Fostering Harm On Campus: The Shortcomings of Carceral Responses to Sexual Harm Within Institutes of Higher Education

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Introduction

Is every student who commits sexual harm an irredeemable "bad actor" who *must* be disposed of in order to keep other students safe? There is an understandably deep social drive to find threats and kick them out - in college environments, expel them. Yet Institutes of Higher Learning (IHEs) are uniquely situated to be able to educate young people, many of whom are newly making the transition from their formative households. Unfortunately, many students have found that college campuses not only host sexual harm but foster it. While carceral narratives commonly depict college predators intentionally hunting women, this paper will show that the harm occurring is often much more complex and frequently unintentional, embedded within wider campus patterns of sexual harm. Nevertheless, IHEs tend to approach each report as isolated, triggering a decision around who gets to continue their education and under what limitations. In doing so, they are - inadvertently or not - taking a moral and political stance in favor of a culture of incarceration embedded within these institutions decades ago. This carceral approach is demonstrably ineffective for protecting students or easing the pain of students who have been harmed, and works directly against the mission of IHEs to educate young people. This paper examines how adherence to outdated narratives, inadequate preventative education, and inadequate institutional support for students affected by sexual harm all accumulate to contribute to a broader culture of systemic - but avoidable - campus sexual harm. By working within a carceral model, IHEs foster sexual harm on their campuses while claiming to prevent it.

Theoretical Framework

This paper is written from an anti carceral, abolitionist, nonviolent, and intersectional feminist framework, built upon my academic focus on Restorative Justice, and grounded in my own personal experience. Each of these terms represents an intellectual tradition that is nuanced, diverse, and consisting of internal debates and discussions. As such, a comprehensive review of each is beyond the scope of this paper. In this section I offer general descriptions and highlight key insights to be learned from each tradition, as well as brief insight into my own personal history with this topic, to enable the reader to comprehend the lens through which I interrogate IHEs in following sections.

Anti-Carceral

In general terms, anti carceral frameworks encompass a scholarly and political orientation that is fundamentally opposed to the carceral state. These frameworks oppose responses to social harm centered on prison, policing, and punitive jurisprudence because–among other reasons– these systems retraumatize victims, violate the rights and dignity of the accused, and do not produce real, social justice.

An anti carceral scholarly/political position encourages me to view, for example, IHEs as part of the school to prison pipeline. It reveals how the historical emergence and contemporary organization of IHEs make clear that they are inherently colonial institutions/projects. Lastly, the anti carceral position enables me to recognize how my focused project on sexual harm on IHE campuses does not operate in a vacuum. On campus policies pertaining to expulsion, for example, are inherently connected to off-campus social issues including recidivism, homelessness, and mass incarceration.

Abolitionist

Abolitionist frameworks encompass a scholarly and political orientation seeking to abolish policing and prisons. These frameworks view policing and prisons as irrevocably rooted in colonialism, racism, and slavery, responsible for countless individual murders as well as the systemic abuse of marginalized communities. Abolitionists aim to formally end these institutions in their entirety, dismantling them on a societal level and replacing them with systems of social and community support offering true justice.

An abolitionist scholarly practice encourages me to interrogate the normalization of campus police forces. It enables me to consider campus police presence and carceral policies in context of the historical and current policing and incarceration of college students, particularly BIPOC students and those involved in political activism. Abolitionist frameworks lead me to question policies routing mental health crises to campus police despite high rates of police abuse and murder of disabled individuals. Lastly, an abolitionist perspective begins to reveal the ways in which campuses prioritize the safety and comfort of certain students, while others may experience more fear of potential harm with a police presence on campus than without.

Nonviolence

In general, nonviolence frameworks encompass a range of practices seeking to achieve justice and repair harm through nonviolent means. These frameworks view violence as a tool antithetical to justice and healing, and seek ways to protest or diffuse situations peacefully without allowing avoidable harm to oneself. People may apply nonviolence to collective action or to interpersonal communication, where a nonviolent approach would take the form of seeking to understand rather than attack or defend when something hurtful is said.

A nonviolence oriented scholarly/political practice encourages me to view those who cause harm as those who have experienced it, revealing wider implications about students who cause sexual harm. This lens helps me ground student behavior within a greater understanding of social harm and trauma patterns, and look for ways to heal trauma rather than perpetuate it. It suggests a need for trauma-informed approaches, and that helping offenders take accountability for the harm they've caused may include helping students deal with their own experiences of sexual harm or having their bodily autonomy violated.

