

DECONSTRUCTING SEXUAL VIOLENCE IN HIGHER EDUCATION:
A CONCEPTUAL ANALYSIS

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by
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Abstract

DECONSTRUCTING SEXUAL VIOLENCE IN HIGHER EDUCATION: A CONCEPTUAL ANALYSIS

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This post-qualitative inquiry engaged the work of Gayatri Spivak in a two-part conceptual analysis of what is (*not*) happening with sexual violence prevention and investigations in higher education. Using poststructuralism as the theoretical foundation, the first part of the analysis used Spivak’s deconstruction to trouble language and meaning in the 2011 Title IX “Dear Colleague” Letter, the 2014 White House Task Force Report “Not Alone,” and the 2014 Violence Against Women Act Final Rule. The second part of the analysis deconstructed margin/center politics and explored the production of marginality using sexual assault survivors’ narratives and the Office for Civil Rights Title IX Resolution Agreements. This conceptual analysis exposed the paradoxes in the claims of safety, protection, and prevention, and shed light on the privileging of post-sexual assault intervention strategies over pre-sexual assault prevention strategies. The analysis also revealed how the questionable actions of Title IX machines at higher education institutions

work in opposition of safety, protection, and prevention to maintain sexual violence elimination as a condition of *impossibility*. As part of the ongoing efforts to change that condition to one of *possibility*, recommendations for integrated prevention and intervention strategies and mandated training for Title IX coordinators and investigators are provided, as is the recommendation to further explore Title IX Regional Investigation Centers.

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The journey to completing this dissertation was filled with ups and downs, self-doubt, and lots of angst. I could not have made it to this point in this process without the guidance and support of multiple people. Friends, family members, and co-workers regularly shared words of encouragement, held me accountable, and pushed me onward. I cannot list all of you here, but if you are reading this and your name is not mentioned below, please know I appreciate your support.

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Lastly, thanks to my dear friends and family for not forgetting I existed as I “disappeared” to write this dissertation. I am ready to make new memories with all of you!

Dedication

This dissertation is dedicated to Betty S. Gabriel – a consummate professional, role model, mentor, and friend. I am forever grateful that we crossed paths.

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Chapter 1: Setting the Stage: The Condition of Impossibility

Each fall semester, thousands of students across the country cross the thresholds of higher education institutions (HEI) eager to develop new friendships, explore newfound freedoms, and participate in extracurricular clubs and activities (Center for Public Integrity, 2010). Excitement abounds. It is the beginning of something new, much like the work in this dissertation. Unfortunately, a large number of these students, females in particular, are likely to experience sexual violence during their college experience (Black et al., 2011; Krebs, Lindquist, Warner, Fisher, & Martin, 2007; Krebs, et al., 2016). Sexual violence, one of the most common crimes on college campuses today, has been a part of the college experience far too long and seems like an *impossibility* to prevent and eliminate. It beckons to be explored with approaches to inquiry that creates space for researchers to disrupt and rethink the bureaucratic management of sexual violence in higher education.

Over the past seven years, I have been involved in Title IX compliance efforts and sexual harassment and misconduct investigations at my institution. As someone who is passionate about ending sexual violence, I understand the criticality of this work in maintaining a “safe” campus environment for students, faculty, and staff. In 2011, I was charged with developing my institution’s checklist of Title IX “dos and don’ts” in order to be compliant with Title IX. At that moment, I began to see the mechanistic nature of Title IX compliance, but I lacked a theoretical framework to help me better understand what I was witnessing. That changed when I started my doctoral journey in Fall Semester 2013. Prior to

beginning the doctoral program, I never imagined theory would play such a major role in my professional work and in my dissertation research. Many of the terms, ideas, theories, and philosophers introduced during the program were foreign to me. In the early stages of the program, I viewed theory as a theoretical framework section in the dissertation that would briefly explain theories and ideas related to my topic and how they would apply to my specific research. I had no idea that my relationship to theory would evolve as much as it has over the past five years.

In the spring of 2015, I elected to take an advanced qualitative methods course to further explore my interests in conducting a qualitative research study for my dissertation. Early on in that course, we were introduced to post-qualitative research (St. Pierre, 2011), another term I was unfamiliar with at that point. The genesis for my dissertation originated through an assignment in that course that was post-qualitative in nature. We were asked to take various data sources from the Emma Sulkowicz Title IX case at Columbia University and plug them into three philosophical concepts from the course text, *Thinking with Theory: Viewing Data Across Multiple Perspectives* (Jackson & Mazzei, 2012). The approach coined as “thinking with theory” (Jackson & Mazzei, 2012) entails the plugging in of poststructural theoretical concepts into data, and vice versa. For my assignment, I used the concepts of marginality, intra-action, and desire from Gayatri Spivak, Karen Barad, and Gilles Deleuze, respectively. The assignment resonated deeply with me and turned out to be a pivotal moment.

When I employed Spivak’s (1993/2009) theoretical concept of marginality with Emma’s case, I gained an entirely new perspective on sexual violence in higher education through a rethinking of inquiry that seemed more purposeful and full of possibilities. The

idea of doing a post-qualitative study and “thinking with theory” (Jackson & Mazzei, 2012) was both intriguing and frightening. Although other scholars have used post-qualitative inquiry in their work prior to this project, this concept was entirely new to me. This approach to inquiry offered a much-needed respite from the constant focus on enrollment numbers, checklists, and the use of quantitative data in decision-making that dominates my professional world in the community college system. It was also far removed from the quantitative research (survey, data analysis) I saw myself doing at the beginning of the doctoral program.

This engagement with theory changed the direction I was heading in with my research interests. I was no longer simply reading about post-qualitative research (St. Pierre, 2011), I was actually doing it. I was using theory as a methodological process, even though it was for one brief assignment at that point. I realized that troubling the issue of sexual violence in higher education with theory, as I did with the Emma Sulkowicz case, could produce something new. At that moment, that very night in class, I began to see how putting to work theoretical concepts could provide a space to think differently about sexual violence in higher education, such as the discourse surrounding the 2011 Title IX “Dear Colleague” letter (DCL), the marginalization of sexual violence survivors navigating HEI Title IX processes, and the way HEIs are addressing campus sexual violence. I also began to see a connection between the mechanistic nature of Title IX compliance and Spivak’s (1993/2009) *teaching machine*, a complex academic structure “where weapons for the play of power/knowledge” (Spivak, 1993/2009, pp. 58-59) operate on a regular basis. Borrowing from Spivak’s (1993/2009) concept of the *machine*, I see the complex administrative structure of Title IX as the *Title IX machine*.

Possibilities for using theoretical concepts in my dissertation research were swirling through my mind after this assignment. My relationship to theory was redefined, and it ignited a desire to use poststructural theory as the foundation for my inquiry. I had discovered a research framework I could use to further explore the topic of sexual violence in higher education and my professional role of campus Title IX investigator, a role I inhabit, and contribute to the scholarly work done by feminist theorists of gender and violence such as: Susan Brownmiller (1975), *power and violence*; Catharine MacKinnon (1989), *state power*; Sharon Marcus (1992), *cultural and social rape scripts*; Martha McCaughey (1997), *embodiment and physical feminism*; Ann Cahill (2001), *embodiment*; Jennifer Doyle (2015), *campus security structures*; and Laura Kipnis (2017), *campus sexual paranoia*, to name a few. I discuss these feminist theorists and their scholarship in “Chapter 2: The Doing of Disruptive Inquiry: Theory and Methodology.”

Now that this project is complete, I can appreciate the role of the Title IX DCL as a major catalyst in shining a brighter light onto the issue of sexual violence in higher education. The DCL added sexual violence as a form of sex-discrimination covered by Title IX and reminded colleges and universities receiving federal funding of their responsibilities to effectively address sexual violence per Title IX requirements. At the same time, I also see how the HEI Title IX machine operates as a bureaucratic entity that at times undermines the goal of preventing and ending sexual violence in order to protect the institution. This does not mean I do not see a need for federal guidance and regulations to help address sexual violence, but I am disenchanted with the privileging of strategies that address sexual violence after it has occurred and the “inadequate, unreliable, and partial” Title IX investigations

conducted by HEIs. Even though the 2011 DCL is now rescinded¹ and replaced with new temporary guidance in 2017, Title IX's role in addressing sexual violence is likely here to stay, in some form, and will continue to be a focal point of the discourse surrounding sexual violence in higher education.

