have unwittingly "blurred lines" from the perspective of students who bring forward complaints of sexual violence. This occurs because universities demonstrate care and attention to the issue of sexual violence by carrying out two divergent procedures. Universities recognize and validate the experiences of complainants in the form of support services. In this realm, a sexual violence complaint is considered to be a traumatic event that grants access to a counsellor, a safe space and, possibly, a greater sense of epistemic certainty as to what happened. The very same institution must also conduct investigations into these complaints. In doing so, universities assess the credibility of the complainant and balance their version of events against the respondent's to determine punitive consequences. Here, the complaint is treated as

a summary of events that is to be dissected in excruciating detail by an independent investigator.

In a sense, a university's duty to respond to sexual violence complaints is a distillation of a much broader social issue: how do we create a system that cares for those who feel harmed without committing the injustice of imposing punitive measures on someone based on another's subjective experience? What better place to solve this conundrum than the institutions we rely on to shape our understanding of what constitutes harm, truth and justice.