Intersectional Feminism

Intersectional feminist frameworks encompass a feminist tradition seeking to acknowledge the entirety of the feminist experience rather than just to build a better world for upper class white women. These frameworks aim to consider not only the various ways that women may be marginalized in society, but also how the intersections between those various roles and identities create unique needs and circumstances.

An intersectional feminist scholarly/political practice leads me to consider what unique needs and circumstances are going unnoticed and unmet on campus, both in relation to sexual harm and otherwise. It encourages me to interrogate the architecture of the college experience, to question who the processes, norms, and even building design feels natural to - versus who needs to adapt - and how that may negatively impact students or make them vulnerable to harm. Lastly, an intersectional feminist perspective reveals how non-intersectional feminism may be weaponized against students both on and off campus, in sexual harm contexts and otherwise.

Restorative Justice

This paper is also significantly informed by my academic focus on Restorative Justice, a large range of practices rooted in global, historical Indigenous traditions that seek to restore relationships between those who have caused harm and those who have experienced it. Crucially, these practices seek to discover and address the root causes of harm to ensure it does not reoccur, rather than to justify or excuse harm. Application of Restorative Justice practices hold great value and promise for shifting IHEs away from punitive methods of control and towards a framework that emphasizes education, including as a response to harm.

There is a broad range of scholarship addressing how IHEs can and have successfully integrated Restorative processes, from case studies to examinations of Title IX compliance. With an academic conversation so thoroughly supporting Restorative practices within the IHE context, I focus my attention in this paper on examining how the carceral mechanisms IHEs currently depend on cause harm and work against their missions to educate students. I touch only briefly on potential ways that IHEs could improve student experience when relevant, with suggestions including but not limited to Restorative Justice practices.

Personal Experience

Lastly, this paper is grounded in my own personal experience as a queer survivor of multiple campus assaults. I know firsthand how harmful sexual assault can be, as well as how harmful the process of reporting campus assault can be. In full transparency, this paper is also grounded in my experience inadvertently committing sexual assault while in college and engaging in an informal (and successful) reparation process with the woman I harmed, who is now my wife. My time engaging in an ongoing repair process with her, processing and writing about the times I was assaulted, and speaking with peers who experienced sexual harm on campuses led me to realize how little those experiences reflected the scenarios we had been warned to watch out for. Even the students who assaulted me intentionally did not lure me away to do so - nor did I necessarily want them expelled. These experiences and feelings were mirrored by most of the people I talked to. This led me to research sexual harm prevention on college campuses, with the intention of exploring the

underlying systemic issues contributing to that lived disconnect between what we had been taught versus our lived reality.

To summarize, I draw from the diverse intellectual traditions and political orientations of anti carcerality, abolitionism, nonviolence, intersectional feminism, Restorative Justice, and my own lived experience to build the theoretical framework being employed in this paper. Together, these perspectives enable me to view IHEs as sites of power where historically-rooted forms of violence and inequality - including ideologies of targeting, detention, punishment, and incarceration - are reproduced, reinforced, and reenacted at a systemic level, even when the coursework itself challenges those ideologies. These perspectives also enable me to view IHEs as sites of education and social formation where these ideologies can and should be challenged.

Historical Context

The anti-violence feminist movement of the late 20th century made important strides towards public recognition of and decrial against violence against women, particularly rape, sexual assault, and domestic violence. In attempting to find ways both to stop violence against women and to seek justice for women who experience violence, the movement ultimately took what many feminist scholars call a carceral bent. Carceral feminism is conceptualized as feminism that operates within and depends on the carceral state without critiquing it (O'Brien et al., 2020), meaning that any feminist movement uncritically seeking the criminalization and carceralization of a behavior or a group of people is engaging in carceral feminism. By creating a situation in which they relied on the carceral state to punish rather than critiquing its role in their ongoing harm, the anti-violence feminist movement of the late 20th century became a carceral feminist movement.

Among the undeniably important but ultimately carceral victories won by this movement was the Title IX legislation passed in 1972. Lauded as a much needed step towards equality for women in Institutes of Higher Education, Title IX promised safety from sexual assault - or at least harsh punishment to anyone committing assault. In practice, the parts of this legislation aimed at addressing sexual harm have proved difficult for colleges to navigate, as well as unable to fully meet the needs of students. There is growing evidence that shows traditional Title IX processes frequently violate

student rights, creating harm for claimants and respondents with disproportionate impacts on queer and BIPOC students.