Purpose of Inquiry

I owe the idea for this body of work to the extremely powerful “thinking with theory” (Jackson & Mazzei, 2012) class activity described above. The purpose of my dissertation study is to disrupt and rethink sexual violence prevention and investigations in higher education by using deconstruction to uncover hidden meanings, trouble privileged truths, and explore the production of marginality. Spivak (1993/2009) so wisely pointed out that “the greatest gift of deconstruction” is “persistently transforming conditions of impossibility to possibility” (p. 6). This work will disrupt inquiry into the seemingly *impossible* issue of sexual violence in higher education by using a methodology that challenges positivist thoughts about research, data collection, data analysis, and rigid notions of what qualifies as representation. For example, Brown (2017) used the poststructural concepts of Gayatri Spivak (marginality) and Judith Butler (mattering) in her post-qualitative dissertation to investigate the entanglement of academics and athletics in higher education. She used Spivak's and Butler's concepts alongside textual data sources as a unique way to examine a recent athletic scandal at a major four-year university. She used writing as her analysis and presented her work in the form of tales, which she borrowed from organizational theorist John Van Maanen.

¹ The Department of Education (DOE) rescinded the 2011 Title IX “Dear Colleague” Letter in September 2017. The DOE issued the *Q&A on Campus Sexual Misconduct* as interim guidance and noted that it would rely on the 2001 *Revised Sexual Harassment Guidance* document in its enforcement efforts.

Looking at the sexual violence in higher education literature through a poststructural theoretical lens prompted the formation of my overarching question: What is (*not*) happening with sexual violence in higher education? I asked myself this question as I began to formulate this dissertation project by thinking with Spivak (1974/1976, 1993/2009) and her use of the poststructural concepts of deconstruction and marginality. I thought of Spivak's political use of theory as a space to challenge the normalization of sexual violence in higher education (Morton, 2009). Her ideas pushed me to be disruptive with this project as I (re)read key texts designed to address sexual violence on college campuses, and as I explored the interactions between survivors (margin) and the Title IX machine (center) and how those interactions are producing marginality.

In a double move, I ask both what *is* and what *is not* happening with sexual violence in higher education. To investigate these questions, I put to work Spivak's (1974/1976) deconstruction to examine the discourses surrounding the words safety, protection, and prevention, and uncover hidden meanings and privileged truths in the 2011 Title IX "Dear Colleague" Letter (Appendix A), White House Task Force (WHTF) Report, "Not Alone," (Appendix B) and the Violence Against Women Act (VAWA) Final Rule (Appendix C), respectively. I briefly demonstrate how modal auxiliaries such as "must" and "should" in the texts contribute to the breakdown of meaning for readers, such as HEIs trying to manage their risks by being compliant. After examining intervention (post-assault) and prevention (pre-assault) requirements within the texts, my analysis reveals the privileging of post-sexual assault bureaucratic interventions over pre-sexual assault prevention strategies.

I also explore what *is* and *is not* happening as HEIs operate like a machine to shape the contours of survivors reporting sexual violence incidents. I specifically use female

survivor narratives and Office for Civil Rights (OCR) Title IX investigation resolution agreements as data sources. This part of my analysis also uses deconstruction to explore margin/center politics and the production of marginality (Spivak, 1993/2009) beginning at the moment a sexual assault survivor enters a HEI's Title IX machine in search of the support and understanding offered to her when she first enrolled. Spivak's (1993/2009) concept of marginality allows me to see the messy entanglement of sexual violence survivors with the questionable practices of the Title IX machine on college campuses. In order to engage with this entanglement, I examine three thresholds of marginality navigated by survivors after a sexual assault report, which included: 1) struggle, 2) resistance, and 3) accountability. Marginality is produced in these thresholds as survivors *struggle* both with the impact of being sexually assaulted and with navigating HEI Title IX policies and procedures after reporting an assault, *resist* questionable actions of HEIs during and after campus Title IX investigations, and search for HEI *accountability* by speaking out or filing formal Title IX complaints with OCR. Illuminating how margin/center politics work within these thresholds can show HEIs how their questionable practices and responses to sexual violence complaints push survivors to the margin, while more appropriate responses can create space for survivors beside them in the center.

Throughout this work, I ask what *is* and what *is not* happening with sexual violence in higher education. What is happening? Sexual violence continues to be a prevalent issue in higher education despite the guidelines, recommendations, and regulations outlined in the DCL, WHTF, and VAWA. The DCL and VAWA compliance requirements continue to trouble HEIs today. Many HEIs have taken their responsibilities to address sexual violence extremely seriously, but the quest to be compliant has led them to create overzealous

bureaucratic policies and procedures. In far too many cases, the drive to protect the image of the institution leads to improper handling of sexual violence complaints. Also, hidden messages and privileged truths in the DCL, WHTF, and VAWA privilege post-sexual assault intervention over pre-sexual assault prevention efforts.

What is (*not*) happening? The number of females who will experience sexual violence or attempted sexual violence on college campuses is *not* decreasing, even with all of the bureaucratic policies and procedures now in place at HEIs. Recommended prevention efforts in the DCL, WHTF, and VAWA are *not* on equal footing with required intervention efforts. Far too many survivors (and accused students) are *not* being provided with adequate, reliable, and impartial investigations of Title IX complaints by HEIs, which can result in OCR complaints and investigations. When OCR finds HEIs *not* in compliance, additional bureaucratic structures are created by HEIs to become compliant and return to the good graces of OCR. The cycle of what *is* and what is *not* happening then continues all over again.

In sum, the purpose of my post-qualitative study is to deconstruct the language in key texts that address sexual violence in higher education, to explore hidden meanings and privileged truths, and to analyze how marginality is being produced within/between the margin (survivors) and the center (HEI) once a Title IX complaint is filed with an HEI. The concepts of deconstruction and marginality will be discussed in more detail in “Chapter 3: Deconstruction at Work: Happenings in Title IX, White House Task Force Report, and the Violence Against Women Act” and “Chapter 4: Happenings in Marginality: Shaping the Contours of the Margin,” respectively.

Analytical Questions

The analytical questions below were purposefully crafted to allow for the use of the concepts of deconstruction (Spivak, 1974/1976) and marginality (Spivak, 1993/2009) in my reading and analysis of the chosen data sources. In developing these questions, I contemplated how deconstruction and marginality could help disrupt and rethink the *happenings* within sexual violence in higher education. The deconstructive *happenings* are *always already* present in the data sources and are ready to be explored and analyzed. My analytical questions are presented as part of a poststructural framework, which recognizes meaning as always moving, tentative, unstable, and never complete (Vagle, 2014). The analytical questions that will guide this study are as follows:

1. *What meanings/explanations are left out or hidden in key texts designed to address sexual violence in higher education?*
2. *What is being represented and privileged as truth in key texts designed to address sexual violence in higher education?*

Deconstruction involves “looking at how a structure has been constructed, what holds it together, and what it produces” (St. Pierre, 2000, p. 482). It is used to dismantle texts and reconstitute “what is always already inscribed” (Spivak, 1974/1976, p. lxxvii) in them. Using deconstruction as a “mode of reading can...situate the implicit metaphysics of presence (Spivak, 1993/2009, p. 114). Looking for hidden and omitted meanings requires looking within the margins for overlooked details such as metaphors, footnotes, and turns in arguments (Rolfe, 2004). Spivak used deconstruction to look “for what is concealed, repressed, or pushed away” (Jackson & Mazzei, 2012, p. 38). Spivak (1974/1976) pointed out that the hierarchical and privileged binary opposites and metaphors should be exposed

and challenged, then reversed, and eventually pulled apart to see what truths have been represented and constituted. This careful and rigorous reading demonstrates the unreliability of language and helps to question and displace supposed truths and meanings in texts.

3. *How do margin/center politics produce marginality in sexual violence cases in higher education?*

The first two research questions establish the deconstructive groundwork for the third question of my conceptual analysis. After examining key legislative texts for hidden meanings and privileged truths, I use Spivak's (1974/1976) deconstruction to disrupt and reposition marginality as constituted within the margin/center (Jackson & Mazzei, 2012). Spivak used deconstruction to examine what is happening "in-between" the margin/center (Jackson & Mazzei, 2012, p. 38). Spivak (1993/2009) posed that the center wants to define the identity of the margin so that those who claim they are being marginalized can then be validated and certified by the center. This process is called "identification through separation" (Spivak, 1993/2009, p. 61). The center shapes the contours of the margin in order to meet its needs. In this work, the center is the HEI Title IX machine that works to identify and separate sexual violence survivors in the margin². Deconstruction works in the middle of the margin/center binary to show how marginality is produced through the positioning of sexual violence survivors as *outside in* the Title IX machine.

The (Im)Possibility of Sexual Violence in Higher Education

An understanding of sexual violence in higher education can provide the context for the seemingly *impossibility* of this issue. The literature reviewed for this study showed a prevalence of sexual violence against women while they are enrolled in college (Carey,

² More information on marginality, the margin/center binary, and the Title IX machine is provided in "Chapter 4: Happenings in Marginality: Shaping the Contours of the Margin."

