

Tragically, sexual assaults and harassment have been occurring for thousands of years, often going unreported. But more recently, victims have gained the courage and support to bring these injustices to light. These allegations, because they assault our sense of justice, also illicit corresponding emotional responses, a strong desire to immediately see the perpetrators punished. But uncovering the facts surrounding these allegations, because they so often involve just two people in a private setting, and are not always immediately reported, are difficult. In addition, these strong emotions sometimes lead people to believe the accuser without question, even in cases involving a false accusation driven by other motives. The welcome increase of victims willing to come forward, as well as the reality that a small subset of sexual assault and harassment allegations are false, mandates that an independent investigation be immediately initiated that will bring all available facts to light.

Title 9, the government law requiring equal treatment in education based on gender, attempts to address these issues, mandating an investigation when allegations in an educational setting are made. And although there have been disagreements about recent changes to the Title 9 procedures in how these investigations are handled, the requirement for an independent investigation is key. An independent investigation, and a just decision based on that investigation, is necessary for the health and wellbeing of the individuals involved, as well as for the institution and its student body. Our campuses need to be safe havens, a place to study and grow without fear. Those institutions that fail to maintain that safe environment will suffer, in both reputation and enrollments.

The most difficult aspect of resolving an allegation of sexual assault or harassment is left to the adjudicator. If it is not a state court system, it will be an entity established by the institution itself. Examining the available facts and making a decision based on what might be less than ideal information is difficult, at best. The decision makers know that 'no means no', but now they must also determine if yes means 'don't', for someone who should not be making decisions based on an impaired mental state. But the person who should have known that yes means 'don't' might also be impaired. Decision makers now need to determine how to work in this difficult landscape. Everyone wishes it were clear cut, but given the typically private nature of the encounter, getting to the relevant facts is not often easy. And that difficulty should not be compounded by an investigation seen as biased, or one conducted with a predisposed notion of the outcome.

What can make the ultimate decision more credible is if it is based on an independent investigation conducted by an entity completely removed from the institution judging the facts uncovered. Independent, unbiased investigations are especially needed in Title 9 investigations, where little firsthand information is available, other than the statements of the people directly involved. And although it is up to an institutions' governing body to make the hard decisions regarding how to resolve the situation, that governing body must not have influence over what, or how, the investigation is conducted.

Outright assaults should be aggressively pursued by local law enforcement. But there are less definitive allegations that are not pursued by police. Many of us can recall a bad decision made while under the influence of alcohol, or when driven by emotional forces that override rational thought. Hopefully, these decisions have not led to harm for us or others, or to illegal behavior. But there are some situations driven by these impulses on our college campuses that require investigation to determine if wrongdoing occurred. And while there will not always be clear cut evidence pointing to a definitive conclusion, a thorough investigation will often provide sufficient facts to ensure justice is served. These tougher cases often result from a lack of personal responsibility that are difficult to admit to, or the impacts of alcohol.

But an investigator with strong interviewing skills can often elicit an after the fact understanding from someone that harm was done, and admissions that would not otherwise be available.

Culling out the facts under these conditions requires a skilled interviewer who can bring an understanding of the emotions, fears, and stakes at play. Interviews of those involved, who may have first or secondhand knowledge of the event, are key. These interviews will typically be the best source of information to knit together some semblance of truth. Identifying those people who may be a possible source of information is the first goal. Developing a trusting rapport with those tangentially involved, that will lead to an honest, straightforward account of what they are aware of, is the next objective. Finally, interviews with those directly involved, by someone who understands both the emotional and psychological impacts of trauma, accusation and possible outcomes is needed to bring the facts to light.

It is this thorough process, conducted by experienced investigators, that will provide the best evidence for decision makers. In some cases, it may reveal a completely erroneous accusation, driven by originally unseen motives. But in most cases, it will develop the available facts in a situation that is fraught with emotion, pain and suppressed truths. But it's this information that decision makers need to resolve the issue, and demonstrate its commitment to the academic community of safety, security and honesty.