These failures of Title IX can also be understood as a failure of carceral feminism. With a focus shifted away from preventing harm, and towards punishing those who cause it, Title IX legislation does very little to prevent harm. In fact, it can contribute significantly to students' experiences of harm on campus. Harper (2017) cites victims' assessments of the process as "degrading" and "harmful" (p. 306) and defendants' as feeling "unprotected" and "deprived of due process rights" (p. 307). But IHEs have other options. Because Title IX allows for informal resolution proceedings, IHEs are not limited to using only "formal" carceral Title IX procedures when responding to incidents of sexual harm on campus (Vail, 2019, p. 2087). This allows IHEs to offer students resolution options such as Restorative Justice in place of the carceral Title IX process.

Outdated Carceral Narratives of Sexual Harm

Sexual harm is far more complex than carceral narratives, the social frameworks that emphasize punitive measures and the removal of offenders in response to sexual harm, suggest. Frequently these narratives involve predatory men intentionally luring women into isolated areas, leading campus administration to assume that the best solution is to remove or severely punish students they perceive as problematic actors. This seems antithetical to the goal of Institutes of Higher Education to *educate* the students attending them: while some sexual harm is committed intentionally, not all campus sexual harm is predatory. By failing to acknowledge sexual harm that falls outside of carceral scripts, IHEs miss opportunities to address the systemic components of harm, leaving students vulnerable. Adhering to these outdated frameworks causes IHEs to fail to address the realities of when, where, how, and why harm occurs, or to whom. This renders invisible a great deal of sexual harm that doesn't fit those narratives, ultimately fostering sexual harm on campus. This section discusses the ways in which these narratives lead IHEs to make assumptions about who perpetrates and is affected by sexual harm, dismiss underlying systemic issues, and fail to acknowledge nuance.

Narratives About Who Perpetrates

Sexual harm isn't always caused intentionally, nor is it always caused by a man and experienced by a woman. Despite the common assumption that campus sexual harm is caused by men contriving to find or lure women into compromised situations, many students will share descriptions of what they genuinely consider to be consensual experiences yet meet researcher's definitions of assault or rape (Hirsch et al., 2019). In other studies researchers found that students shared the same facts about a sexual situation, yet had different perceptions of the level of consent involved (Karp et al., 2019). In other words, a significant number of students agree regarding the details of what happened, but do not agree when asked if the interaction was consensual. Gendered scripts around whose job it is to obtain consent versus grant it can also confuse the issue. Because men's consent is assumed to automatically exist by virtue of being in a sexual scenario, many young men may laugh off their experiences of being assaulted as merely "bad sex" (Hirsch & Khan, 2020; Hirsch et al., 2019) while their partners may never realize consent was not obtained. These disconnects can be attributed in part to college students of all genders often understanding affirmative consent - unambiguous, voluntary, sober consent requiring a "yes" - as it has been taught to them not always considering it to be realistic (Cary et al., 2022; Hirsch et al., 2019). When students cannot make that legal definition fit their reality, they create their own ways to define consent (Hirsch & Khan, 2020; Hirsch et al., 2019). Rather than a workaround, this appears to be driven by a genuine desire to achieve consent under conditions in which it may not be legally plausible. When IHEs focus on outdated narratives about who is causing sexual harm, rather than create training and intervention strategies centered around the fact that any student could cause harm intentionally or otherwise, they miss the potential for interventions based on experiences more frequently experienced by their student bodies.

Scholars concerned about sexual harm on campus may point out that there have been many well publicised cases of egregious harm over the last decade, including instances that seem clearly premeditated. Ultimately, the depiction of sexual predators stalking campus looking for women to assault almost certainly still describes a small percentage of perpetrators. Similarly, intentional harm from domestic violence, stalkers, and rebutted "suitors" is an issue IHEs have good reason to put attention towards. Rather than argue that no

students intentionally cause harm, this paper proposes that the narratives claiming that *an*y student who causes sexual harm does so intentionally and will become a serial predator are outdated and harmful. If students are causing harm unintentionally, they could potentially unlearn these behaviors. It is crucial that IHEs implement policies addressing the full spectrum of possible behaviors motivating sexual harm, rather than one small subset. There is a saying that when we teach young women how to avoid being raped, without teaching young men *not* to rape, we're really teaching the young women to make sure someone else is raped instead of them. Similarly, automatically expelling students who have caused sexual harm ensures that the *next time* they cause harm it is not a liability to the campus - rather than teaching them not to cause harm.