Durney, Shepardson, & Carey, 2015; Fisher, Cullen, & Turner, 2000; Krebs, et al., 2007; Krebs et al., 2016). One of the first major studies on campus sexual violence used a questionnaire that asked about various sexual experiences (Koss, Gidycz, & Wisniewski, 1987). The questionnaire was sent to more than 6,000 students, mostly female, at 32 higher education institutions. The results showed that one in five females were victims of sexual violence while in college, that 15% of females had experienced an incident of completed rape since the age of 14, and that over 12% had experienced attempted unwanted sexual intercourse. The study by Koss and colleagues was groundbreaking, but some researchers argued against the findings and minimized the prevalence of sexual violence in higher education by claiming that any researcher could find an issue of sexual violence on a college campus if he or she wanted to find it (Fekete, 1994; Gilbert, 1991). Despite their critics, the research methods used by Koss and her colleagues were considered a best practice in campus sexual violence studies for over 20 years.

More recent research on sexual violence has expanded the earlier work and provided additional data showing sexual violence is a prevalent issue on college campuses. Statistics from The Campus Sexual Assault (CSA) Study funded by the United States Department of Justice (Krebs et al., 2007) and other studies (Black et al., 2011; Centers for Disease Control and Prevention [CDC], 2012; Krebs et al., 2016) indicated that one out of every five undergraduate females were likely to be a victim of sexual assault or an attempted sexual assault during their college years. The National Intimate Partner and Sexual Violence Survey (NIPSV) also suggested a similar estimate. The National Crime Victimization Survey (NCVS) found that females ages 18-24 were more likely to be victims of sexual violence than other age groups (U.S. Department of Justice, 2014). Eighteen to twenty-one-year-old

females were found to be at an even higher risk and were four times more likely to be a victim of sexual violence than any other age range (Karjane, Fisher, & Cullen, 2005). Research also showed that females are the most likely targets of sexual violence during their freshman and sophomore years (Krebs et al., 2007). Another finding of concern was that between 80-90% of victims actually knew their attacker (Krebs et al., 2007; U.S. Department of Justice, 2014), which can blur the lines regarding consent and create confusion for victims about whether or not to label an incident as rape.

While both females and males experience sexual violence in college, the majority of victims are women (Black et al., 2011; Krebs et al., 2007; U.S. Department of Justice, 2014). This imbalance in victimization is related to campus cultures that 1) rigidly define gender roles, 2) disregard inequalities between males and females, and 3) privilege male aggression. To combat this issue, more than 35 laws on campus safety have been passed since 1986 (Clery Center for Security on Campus, n.d.), yet sexual violence still remains one of the greatest challenges facing higher education institutions today (Black et al., 2011; Krebs et al., 2007; Krebs et al., 2016).

The literature discussed above frames the issue of sexual violence in higher education and highlights the need for the continuation of research that troubles the discourses and structures that influence how we think about sexual violence in higher education. Studies have indicated that sexual violence is a widespread issue in higher education (Krebs et al., 2016), and the impact on victims is devastating (Kirkland, 1994; National Sexual Violence Resource Center, 2010). Many HEIs have responded to research and legislative actions related to sexual violence by revising campus policies and procedures and incorporating best practices from other institutions. Despite the amount of research outlining the scope of sexual

violence issues and campus efforts to address it, sexual violence continues to be woven into the everyday fabric of college life.

After reviewing the literature on sexual violence, I chose to resist the “exhausted structures” (St. Pierre, 2011, p. 623) and boundaries found in traditional social science research to rethink and deconstruct what *is (not)* happening with sexual violence in higher education. My research disrupts the traditional inquiry conducted on sexual violence in higher education by employing post-qualitative research to explore key texts designed to address sexual violence, sexual violence survivor narratives, and OCR Title IX investigation resolution agreements. This work challenges prevalent interpretations of the texts and unveils the workings of margin/center politics. I deconstruct what is *(not)* happening with(in) the texts designed to address sexual violence in higher education, and I deconstruct what is *(not)* happening with(in) the interactions of sexual violence survivors and higher education institutions (HEIs). As demonstrated in this project, “deconstruction has already happened; it is happening at this moment, everywhere” (St. Pierre, 2011, p. 623). Ending sexual violence may seem like an *impossible* goal for many educators, but I propose that disrupting and rethinking sexual violence through creative inquiry can create space for the *possibility* of accomplishing that goal.

A Brief Word on Poststructuralism

Poststructuralism, a philosophical approach that has been used as a framework for understanding many social issues, including sexual violence in higher education, serves as the theoretical foundation of this project. This approach helps me understand how philosophical concepts can work within and between individuals constituted by multiple structures and systems (Jackson & Mazzei, 2012). A poststructural framework provides a

unique approach to analyzing and examining individual experiences and the factors that contribute to the social construction of sexual violence in higher education. These factors include language, relationships, beliefs, values, and practices (Belsey, 2002). The application of a poststructural framework can help higher education institutions better understand and address the prevalent and intricate issue of sexual violence on their campuses.

Poststructuralism provides space to explore new thought processes in understanding sexual violence in higher education. In this study, I challenge systems and structures at work within higher education institutions and emphasize existence over essence, differences over universal truths. Williams (2005) stated, “One aspect of poststructuralism is its power to resist and work against settled truths and oppositions. It can help in struggles against discrimination on the basis of sex or gender” (pp. 3-4). Building on the ideologies of poststructuralism, I disrupt hidden meanings, supposed truths, assumptions, and hierarchies with the process of deconstruction, and explore the production of marginality in sexual violence in higher education. More information on poststructuralism is discussed in “Chapter 2: The Doing of Disruptive Inquiry: Theory and Methodology.”

In this dissertation, I use a post-qualitative research framework, which opens up the structures surrounding sexual violence in higher education that are “being disciplined, regulated, and normalized” (St. Pierre, 2011, p. 613). In this work, I conduct both a deconstructive and theoretical reading of the issue of sexual violence in higher education. I use deconstruction to uncover hidden meanings and contradictions and reverse and displace dichotomous terms to see what could not previously be seen within the texts and interactions between HEIs and sexual violence survivors. I explore the deconstructive *happenings* in the language of safety, protection, and prevention foregrounded in the legislative texts and in the

structures that privilege sexual violence intervention strategies over prevention and show how the intervention/prevention dichotomy actually contradicts and undermines itself. My conceptual analysis will also employ Spivak's (1993/2009) concept of marginality to explore the dynamics at work between the margin, survivors of sexual violence, and the center, the Title IX machine, and how marginality is produced in the in-between.

The data sources I used in this project include the 2011 Title IX "Dear Colleague" Letter, the 2014 White House Task Force Report, "Not Alone," and the 2014 Violence Against Women Act Final Rule, narratives from female sexual violence survivors, and Office of Civil Rights (OCR) Title IX investigation resolution agreements. I work among, through, and within these materials to expose the discourses surrounding sexual violence in higher education through the use of poststructural theory and concepts.

Critiquing the Field I Inhabit

Brown, Carducci, and Kuby (2014) noted that "research and writing are not neutral" (p. 9) and that we all have key moments in our lives that lead us to inquiry. Justification for a research problem can come from professional or personal experiences as well as from scholarly literature (Creswell, 2012). My justification for exploring the issue of sexual violence in higher education can be explained in terms of my professional and educational positionality in relation to the research. As Spivak (1993/2009) acknowledged her space of privilege in her postcolonial work, I must do the same in this examination of sexual violence in higher education. Being a female administrator of privilege does not make me interchangeable with the female survivors in this dissertation just because I am female. My position only allows for a disrupting of sexual violence in higher education from within. It is important that I acknowledge the impossibility for me *not* to have a position on the issue of

sexual violence in higher education based on my own personal beliefs and my professional work experience. As Pascale (2011) stated, “We need to consistently explore not only our own locations as researchers but also the foundations and assumptions of the social research paradigms that we have inherited” (p. 38). My positionality provides a context to explain why the issue of sexual violence in higher education is important to me as a researcher.

The murder of Jeanne Clery at Lehigh University in 1986 generated an enormous amount of media coverage about campus violence, but I did not personally become aware of her story until the mid 1990s. At that time, I had just started my first professional position as a counselor at a small rural community college in North Carolina. I quickly learned that disclosing our campus crime statistics was a requirement of the Clery Act, which was named after Jeanne Clery. Although my primary duties as a community college counselor revolved around enrollment management, I was still expected to provide personal counseling to students as needed. Personal counseling included working with students who reported concerns related to sexual misconduct on or off campus.