Failure to Address Systemic Causes

Power Dynamics

While gender is the most commonly recognized power dynamic affecting instances of sexual harm, power dynamics beyond gender are also involved. Students who already experience increased precarity on campus are often more strongly affected by experiences of (or accusations of) sexual harm on campus. These include but are not limited to students of color, queer students, disabled students, students experiencing poverty, homelessness, and/or food insecurity, students engaging in sex work, and students who are undocumented. These groups may find that they are targeted more often or in different ways than their more privileged peers, or that their experiences of harm are less visible to bystanders or less understandable to those they try to share them with. Queer students are vulnerable to power differentials in multiple unique ways, which can vary depending on whether or not they are out on campus or in other areas of their life. This may be why multiple studies rank LGBTQ+ undergrads as reporting the highest amounts of sexual harm in campus surveys (Hirsch & Khan, 2023). Students of color report that their experiences of race on campus cannot be separated from their experiences of sexual harm (Hirsch & Khan, 2020; Hirsch & Khan, 2023). Additionally, many report instances of unwanted touching related to racial dynamics that are not always sexual in nature, yet clearly involve violations of personal space, body autonomy, and consent. Current carceral scripts do not offer students or

administrators a way to frame unwanted touching outside of a sexual context, or to report sexual or bodily autonomy related harms fueled by bigotry. This means that a lack of reportable sexual intent or activity can leave these students with no support and no recourse.

Additionally, power dynamics unique to college campuses must be considered. Seniors certainly enjoy power over freshmen on campus, and sports or other extracurricular activities may offer social status and corresponding power to students that can make it difficult for another student to turn them down without risking their own social status (Hirsch & Khan, 2020). Researchers have also raised the issue of power dynamics related to sexual geographies encompassing both spatial and temporal dimensions (Hirsch & Khan, 2020; Hirsch et al., 2019). Students have limited options for where to spend time in the evenings and on weekends, when most sexual episodes occur. Sexual scripts and norms may lead students to believe that being in certain places at certain times equates to consent, and spatial power dynamics can arise based on who claims ownership of a space. A senior with their own private dorm room can move themself and another student into that space for convenient conversation, leading the other to feel as if sex is now socially required (Hirsch & Khan, 2020). While inviting another student to one's dorm room at 2am does not confer consent, some students may assume it has. With both spatial and social dynamics in the mix, this may explain why some students feel as if they have to verbally consent or otherwise acquiesce upon finding themselves in such a situation.

Power dynamics not only affect the ways in which students become vulnerable to and experience sexual harm, but also affect how they navigate the after effects, what support they receive (if any), and whether they decide to report the harm they experienced. For all students, the precarity created under the Title IX process can exacerbate the trauma they are already experiencing, as well as further risk their education (Harper et al., 2017). Students already navigating campus experiences subject to unbalanced power dynamics could reasonably be expected to experience that risk to their education as enhanced. By choosing not to fully address power dynamics on campus on all appropriate levels, including within their sexual harm prevention and response strategies, IHEs create situations where power based harms, sexual and otherwise, are bound to occur.

Alcohol

Alcohol is a large part of the conversation around sexual harm on college campuses. While legal definitions of consent require sobriety, alcohol is so ingrained as a part of campus sexual activity that a significant number of students do not consider full sobriety during sex to be a realistic metric for consent (Hirsch et al., 2019). Some students intentionally drink as part of foreplay, in order to create the conditions in which they will feel comfortable having sex (Ford et al., 2021). Without alcohol, they simply would not have sex. While students often understand that they are having sex that falls outside of legal metrics for enthusiastic consent, they create their own rules and norms about what consent means, relying heavily on gendered conceptions of consent roles and nonverbal cues (Hirsch et al., 2019). Even with the best of intentions this combination of alcohol, ambiguity, and frequent reliance on gendered roles and nonverbal cues leaves abundant space for misinterpretation as students navigate situations requiring consent. That potential for misinterpretation becomes even more complicated by the fact that when both parties involved are drunk, no one involved in the scenario is legally able to consent. Activists concerned about college drinking point out that it creates a prime environment for predatory behavior, and that is a valid concern. IHEs should make sure that students involved in drinking culture know the importance of covered containers, how to tell when a friend or peer has been roofied, and how to engage in bystander intervention in party and bar environments while buzzed or drunk. But campus alcohol culture also creates environments in which consent can unintentionally be confused, misinterpreted, or merely impossible on all fronts. When IHE discussions about alcohol and consent center around the dangers of predatory sex, while omitting the potential harm involved in intentional sex that cannot by definition be consensual, students remain at risk of both causing and experiencing harm. This is a systemic issue that cannot be blamed on individual students, yet students often bear the consequences.

Failure to Acknowledge Nuance

Unwanted Sex and Revoked Consent

While anyone engaged in sex should be paying attention to body language and stop if a partner is checked out, a student still learning how to do

that may not notice if their partner checks out mid act. If their partner said yes ahead of time, and continues to say yes and otherwise indicate consent during the act, a student may miss that their partner isn't actually enjoying themself despite the continued presence of verbal consent. According to Muehlenhard & Peterson (2005), consent may be given when sex is unwanted for a myriad of reasons, including social pressures, desire to lose one's virginity, and bragging rights. Students may have positive or negative experiences having consensual sex that is unwanted (saying yes to the senior everybody would tease you for turning down, because you want the social status), or wanted sex that is not consensual (sex where both parties are drunk or high), depending on the circumstances (Muehlenhard & Peterson, 2005). It is also possible for a wanted encounter to become unwanted or unenjoyable midway through. This can make interpretation after the fact confusing for either partner. While some students will enjoy these experiences, others won't - and some will wonder after if their experience of harm means that they were assaulted or raped.

Trauma responses preventing communication can also complicate students' ability to understand shifts in consent. While consent can always be withdrawn during sex, if a student is unable to verbalize a shift in consent their partner may continue believing that the sex is consensual. Hirsch and Khan describe a young man who felt angry when a partner told him after the fact that she had become afraid to stop him, saying "I don't know what you want me to do with this" (Hirsch & Khan, 2020; Hirsch et al., 2019, p. 32). While we don't know the full details of that experience, it is possible that this event started as consensual sex that transitioned to non consensual partway through. If his partner was not able to communicate that verbally, and he didn't pick up on nonverbal cues, he could have missed indications that his partner no longer wanted to be having sex. This is a great example of why IHEs cannot solely stress verbal consent and attempt to make students abandon nonverbal cues completely. One size fits all consent education is not enough to prevent consent violations, and we can no longer assume all consent violations are intentional. If IHEs behave as if they are and default to a punitive approach, they miss chances to educate students and prevent future harm. Teaching students to understand and identify the differences between want and consent, and notice nonverbal cues indicating shifts in each, may make a huge difference in efforts to prevent sexual harm on campus.

Two Party Lack of Consent

As indicated in a prior section on alcohol, situations will occur on campuses in which neither sexual partner was able to consent due to being influenced by alcohol or other substances. It seems likely that cases unrelated to substance use will also occur in which neither student obtained nor gave consent, whether due to impatience or a lack of communication skills. In some of those situations, both students may perceive the situation to be wanted and ultimately perceive it as consensual. In some, one or both participants may realize the sex was not wanted or not consented to. Some young men worry about the existence of double standards here, as they raise the concern that even if they themselves did not consent, the burden of obtaining consent is perceived to be solely on them (Hirsch et al., 2019, Khan et al., 2018). It also seems possible that there will be scenarios in which both students concurrently caused and experienced harm while behaving as ascribed by social scripts, under the impression that they were doing what the other wanted. Carceral scripts for sexual harm have no way of handling a situation in which one student says "I did not consent to or want that sex" and the other says "me either," other than an investigation to determine who is lying. But the reality of the college experience is that these situations are not only possible but likely. IHEs need to develop methods to support both students in situations like this to acknowledge and repair any harm they have caused, while simultaneously supporting each through any harm they have experienced.