While working as a counselor and director of counseling at two different community colleges for 16 years, there were very few cases related to sexual harassment and misconduct reported to the counseling office. There was also little emphasis on sexual misconduct prevention, awareness, reporting, and procedures to address the issue at those institutions, even though the DOE had released guidance documents and “Dear Colleague” letters to HEIs about addressing sexual harassment in 1997, 2001 and 2006. While Jeanne Clery’s story was the beginning point of new legislation to address campus violence, it did not translate into funding dollars for colleges and universities to improve support services for students. Even though community colleges are traditionally non-residential campuses and do not have

fraternities and sororities, thus reducing the opportunities for on-campus sexual misconduct incidents compared to four-year institutions, I am certain there were more than a few students who needed information and support after a nonconsensual sexual encounter during the 16 years I spent working in a counseling setting.

My direct work in the area of counseling ended in February 2011 when I accepted my current position as associate vice president for Student Affairs. This position initially involved implementing the student code of conduct and maintaining compliance with state and federal laws among many other duties. Two months into this position, I was made aware of the newly released Title IX “Dear Colleague” Letter (DCL) from the Department of Education’s (DOE) Office for Civil Rights (OCR). The DCL was a 19-page document full of “must” and “should” statements requiring higher education institutions receiving federal funding, which includes just about every institution in the country, to take specific actions to address sex discrimination on their campuses. The DCL pointed out that OCR was now interpreting sexual harassment to include sexual violence as a form of sex discrimination.

Since my new position involved compliance with federal laws, I was tasked with the responsibility of reviewing the DCL and creating a list of required changes for my institution. I reviewed the DCL, participated in numerous webinars and trainings, and consulted with colleagues both on and off campus in an attempt to better understand what changes needed to be implemented at my institution to be compliant with Title IX. Throughout this process, it became obvious that there was widespread confusion and uncertainty among HEIs about how to meet the mandates in the DCL. Some institutions I reached out to were not aware of the DCL months after its release in April 2011. After developing a checklist of required changes for my institution, we began the long journey to become compliant with Title IX based on the

DCL. This journey continued with VAWA in 2014, and again in 2017 with the release of new temporary Title IX guidance from the DOE.

Many institutions have struggled to improve sexual misconduct policies and disciplinary processes and to meet the requirements outlined in the DCL. There appears to have been a breakdown between the purpose and intent of the DCL and the decisions of many colleges and universities to reduce the mandates to a checklist to avoid non-compliance instead of meeting the spirit of the law and truly helping students. This has left many survivors of sexual violence caught between the laws designed to help reposition them within the center of campus sexual violence discourse and the actions of some Title IX machines working to keep them in the margins. After years of research and recent legal mandates requiring colleges to better address sexual violence on their campuses, sexual violence in higher education remains a prevalent campus issue. This would suggest that continuing to look at sexual violence in higher education through different lenses would help uncover new insights regarding the ideologies and worldviews that inform the issue. This type of inquiry could show how regulations and actions designed to address sexual violence actually “undo” each other and contain hidden biases that marginalize sexual assault survivors.

My professional experiences in the counseling arena and working directly with Title IX mandates highlights the challenges HEIs have faced in addressing sexual violence issues on campus and meeting the requirements outlined in the DCL. My direct involvement in investigating and adjudicating sexual harassment and misconduct cases on my campus, implementing Title IX and VAWA requirements, and reviewing recommendations in the WHTF certainly gives me a unique perspective on my topic. As Spivak (1993/2009) would point out, I have a critical intimacy with the administrative structures that are charged with

addressing sexual violence in higher education, while simultaneously being in a position to critique the structures “that one cannot not (wish to) inhabit” (Spivak, 1993/2009, p. 284).

Moving from a counseling role into the administrative realm of Title IX and VAWA compliance has been a daunting, frustrating, and overwhelming journey. I was handed a large portion of the responsibility to ensure my institution was compliant with Title IX and VAWA, and it was a major undertaking. The wheels of institutional change can certainly turn slowly. My role in this process included revising campus policies, procedures, and publications, investigating Title IX complaints and interviewing complainants and accused students, and conducting Title IX training sessions for faculty and staff. Learning about theory in relation to the phenomenon of sexual violence was an afterthought at best in the first few years in my new role. All of that changed once I was introduced to poststructural theory and the concepts of deconstruction and marginality in my doctoral coursework. I began to imagine an inquiry into sexual violence in higher education that was related to the compliance language in Title IX and VAWA, and eventually the WHTF. Even though I had read the DCL, WHTF, and VAWA texts numerous times, I wanted to (re)read them more carefully using the process of deconstruction. Based on my professional work with Title IX, specifically investigations, I also wanted my inquiry to explore sexual violence survivor narratives, Title IX institutional processes, and Title IX OCR complaint investigations. Using the concept of marginality was the perfect tool for this portion of my analysis. In the section below, I provide a brief guide to my dissertation project and an overview of each chapter in this post-qualitative work.

A Guide to This Study

This conceptual analysis disrupts the traditional dissertation model found in many dissertations and avoids the use of traditional headings such as “literature review” and “findings.” This disruptive dissertation journey attempts to “(re)create what we know as ‘normal’ for academic texts” and “not do what we’ve always done” (Hughes & Vagle, 2014, p. 258). This work is emergent and entangles the topic of sexual violence in higher education with reviewed literature, poststructural theory and concepts, post-qualitative methodology, and data sources. The traditional dissertation model can create an “artificial separation” (St. Pierre, 2011, p. 621) of these elements by placing them in silos. As St. Pierre (2011) noted, “In the end, it is impossible to disentangle *data*, *data collection*, and *data analysis*” (p. 622). The freedom to break away from the traditional dissertation and experiment with *possibilities* of inquiry created the space to “think with theory” (Jackson & Mazzei, 2012) in this post-qualitative analysis. Thinking with Spivak (1974/1976, 1993/2009) allows me to disrupt, deconstruct, and rethink what is (*not*) happening with sexual violence in higher education. I *disrupt* by using poststructural theory and concepts within a post-qualitative framework, I *deconstruct* the *happenings* in the DCL, WHTF, and VAWA, and in the interactions of survivors and HEIs, and I *rethink* the (*im*)*possibility* of ending sexual violence in higher education throughout this analysis.

The chapters that follow in this dissertation delve into the foundational role of theory and the use of post-qualitative inquiry in this work, puts to work the concepts of deconstruction and marginality to explore the *happenings* with sexual violence in higher education, and concludes with insights for HEIs who continue to wrestle with the issue of campus sexual violence. In Chapter 2, I present information on poststructuralism, feminist

theories of gender and violence, poststructural concepts, postqualitative inquiry, data sources and analytical questions, and the use of *thinking with theory* as a process methodology in this work. In Chapters 3 and 4, the entanglement of the literature on sexual violence in higher education, poststructural theory, and the data sources used in this work emerges as I employ deconstruction and marginality to analyze the *happenings* in sexual violence prevention and investigations in higher education. In Chapter 5, I summarize my conceptual analysis and offer recommendations for policy and practice.

Chapter 2: The Doing of Disruptive Inquiry: Theory and Methodology

The literature presented in Chapter 1 and in the analysis chapters of this dissertation demonstrates that sexual violence in higher education is a widespread, prevalent issue that has devastating effects on survivors, who are predominantly female. A wide array of quantitative and qualitative research has been conducted on the topic of sexual violence in higher education. This project will work alongside that research as I work “*within and against interpretivism*” (Jackson & Mazzei, 2012). I appreciate the significance of this prior research and its ability to propel sexual violence into the national spotlight, but I want to answer “a call to...do disruptive work” (Brown, Carducci, & Kuby, 2014, p. 25) in this dissertation project.

In this chapter, I explicate the use of poststructuralism as my theoretical foundation for doing disruptive work. Poststructuralism serves as my springboard to trouble what is (*not*) happening with sexual violence in higher education as I engage the analytical questions listed below:

1. *What meanings/explanations are left out or hidden in key texts designed to address sexual violence in higher education?*
2. *What is being represented and privileged as truth in key texts designed to address sexual violence in higher education?*
3. *How do margin/center politics produce marginality in sexual violence cases in higher education?*

This chapter also focuses on my use of post-qualitative inquiry as a disruptive methodology, the process method of *thinking with theory* (Jackson & Mazzei, 2012), and the data sources used in my theoretical analysis. Furthermore, I explain the format of representation in this work as I engage with deconstruction through the *happenings* in the texts used in this study in Chapter 3 and the *happenings* in marginality in Chapter 4.

Poststructuralism

In this dissertation, I work within the theoretical framework of poststructuralism and use the concepts of deconstruction and marginality to enrich and produce meaning as contextual, situational, and partial (Vagle, 2014). First, I provide a brief history of poststructuralism, along with its key principles and assumptions, as they relate to my inquiry into sexual violence in higher education. I then review feminist theories of gender and violence that were important to this work. Finally, I briefly examine the specific poststructural concepts of deconstruction and marginality as a conceptual framework to open up my analysis of the *happenings* within sexual violence in higher education to produce different knowledge and ways of being.

Background

Poststructuralism was a 20th century movement that emerged in France in the 1960s and 1970s as a distinctive intellectual phenomenon in response to the flaws, limitations, and gaps of structuralism (Williams, 2005). Structuralism heavily influenced linguistics and was focused on the study of language as a system of signs and symbols (Nealon & Giroux, 2012). It was also based on the premises that every system has a structure as its foundation, everything has meaning and an absolute truth, and meaning is constructed and does not occur

naturally (Belsey, 2002; Nealon & Giroux, 2012). As certain philosophical perspectives shifted away from structuralism, the era of poststructuralism emerged. The “post” in poststructuralism came about because it rejected and surpassed structuralism’s claims that systems and structures are in existence within all aspects of human life and reality and that truth comes from understanding these structures. The thought process of structuralism locates a complicated phenomenon such as sexual violence within systems and structures that would supposedly construct its reality and truth. Poststructuralism rejects the notion of absolute truth and proposes its concepts can challenge the limitations of systems and structures and produce multiple interpretations of a prevalent issue like sexual violence (Williams, 2005).

Philosophers such as Jacques Derrida, Roland Barthes, and Michel Foucault, who were originally seen as structuralists, began to see the possibility for new and different approaches in linguistics and the social sciences (Belsey, 2002). While poststructuralism retained some elements of structuralism, such as the acknowledgement of language’s critical role in meaning and the influence of discourse, it moved in its own unique direction by virtue of its critique of structuralism’s (Belsey, 2002) tendency to be rigid and deterministic while disregarding individual agency (Nealon & Giroux, 2012). The poststructuralist movement was heralded for questioning truth, reality, and meaning by believing in more than one core truth and focusing on multiple meanings (Belsey, 2002).

Poststructuralism is primarily concerned with the relationship between people, the world, and the production of meaning (Belsey, 2002). Poststructuralism challenges any claim that the world is known with any degree of certainty. Meaning is thus derived from a variety of perspectives and differences, but it can also be “challenged and changed” (Belsey, 2002, p. 88). While there are a number of unique perspectives and concepts within poststructuralism,

this dissertation project leans on several key principles and assumptions to help me rethink what is happening with sexual violence prevention and investigations in higher education. I now provide a brief description of these principles and assumptions and their relationship to this dissertation project.

Signs, Systems, and Structures

The system of the sign (sign = signifier + signified) played an important role in the claims of structuralism. Poststructuralism “retains structuralism’s emphasis on language” (Whisnant, 2012), but it rejects its idea of a fixed relationship between the signifier and the signified. Poststructuralism takes this idea and challenges it “at its most central point, the movement from the particular (the signifier) to the structure that governs it (the signified)” (Nealon & Giroux, 2012, p. 149). The same signifier, the word “survivor” for example, can be used to represent a victim of sexual violence and also someone in remission from breast cancer. This simple example shows why poststructuralists see meaning as pluralistic instead of universal.

Poststructuralists believe that symbolizing systems produce differences and distinctions that individuals learn through the use of language (Belsey, 2002). Poststructuralists recognize that the power of systems can place limitations on individuals in life but acknowledge that these same individuals need spontaneity and unpredictably while they navigate it. Systems and structures do not have the ability to completely control individuals. In actuality, systems tend to create a number of tensions and ambiguities within people. Structuralism and poststructuralism both have logical perspectives about how systems and structures work, but poststructuralism places more emphasis on the differences that could, and do, break down these systems and structures to produce meanings. Derrida

refers to this as differance, where one signifier “*differs* from another signifier” and “*defers* the meaning it produces” (Belsey, 2002, p. 83). As I think with this key aspect of poststructuralism, I explore the differences at work within systems and structures designed to address sexual violence in higher education in the DCL, WHTF, and VAWA and the breakdown of meaning with key signifiers such as “safety,” “protection,” and “prevention” and the privileging of intervention strategies over prevention in these texts.

Emphasis on Language and Meaning

Language plays a critical role “in our social relations, our thought processes, and our understanding of who and what we are” (Belsey, 2002) and is a key focal point of a poststructural analysis. Poststructuralists believe in the idea that a variety of perspectives of the world create numerous interpretations of meaning. They propose that language systems constitute meaning; therefore, poststructural theory offers a way to explore the things we “claim to know.” Meaning is seen as uncertain and ruptured through ambiguity and contradiction. A rupture exists in language systems between the signifier and the signified, and this rupture produces uncertainty in meaning and uncovers the inadequacy in language systems. Derrida refers to this as the “freeplay” of language. An analysis of the language within the data sources used in this study opens the door to uncover hidden meanings and to question privileged truths. Truths and meaning are strongly tied to language, which “is a social system of meaning” (Nealon & Giroux, 2012). As I think with language, I examine how it is producing and privileging certain ideas and ways of knowing over others. For example, the language used in the data sources that signify safety and protection for sexual violence survivors as truth is pushed into “freeplay,” a questioning of this truth through contradictions, omissions, and hidden meanings. Language used during the interactions of the

margin/center determines what is produced and what is being valued.

Theorizing Sexual Violence: The Feminist Wave and Poststructuralism

Sexual violence in higher education has been researched in a multitude of ways, yet it still remains an undertheorized issue (Heberle & Grace, 2009). Initial theories about sexual violence viewed women as male property serving in an economic capacity (Brownmiller, 1975). By the mid 1900s, theories of sexual violence were connected to the mental health of rapists, even though psychoanalysts such as Freud, Jung, and Adler rarely, if ever, mentioned rape in their research (Brownmiller, 1975). Rape was considered a rare event, and rapists were seen as having a lack of impulse control or a chemical imbalance. These perspectives and beliefs were challenged in the 1970s during the rise of second wave radical feminism. Feminists, sociologists, and other activists pushed for an increased awareness about rape. FBI statistics from that time period showed that rape was not “committed by psychopaths or deviants from our social norms” (Dworkin, 1976, p. 45) as previously suggested. Rape was also much more prevalent than previously known, and women were likely to know their rapist. The theory that most rapists were mentally ill was abandoned, but the belief that males could not control impulses and that females were responsible for not getting raped prevailed. The concept of “rape culture” emerged as society blamed rape victims and normalized male violence.

This ideology contributed to the focus on gender roles and the privileging of males over females in the male/female binary. Male aggression was deemed natural and masculine, and female subordination as natural and feminine. As research on sexual violence continued, rape was identified as a part of the patriarchal system, also known as “male solidification of

power” (Brownmiller, 1975, p. 17). One of the most infamous quotes during the rise of second wave feminism came from Brownmiller (1975):

Man’s discovery that his genitalia could serve as a weapon to generate fear must rank as one of the most important discoveries of prehistoric times, along with the use of fire and the first crude stone axe. From prehistoric times to the present, I believe, rape has played a critical function. It is nothing more or less than a conscious process of intimidation by which all men keep women in a state of fear. (p. 15)

Brownmiller’s philosophy of rape began to materialize in the early 1970s during her involvement with a radical feminist group in New York (Bevacqua, 2000). This consciousness-raising (C-R) group challenged and changed common views of rape (Bevacqua, 2000). Brownmiller’s own view of rape changed dramatically when members of her group began to share “harrowing experiences of rape or attempted rape” (Bevacqua, 2000, p. 32). Based on those experiences, Brownmiller no longer believed that rape was nothing more than a sex crime. She explored the role of power and violence in rape after analyzing the male/female hierarchy and the tensions between violence/sex in her groundbreaking book *Against Our Will* (1975). Through her work she determined that rape is about violence for victims, not sex. As Cahill (2001) noted in her work, Brownmiller proclaimed that rape “in all its forms is primary political” (p. 19), motivated by power of one group, men, over another group, women. MacKinnon (1989) added clarity to Brownmiller’s claim by noting that while rape is violent for a victim, an alleged perpetrator may view it as just sex. Cahill (2009) stated that MacKinnon’s work “placed sexual violence...on the continuum of dominant heterosexual behaviors” (p. 18) and determined it was a “logical

extension” (Cahill, 2001, p. 3) of heterosexuality. MacKinnon (1989) argued that the state perpetuated male dominance through its laws and policies.