Inadequate Preventative Education

Institutes of Higher Education foster sexual harm on campus when they fail to account for or supplement inadequate preventative sexual harm education among their student bodies. Lack of adequate consent education has been identified as a risk factor for experiencing sexual harm (Santelli et al., 2018), while knowledge of sexual consent has been identified as a protective factor against causing it (Schipani-McLaughlin et al., 2023). Some states and schools require students to take outsourced annual video courses covering topics such as enthusiastic consent and bystander intervention. Yet students experience scenarios that are much more nuanced than those yearly training depict, typically under complicated and stressful conditions (Cary et al., 2022). Frequently, college students are learning how to manage interpersonal dynamics as adults away from their family for the first time. They experience

significant stress, may engage in alcohol culture or face pressure to do so, and if they live on campus they are navigating unique geographical challenges (Hirsch & Khan, 2020). Gendered scripts often affect encounters despite whether they personally buy into those scripts or not (see Cary et al., 2022; Hirsch et al., 2019; Jozkowski et al., 2017). Although it may seem that addressing the full scope and nuance of these topics in an accessible way for students is an impossible task, some IHEs have already created strategies for integrating complicated topics related to social responsibility into core curriculum. California's addition of Ethnic Studies into general education requirements for the CSU system is controversial (Allen, 2024), but it provides a model for how topics deemed crucial can be made part of the general curriculum. There is no excuse for institutions that would not teach any other class as a two hour series of short videos to decide that it constitutes adequate training on consent and sexual harm.

Consent training does not have to be a part of the curriculum to be effective. Ortiz and Schafer (2018) describe a student driven educational initiative which actively engaged the student body in interactive content about consent. Only one iteration of what's possible, this 21 week campaign showed a clear improvement in student perceptions of consent, particularly among groups at higher risk of experiencing and causing harm, which were particularly targeted by the campaign to receive higher touch points (such as sororities and fraternities). Importantly, continual exposure to consent education may have been critical to the campaign's success (p. 454). This supports what we already know - students learn best when they are able to engage with the same material repeatedly. It matters less how students are introduced to training materials, and more that the materials are relevant, engaging, and repeatedly engaged with over time.

By failing to provide comprehensive preventative education that addresses students' lived experiences, IHEs fail to acknowledge students as adults capable of growth. Ultimately, expulsion indicates that a student has demonstrated an inability to improve their behavior via education. When this occurs before any attempts at education around the issue, IHEs imply that once someone has committed sexual harm, further education around that issue has no potential to change their behavior. IHEs have no responsibility to continue to educate perpetrators unwilling to take accountability or learn how their actions have affected others, and in fact have a responsibility to protect other students

from people who seem determined to repeat those behaviors. They do have a responsibility to teach more than just the knowledge needed to get a degree. When they fail to provide adequate education, IHEs fail their missions to educate their students and produce responsible social citizens.

Inadequate Institutional Support

Inadequate institutional support compounds harm to all parties, especially the students affected by sexual harm. Opposing requirements under Title IX make it difficult if not impossible for universities to be properly attentive to the rights and needs of students who have experienced sexual harm on campus, as well as those of students who have been accused of causing it (Harper et. al, 2017; Vail, 2019). It is not uncommon for both sides to interpret their experience as unfair and biased in favor of the other party, and in many cases this perception may be accurate. When these shifting legal requirements leave universities unable to meet students' needs in a nuanced, appropriate way it negatively impacts everyone involved. This sense of precarity harms students and the campus community in general, and undermines students' trust in administration. Many students choose not to report under these conditions, and choose to completely forego institutional support. Others attempt to seek institutional support and experience what researchers call institutional betrayal instead (Smith & Freyd, 2013). Ultimately, traditional university adjudication processes for sexual harm cases under Title IX end up disenfranchising not only claimants and defendants, but frequently the wider campus community.

Importantly, additional students besides those who have directly experienced and been accused of harm may be affected and in need of support. Students may step up as caregivers and support networks to friends involved in sexual harm (Hirsch & Khan, 2023), a role which is made larger when the harmed student receives no institutional support. These student caretakers are often in need of support themselves. Students may also have been instrumental in creating conditions for their friends to have what they expected would be a consensual sexual encounter (Hirsch & Khan, 2023; Hirsch et al., 2023), and now experience a need to take accountability or seek support for unresolved guilt, depending on the situation. Others may be unaffiliated with the students involved, but experience a resurgence of sexual harm related trauma due to campus reaction to the incident. Just like experiences of sexual harm, any of these could significantly affect a student's ability to complete coursework,

affecting grades, financial aid, or even a student's ability to remain in school. Lack of institutional support for these students increases the harm they experience and renders them vulnerable to additional harm.

Inadequate Support for Those Who Have Experienced Harm

Choices Not to Report

Reports of sexual harm made by students to Title IX offices are known to be much lower than statistics reported by students to other venues. Rather than one clear reason for this underreporting, there are many potential contributing factors. These include not realizing that what the student experienced was assault, not feeling comfortable defining it that way, not wanting to go through the reporting process, or not believing that the process will help them or that they will be taken seriously. Many students who claim they have not experienced assault and rape when asked specific questions about them will still proceed to describe experiences fitting those definitions if asked broader questions (Hirsch et al., 2019). Because students' conceptions of consent vary wildly, some students may not be aware that their definition fits the definition of assault and instead classify it as merely bad or uncomfortable sex (Ford et al., 2021). Others may choose not to use the term assault, instead identifying their experiences as weird, uncomfortable, or similar in order to maintain their self image as someone who is not vulnerable to assault (Hirsch & Khan, 2023; Jeffrey & Barata, 2017). It is possible that a significant number of students forgo reporting experiences they know to be harmful because they do not understand or classify them as assault, preventing them from accessing badly needed support.

Further studies indicate that many students are aware they have experienced assault or rape, and have chosen not to report that to their school or the police for a variety of reasons (Khan et al., 2018; Jeffrey & Barata, 2017). Some students choose not to report assault due to a lack of faith in their university's procedures, affiliated police department, or both. Marginalized students may choose not to report due to an awareness of the additional issues they will face attempting to engage in a carceral process. Students who identify as or are perceived as male may choose not to report due to a fear of being dismissed, or having the case turned around to frame them as the perpetrator. Students may also feel overwhelmed by the thought of discussing their experiences and being accused or questioned. Some suspect or are aware of how

difficult the process will be, and choose not to put themselves through even more pain and trauma.

Students' opinions and beliefs regarding the potential repercussions for the person who harmed them can also be a factor in decisions regarding whether or not to report. While some students want to see the person who harmed them face the fullest repercussions possible, others may doubt whether the person who harmed them deserves the potential outcomes of a report. As important as it is for administration to avoid discouraging claims due to the potential ramifications for the defendant, claimant desires to not have another student expelled should likewise be taken into account. Yet most Title IX processes have specific mandated repercussions attached to specific findings, with no concessions made for claimant requests or desires.

When IHEs fail to take these factors into account and provide responsive outlets for students to share and seek support for their experiences, however they label them, they continue to foster harm on campus. Research indicates that having previously experienced sexual harm is a risk factor for future experiences (Santelli et al., 2018). This suggests that whatever their reasons for not reporting, these students are rendered additionally vulnerable to future harm if left without support. By creating an atmosphere where reporting sexual harm forces students into a carceral process they may not want or need, they lose chances to support students who have experienced harm, and to prevent future harm.

Inadequate Support After Reporting

When students do choose to report sexual harm on campus, they are frequently funnelled into a one-size-fits-all carceral process focused on identifying and punishing a wrongdoer rather than offered support that fits their needs or helps them heal. Stuck in a process "harmful in ways similar to the criminal justice system" (Harper et al., 2017, p. 306), claimants are frequently unsatisfied with the results even when schools determine the defendants to be guilty. Some students do want a punitive outcome, but many report that they most want for the defendant to understand and acknowledge the harm they caused. Harper et al (2017) report that "victims describe the need to tell the story of their experiences, obtain answers to questions, experience validation, observe offender remorse, receive support that counteracts self-blame, and have input into the resolution of their violation" (p. 312). Students need to make

sense of their experience, to understand why the person who hurt them did so, and to make sure it won't happen again. A driving factor for reporting is often a desire to prevent other students from experiencing harm, and some students see punitive processes as the only way to achieve that. But when offered alternatives, many students prefer an accountability centered process. By not offering students who wish to report harm options focused on accountability rather than control and punishment, IHEs continue to foster harm on campus.

Inadequate Support for Those Who Have Caused Harm

Carceral scripts under the US criminal justice system grant defendants a right to support in the form of a lawyer, yet under traditional Title IX processes no outside support is mandated. Students accused of causing harm are often left to navigate the system on their own unless their family can afford legal help. Students often feel that they were thrust into a biased campus procedure without guidance, and struggle to properly defend themselves and their rights. Defendants' due process rights are so contradictory to a claimant's rights under Title IX that often administrations cannot proceed without violating one or the other. The need for institutions to appear tough on defendants in order to preserve both their public image and federal funds, creates situations in which "fairness appears dangerous and inconvenient rather than beneficial and necessary" (Harper et al., 2017, p. 309). This is not a system that encourages students to take accountability for harm they have caused.