The radical feminist philosophies of MacKinnon and Brownmiller contributed greatly to rape reform by exploring it as both a “political and philosophical question” (Cahill, 2001, p. 16). Their work shifted the blame away from rape victims to perpetrators, explored the role of societal factors, and shed light on rape’s oppressive effects. While MacKinnon hoped her theory would result in a challenge to the state to offer legal/state solutions to violence against women, Matthews (1994) critiqued the role of the state in addressing violence against women. Similarly, as the DCL attempted to offer schools solutions for addressing sexual violence, some scholars challenged its content and critiqued the actions taken by higher education institutions in order to be compliant with the DCL (Doyle, 2015; Gersen & Suk, 2016; Kipnis, 2017).

Building on Brownmiller and MacKinnon, other feminist theorists have used poststructural insights to explore rape and sexual violence discourse. Their work has either extended or challenged radical feminist theory. For example, Marcus’ (1992) analysis of rape was “radically different from Brownmiller’s” (Gavey, 2005, p. 188). Marcus (1992) described Brownmiller’s stance as hampering “our ability to challenge and demystify rape” (Marcus, 1992, p. 387), because Brownmiller seemed to frame sexual assault as a problem rooted in and facilitated by biological sex differences. Marcus (1992) explored the role of cultural and social rape scripts in producing the feminine body. As noted by Gavey (2005), Marcus used a poststructuralist argument to address “reiterations of representations of women as passive and vulnerable...more rapable...and men’s bodies as more able to rape” (p. 216). Marcus (1992) worked to undo women as rapable by promoting women’s self-

defense. In Chapter 3, I explore self-defense as an overlooked primary prevention strategy as part of my deconstruction of the tensions between intervention/prevention found within the DCL, WHTF, and VAWA texts.

Heberle (1996) deconstructed “masculinist power and feminine victimization” (p. 63) by examining the strategy of “speaking out” to determine if the movement to expose sexual violence leads to change or if it actually reifies male dominance. Heberle (1996) determined that in order for this movement to work, “speaking out” must include the differences in rape experiences and stories of those who resisted their attacker and avoided being raped. In Chapter 4, I use the concept of marginality to analyze what gets produced when survivors “speak out” about the way they are treated by their HEI during the Title IX investigation process.

In her book *Real Knockouts*, McCaughey (1997) challenged feminists to stop seeing rape as an inevitably and explored the ways rape culture is embodied and lived out in the everyday lives of females. She used the term “physical feminism” to advocate for self-defense, and as a way to for women to break free of the embodied rape culture. Like Marcus (1992), McCaughey (1997) saw self-defense as having the capability to both empower women and challenge traditional cultural norms. She has recently argued for the inclusion of self-defense as a primary prevention strategy for rape prevention education on college campuses (McCaughey & Cermele, 2015).

Cahill (2001) examined the theories of Brownmiller and MacKinnon and determined that their work did not fully explore the connections between “social and political power, sexual hierarchization, and embodiment” (p. 3). Cahill (2001) argued that Brownmiller overlooked the sexual nature of rape, and MacKinnon left little to no room for feminine

agency. Cahill (2001) extended the work of Judith Butler and Luce Irigaray on theories of the body by analyzing the “relation between the body and agency, thus serving to argue against theories that preclude the possibility of feminine subjectivity” (p. 49). She ultimately concluded that rape, and the threat of rape, is an embodied experience that constructs feminine subjects. Like Marcus and McCaughey, both Cahill (2001) and Gavey (2009) championed self-defense training as a way to resist these constructs.

Brison (2002), a sexual violence survivor herself, also used a philosophical lens in order to gain a better understanding of violence against women. She did not find meaning for her sexual assault through philosophy, but she did discover how writing, thinking, and theorizing her experience challenged the “limits of language” and “current assumptions”(p. xi) of what was viewed as legitimate inquiry of sexual violence. Brison’s perspective aligns with the poststructural ideas that language systems cannot be trusted to provide meaning and that poststructural methodologies can offer different ways to explore traditional “ways of knowing” about a phenomenon.

The small sample of philosophical work discussed above highlights the important role feminist poststructural theorists have played in theorizing sexual violence. The work of these theorists deepened my understanding of sexual violence and created space “to consider serious changes” (Jensen, 2013, p. 23). Theory can certainly help us “find things...we didn’t expect to find” (Esterberg, 2002, p. 9). This dissertation contributes to the theoretical efforts outlined above by also employing poststructural insights. In the next section of this chapter, I provide a brief review of the specific poststructural concepts used in my dissertation study.

Poststructural Concepts Used in Analysis

When discussing her journey to theory, St. Pierre (2001) asked, “What makes us ready to engage or inclined to resist?” (p. 141). I found myself ready to engage and disrupt the issue of sexual violence in higher education after experimenting with Spivak’s (1993/2009) theoretical concept of marginality during a doctoral course assignment. Further exploration of her use of the concepts of *deconstruction* and *marginality* created a path for me to think differently about the issue of sexual violence in higher education. As I examine what is (*not*) happening with sexual violence in higher education, I do so in order to pursue the possibility of new “understandings and interpretations” (Vagle, 2014, p. 18).

The principles of poststructuralism found within the work of Spivak help me “think differently...to open up what seems “natural” to other possibilities” (St. Pierre, 2000, p. 479). In this project, I employ Spivak’s (1974/1976) use of Derrida’s strategy of *deconstruction* and Spivak’s (1993/2009) philosophical concept of *marginality*, discussed in more detail in Chapters 3 and 4, to perform an analytical reading of textual sources related to sexual violence in higher education. Poststructuralism itself is a place of continuous deconstruction, never allowing one viewpoint to rest in the center. Spivak has consistently used Derrida’s strategy of deconstruction in her philosophical work to explore the production of marginality within the politics of the margin/center binary. I use the concepts of deconstruction and marginality to explore the *happenings* within sexual violence in higher education, and to create openings for rethinking the *impossibility* of ending sexual violence. This exploration allows me to “imagine and accomplish an inquiry that might produce different knowledge and produce knowledge differently” (Lather, 2013, p. 635) by employing post-qualitative inquiry.

Post-qualitative Inquiry

In the same way that poststructuralism represents a new way to analyze language, power, and meaning, post-qualitative inquiry also seeks to offer new and creative ways to *do* research (St. Pierre, 2013). Post-qualitative inquiry serves as a way to disrupt traditional research and to challenge how truth and knowledge is represented (St. Pierre, Jackson, & Mazzei, 2016). It is also seen as a way to stretch qualitative research beyond its current tendency to be overly mechanistic and structured. Post-qualitative inquiry seeks to move away from what has become the normalization of qualitative research (St. Pierre, 2011) and understands meaning as always moving, generating, undoing, and remaking itself (Vagle, 2014). Meanings shift and change from one moment to the next depending on the context of situations.

In this dissertation project, I employ a post-qualitative framework by using theory as the methodology and method to explore non-empirical data sources. A post-qualitative approach to inquiry is more unpredictable and unstable as it attempts to break free from humanistic restraints to “produce different knowledge and produce knowledge differently” (Lather, 2013, p. 635). St. Pierre (2011) also described this approach as a “renewed commitment to a *reimagination of social science inquiry*” (p. 613). The approach of looking through and within the data brings post-qualitative work to life because of the “commitments to knowledge always already being tentative and never complete” (Vagle, 2014, p. 31). As Lather (2013) put it so eloquently, “What opens up if we position alternative methodology as non-totalizable, sometimes fugitive, also aggregate, innumerable, resisting stasis and capture, hierarchy and totality, what Deleuze might call ‘a thousand tiny methodologies?’” (p. 635).

Below, I provide a brief description of some of the key aspects of this alternative methodology known as post-qualitative inquiry.

Importance of Theory

St. Pierre (2014) discussed the importance of theory as she shared her own personal journey to post-qualitative inquiry. Theoretical frameworks have been a component of qualitative research, to some extent, for many years, but St. Pierre (2011) and St. Pierre and Jackson (2014) encouraged researchers to study theories more deeply to better put them to use in their work. St. Pierre (2011) stated, “I will always believe that if one has read and read and read, it’s nigh onto impossible *not* to think with what others have thought and written” (p. 622). Poststructural theory serves as the foundation for this dissertation project as I employ the concepts of deconstruction and marginality to analyze what is (*not*) happening with sexual violence in higher education by troubling key regulatory texts, survivor narratives, and OCR Title IX investigation resolution agreements. The more I read and read and read about deconstruction and marginality, the more I hear Spivak’s words echo in my mind as I turn to the data sources to set those concepts to work.