Forcing students accused of causing harm into highly contentious conditions under Title IX without adequate support creates situations where they feel they need to protect themselves first and foremost. With their education and future careers threatened, they are more likely to declare innocence, even if they would have otherwise been inclined to take responsibility. Compelled into defensiveness and denial, there is unlikely to be space for self reflection or accountability. Karp et al. (2019) suggest that students who perceive their treatment to be unfair under a Title IX process will not experience the shame intended by a carceral system, instead blaming the school and the individual who reported them for treatment perceived as "unfair" (p.149). These students may feel resentful and more disposed towards gendered stereotypes and hostile behavior in the future (Karp et al., 2019, p. 149), suggesting that they may be at a higher risk of committing sexual harm in the future. By adhering to carceral Title IX processes instead of offering alternative

resolution processes, IHEs risk potentially fostering harm not only on campus, but wherever a student affected by these processes ends up after leaving the institution.

Inadequate Support For Community Stakeholders

Because of the social nature of IHEs, additional students may have been involved on the periphery of a sexual harm incident who could be affected by it and need support. Among many potential scenarios, students may have encouraged their friends to engage beforehand, provided support after, or even been in the room as harm occurred. These students may need to take accountability for their part in creating the conditions that led to the event or ignoring it as it happened (Hirsch et al., 2019), or they may need to receive support for the harm they experienced as a bystander or as a caretaker after the fact (Hirsch & Khan, 2023). However, in a traditional adjudication process claimants and defendants are often the only stakeholders considered beyond the university.

By narrowing the process down to just two students, IHEs may disenfranchise entire social groups affected by these events. Additionally, the heavy focus on determining who is wrong, who is right, and who needs to be punished may create conditions under which students feel pressured to take sides (Khan et al., 2018). This can lead to group splits and exclusion that deprives students of the social support they were previously accustomed to. Thus, when IHEs fail to provide proper institutional support for students directly and indirectly affected by sexual harm, they frequently create conditions that endanger existing support networks and leave students with less support than they initially experienced. Left without inadequate support resources, students are rendered more vulnerable to experiencing and committing sexual harm.

Conclusion

By adhering to carceral approaches and norms, IHEs foster sexual harm on campus and risk the educational outcomes of all students. Though Title IX procedures are intended to provide an educational atmosphere free of sexual harassment, in practice they neither prevent nor adequately respond to much of the harm that occurs on campus. By adopting outdated narratives of sexual harm, failing to acknowledge their role in providing proper preventative

education, and offering inadequate institutional support for students affected by sexual harm, IHEs create an environment in which sexual harm is able to thrive. The carceral process most IHEs follow under Title IX creates an adversarial environment which exacerbates the trauma experienced by students involved and fails to diminish the potential for future harm, perhaps even increasing it. Harm experienced by campus members not directly involved in a reported incident goes ignored, as does the experience of students who choose not to report their experiences. When IHEs default to carceral practices, they miss educational opportunities to discourage campus-adjacent sexual harm, and potentially to minimize the number of students who cause harm after graduation, furthering campus missions to graduate responsible social citizens.

For IHEs seeking to shift away from carceral practices and towards solutions in alignment with educational missions, I recommend further research into the application of student-led educational initiatives within a broader Restorative Justice framework as effective anti-carceral alternatives to standard Title IX processes. These practices may be more likely to prevent and reduce harm - creating better outcomes for both survivors and respondents, reducing recidivism rates, and honoring institutional missions among colleges and universities to educate young people and produce better citizens.

Most importantly, I remind anyone affiliated with an Institute of Higher Education that these policy changes do not happen in a vacuum. It is up to each of us to interrogate the carceral practices of the institutions we belong to and our part within them. If the administrative bodies running your institution are unlikely to be receptive to anti carceral arguments, seek approaches they are more likely to listen to. In the interim, the work each person affiliated with an IHE does can be examined and adapted to create a safer, more welcoming, anti-carceral space for students. Do not read this paper and move on with your life. Take a moment to consider how your work - your syllabus, your course materials, your lectures, your office hours - could in some small way respond to the issues outlined here. No matter how disengaged, your students will always learn *something* from you. What do you want to teach them?

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