Analysis Beyond Coding

Coding has become a conventional practice in qualitative data analysis and is used by many qualitative researchers to produce meaning and research findings. This dissertation reconceptualizes this conventional practice and moves beyond the traditional coding of data that looks for themes and categories to produce knowledge. Analysis beyond coding is actually occurring at every moment (St. Pierre & Jackson, 2014). As discussed earlier in this chapter, poststructuralists question meaning and what we think we know, making it “difficult to understand why we believe that isolating and labeling a word or group of words (a chunk)

with another word (a code) is scientific or rigorous” (St. Pierre, 2011, p. 622). Data does not have to occur multiple times in research to be significant (St. Pierre, 2011). Derrida himself focused on a few pages of a 600-page text as key data in a reading of Foucault (Spivak, 1974/1976), demonstrating that “the most significant data in a study might occur only once” (St. Pierre, 2011, p. 622). Spivak (1974/1976) pointed out that deconstruction can hone in on small, but significant, portions of a text. Similarly, the portions of the texts I use in my analysis *are* small, but significant enough to demonstrate how the texts undermine their claims through hidden meanings and privileged truths.

No Recipe for Analysis

Instructions for using post-qualitative inquiry do not arrive at a researcher's office door on a list like ingredients for a recipe because “there is no recipe for this kind of analysis” (St. Pierre & Jackson, 2014, p. 717). The key to this work is theory, a careful and purposeful reading of theory. In post-qualitative inquiry, you read theory and then you put it to work. St. Pierre and Jackson (2014) admitted they “do not follow a particular analytical method...they borrow concepts, invent approaches...that demonstrate a range of analytical practices (p. 717). This dissertation does not follow any one particular method. It borrows poststructural concepts from Spivak (1974/1976, 1993/2009) to use in the analysis and the idea of “thinking with theory” from Jackson and Mazzei (2012). This work “cannot be neat, tidy, and contained...cannot be easily explained...because it is emergent and experiential” (St. Pierre & Jackson, 2014, p. 717).

The Entanglement of Theory and Data

In their text, *Thinking with Theory: Viewing Data Across Multiple Perspectives*, Jackson and Mazzei (2012) issued a challenge to qualitative researchers “to use theory to

think with their data (or use data to think with theory)” (p. vii). I accepted this challenge and used the framework “thinking with theory” (Jackson & Mazzei, 2012) in this project by entangling the concepts of deconstruction and marginality with the key texts related to sexual violence in higher education, survivor narratives, and OCR case findings (or vice versa) to go beyond coding and the naming of themes that is so common in today’s qualitative data analysis. The process of “thinking with theory” (Jackson & Mazzei, 2012) erupted into a complicated and multidimensional data analysis, leaving oversimplified coding and themes in the ashes. As I (re)read the texts throughout this project, I saw what was being represented as truth and what was being left out. I could also see margin/center politics at work in survivor narratives and Title IX OCR investigation resolution letters.

The use of poststructural theory, deconstruction and marginality, and “thinking with theory” as the underpinnings of my post-qualitative methodological framework generates space for me to rethink sexual violence prevention and investigations in higher education. The entanglement of deconstruction and marginality with the data sources selected in this dissertation is explored in more detail in my analysis chapters, “Chapter 3: Deconstruction at Work: Happenings in Title IX, The White House Task Force Report, and VAWA” and “Chapter 4: Happenings in Marginality: Shaping the Contours of the Margin.” The next section in this chapter provides more detail about my data sources and their relation to my analytical questions.

Data Sources and Analytical Questions

In the remaining sections of this chapter, I present my data sources in combination with my analytical questions and discuss how the poststructural concepts of deconstruction and marginality inform the questions. I describe my method of linking theory and concepts to

the data sources through an engagement with deconstruction and an exploration of the production of marginality in order to dig deeper into the issue of sexual violence in higher education. The sources I selected to explore the issue of sexual violence in higher education are also highlighted and discussed in the following sections.

Traditional qualitative research involves collecting data through methods such as observations and interviews. The data collected with these methods are deemed primary data sources. This perspective privileges both the spoken word and the *presence* of participants in their field or with the researcher. *Presence* is regarded as “a criterion for quality” (St. Pierre & Jackson, 2014, p. 716) for valid data. This post-qualitative project “disrupts dominant approaches to the collection and analysis of data” (Brown, Carducci, & Kirby, 2014, p. 5) by using textual documents and a film documentary as data sources. A document analysis may fall into the traditional qualitative research category, but using the poststructural concept of deconstruction in the textual analysis is not considered traditional. Using a film documentary as a data source can also provide space to go beyond traditional methods to explore the lived experiences of individuals as well as their truths and realities in relation to a particular topic. Following traditional research methods can limit possibilities for the “new.” The new empiricist researcher, then, is on her own, inventing inquiry in the doing” (St. Pierre, 2015, p. 81). My data sources for this project came from the Association of Title IX Administrators [ATIXA] (n.d.), *The Hunting Ground* (Ziering & Dick, 2015), and *The Chronicle of Higher Education’s* Title IX Tracker (2018). Additional data sources that expounded on the survivor narratives in *The Hunting Ground* (Ziering & Dick, 2015) documentary film on campus sexual violence were also used in this work. These texts and narratives will be investigated

and explored through the theoretical connections to the textual world and the experiences of survivors, and will serve as the starting point for my research.

- 1. What meanings/explanations are left out or hidden in key texts designed to address sexual violence in higher education?**
- 2. What is being represented and privileged as truth in key texts designed to address sexual violence in higher education?**

Derrida's (1974/1976) deconstructive work has been criticized for its lack of political focus even though some of his later work did give more attention to legal, political, institutional, and social contexts. Contrary to this sentiment, Spivak (1974/1976) has adamantly championed deconstruction as a "powerful political and theoretical tool" (Morton, 2009, p. 4). Deconstruction involves "looking at how a structure has been constructed, what holds it together, and what it produces" (St. Pierre, 2000, p. 482).

Using deconstruction as a "mode of reading" (Spivak, 1993/2009, p. 114) helps me situate the presence/absence binary. In this binary, presence is privileged as truth over absence. Spivak (1974/1976) pointed out that privileged binary opposites and metaphors should be exposed and challenged, then reversed, and eventually pulled apart to see what truths have been represented and constituted. Deconstructing the data sources outlined below will expose and challenge represented truths and provide an opportunity to look within the margins for overlooked details such as metaphors, footnotes, and turns in arguments (Rolfe, 2004). Spivak used deconstruction to look "for what is concealed, repressed, or pushed away" (Jackson & Mazzei, 2012, p. 38). Employing this type of careful, deconstructive reading of the texts can open up new insights into legislation and show more than what the author intended and more than what is explicitly stated.

The texts I selected as data sources to examine my first two research questions come from ATIXA, a professional association that provides Title IX resources, best practices, and gender equity information to Title IX administrators and others interested in this body of work (Association of Title IX Administrators, n.d.). ATIXA was founded after the release of the 2011 DCL and has become a central resource for educators, students, and others trying to better understand the discourses surrounding Title IX and sexual violence in higher education. ATIXA has collected and archived numerous documents related to sexual violence on college campuses and made them available to the general public. In this research inquiry, I analyzed three of these documents published between 2011-2014. The documents are listed and described below:

- *Title IX “Dear Colleague” Letter, 2011*
- *The First Report of the White House Task Force to Protect Students from Sexual Assault, “Not Alone,” 2014*
- *Violence Against Women Act Final Rule, 2014*

Title IX of the Education Amendments Act prohibits discrimination on the basis of sex in all educational programs and services at federally funded institutions (U.S. Department of Justice, n.d.). Title IX was initially interpreted to mandate gender equity in athletic programs, but recently the federal government defined Title IX as a law covering several categories related to sex discrimination, including sexual violence (U.S. Department of Education, n.d.). On April 4, 2011, the Department of Education’s Office for Civil Rights (OCR) released the now infamous 2011 Title IX “Dear Colleague” Letter (U.S. Department of Education, 2011) to all higher education institutions. This letter outlined institutional responsibilities for responding to campus sexual violence and declared sexual assault to be a

form of sex discrimination under Title IX. Many higher education professionals would agree that the campus landscape was forever changed after the 2011 “Dear Colleague” Letter (DCL). The DCL required institutions to take immediate and effective steps to address sexual violence. In summary, these steps included: 1) providing prompt and equitable actions related to complaints, 2) taking interim actions as needed to protect the survivors, 3) publishing a non-discrimination notice and grievance procedures, 4) providing notice of what burden of proof is used in outcomes, and 5) notifying both the accused and complainant of the final outcome (U.S. Department of Education, n.d.).

The First Report of the White House Task Force to Protect Students From Sexual Assault (2014) suggested that research on sexual violence in higher education must continue to be a focus of future inquiry. The Task Force recommended that colleges administer a campus climate survey and stressed the need for confidential reporting options for victims (White House, 2014). The recommendations from this Task Force may eventually lead to additional regulatory and statutory revisions to current sex discrimination laws in order to strengthen and provide clarity for Title IX and VAWA.

The Clery Act became law in 1990 (Clery Center, n.d.; Sloan, Fisher, & Cullen, 1997) and mandated that higher education institutions comply with certain campus safety and security requirements (Carter & Bath, 2007). The most recent amendment to the Clery Act, the reauthorization of VAWA through the Campus Sexual Violence Elimination Act (2013), or SaVE Act, expanded rights to campus survivors of sexual assault and violence more than any of the previous amendments. The recent reauthorization of VAWA required institutions to provide sexual violence prevention education, revise campus crime reporting, and improve

policies and procedures related to campus sexual violence. Higher education institutions were required to be in full compliance with final VAWA regulations by July 1, 2015.

Using deconstruction to analyze these key texts allows new perspectives to emerge about sexual violence in higher education and challenges some of the constructed perspectives that maintain binary oppositions and privilege supposed truths about sexual violence. Spivak used deconstruction to focus on cultural texts of marginalized people – “to articulate the voice and political agency of oppressed subjects” (Morton, 2009, p. 5). As Spivak (1993/2009) used deconstruction to critique the postcolonial field she inhabits, I situate myself in Spivak’s work and use deconstruction in my research to critique the field I inhabit – the field of higher education administration and Title IX structures, systems, policies, and practices designed to address sexual violence.

3. How do margin/center politics produce marginality in sexual violence cases in higher education?

The third research question emerged from the deconstructive foundation of the first two research questions. After engaging deconstruction within the texts for hidden/absent meanings and privileged truths, I again use deconstruction to disrupt and reconstitute the production of marginality by the margin/center (Jackson & Mazzei, 2012). Spivak used deconstruction to examine what is happening “in-between” the margin/center (Jackson & Mazzei, 2012, p. 38). My work involves an examination of the interactions between those in the margin, survivors of sexual violence, and the center, the Title IX machine. Spivak (1993/2009) noted that the center strives to identify the margin so that those who claim to be marginalized can then be validated by the center. Spivak (1993/2009) saw this as “identification through separation” (p. 61). The margins are thus defined to meet the needs of

the center. Deconstruction of the margin/center can deepen understandings of this binary and show how survivors of sexual violence are positioned within the Title IX machine at higher education institutions. Additionally, these new understandings of how marginality is produced and what is valued in this production between the Title IX machine and survivors shows what is *happening* with sexual violence on many college campuses.

Many sexual violence survivors claim higher education institutions marginalize them after reporting incidents of sexual violence. Using Jackson and Mazzei's (2012) framework as a guide, I "think with theory" to examine the interactions of the margin/center within higher education institutions that work to marginalize female survivors of sexual violence, and how both the margin/center resist and comply with normalizing tendencies of these institutions. It is important to explore how the margin/center frame each other during campus investigations of sexual violence incidents and how the center's policies and procedures work to produce marginality and maintain the margin.

Spivak's work allows for a nuanced and complex look at marginality and margin/center politics as they relate to oppressed groups such as women. Spivak used the deconstruction of marginality "to expose how it is reclaimed, who reclaims it, and what becomes valued via such reclaiming" (Jackson & Mazzei, 2012, p. 36). Exploring marginality helps me understand whether the reclaiming and valuing is done by the center, the margin, or both. The concept of marginality helps me better understand how the Title IX machine works to place or maintain the presence of survivors of sexual violence *outside in* the margins. The Title IX machine controlling the center wants "an identifiable margin: wants to generalize it, wants to name it, wants to secure it through *separation*" (Jackson & Mazzei, 2012, p. 42). The center attempts to control what norms and practices are considered

valuable at the institution, and does not want to deal with issues, such as sexual violence, that interfere with its norms and practices.

Thinking with theory uncovers new ways of seeing how marginality impacts the oppressed and exploited in higher education settings, even though margin/center dynamics goes beyond the oppressor and oppressed. The concept of marginality becomes a factor when sexual violence survivors are seen as “others” and pushed to the margin by those attempting to control the center. At the same time the survivor is placed in the margin, she also always remains intertwined with the center. Spivak (1993/2009) did not see anyone as residing purely in the margin or the center. The center, the Title IX machine, typically decides what and who is valued in relation to the issue of sexual violence. The female survivor may feel marginalized as she goes against these norms and takes on the role of complainant, activist, protester, and so on. As a marginalized survivor, she may see herself as being misled, stonewalled, and excluded by the actions of the Title IX machine.

To explore the production of marginality, I use individual narratives of female sexual violence survivors from the documentary film *The Hunting Ground* (Ziering & Dick, 2015). The narratives shed light on the experiences of female survivors as they navigate campus sexual misconduct policies and processes after reporting a sexual assault. I also use *The Chronicle of Higher Education's* Title IX Tracker (Chronicle of Higher Education, 2018) to gather data from OCR investigations of HEIs for possible Title IX violations. All active and closed cases since the release of the 2011 Title IX “Dear Colleague” Letter are tracked on this site. These data sources help me explore the tensions at work *within* and *between* the selected texts, and *within* and between HEIs and sexual assault survivor experiences to better understand margin/center politics and the production of marginality.

Representation as Happenings

Deconstruction is *happening*. It has “already happened; it is happening at this moment, everywhere” (St. Pierre, 2011, p. 623) within and between the legislative texts used in this dissertation study and between the margin/center in the production of marginality. Aligning with the disruptive nature of post-qualitative inquiry, I use deconstruction as a unique “way of rereading” (Spivak, 1993/2009, p. 11) the *happenings* in the following textual sources in this study: a) 2011 Title IX “Dear Colleague” letter (DCL), b) 2014 White House Task Force Report (WHTF) on sexual assault, c) 2014 Violence Against Women Act (VAWA) Final Rule, d) survivor narratives, and e) OCR Title IX investigation resolution agreements. Throughout this (re)reading, I am prompted by my overarching question to interrogate what is (*not*) happening within and between these legislative documents and between the margin and center in relation to sexual violence in higher education. I then turn to my primary analytical questions to further the exploration of the *happenings* in sexual violence in higher education to examine the language used in each text for hidden meanings, and to explore the intervention/prevention dichotomy. I also grapple with the concept of marginality (Spivak, 1993/2009) in the form of entanglements between survivor narratives, HEIs, and OCR Title IX case findings, and my critique of the survivors’ position as “outside in” the Title IX machine. This work is also a deconstruction of what is *happening* between the supposed intent of the texts and the real-world experiences of sexual violence survivors and OCR Title IX investigation findings.

Borrowing from Spivak, I also continuously challenge and question the deconstructive reading of the data sources to demonstrate the political urgency of deconstruction. This is a nod to Spivak’s (1990) desire to learn *from* the oppressed instead of

speaking for them. The *happenings* in this work are “a retelling, and an ethically and imaginatively inhabiting” (Landry & Maclean, 1996, p. 16) of the survivor narratives and OCR Title IX case findings. The analysis of the *happenings* in marginality bring the experiences of survivors and each engagement with deconstruction to crisis by interrupting the “attempts” to address sexual violence in higher education through language in the texts (Spivak, 1993/2009).

Chapter Summary

In this chapter, I introduced the purpose of theory in this dissertation project, specifically that of poststructuralism and the concepts of *deconstruction* and *marginality*. Theoretical frameworks such as poststructuralism have been used in previous research studies to better understand phenomena such as sexual violence in higher education (Pascale, 2011). The key principles and assumptions of poststructural theory discussed above pave the way for a disruptive inquiry and create an opening to further explore sexual violence in higher education. This chapter also introduced post-qualitative inquiry as method and methodology and demonstrated the connection between my analytical questions, theory, and data sources. In the next two chapters, I further introduce the poststructural concepts of *deconstruction* and *marginality* and put these concepts to work as I explore what is (*not*) happening with sexual violence in higher education. Employing “thinking with theory” (Jackson & Mazzei, 2012) is a powerful strategy for rethinking sexual violence in higher education and the “the slow and painstaking movement from ethics to politics” (Morton, 2009, p. 44).

Chapter 3: Deconstruction at Work: Happenings in Title IX, White House Task Force Report, and Violence Against Women Act

I begin this analytical journey of *thinking with theory* (Jackson & Mazzei, 2012) as I think with Spivak's (1974/1976) use of deconstruction to examine my overarching question of what is (*not*) happening with sexual violence in higher education. I use deconstruction to explore "paradoxes, predicaments, and constraints" (Jackson & Mazzei, 2012, p. 37) as I work to uncover the deconstructive *happenings* in the hidden meanings and privileged truths in the 2011 Title IX "Dear Colleague" Letter (DCL), the 2014 White House Task Force Report (WHTF) on sexual assault, and the 2014 Violence Against Women Act (VAWA) Final Rule texts. The complex discourses surrounding sexual violence in higher education and the language entangled within the DCL, WHTF, and VAWA have *always already* created space for a deconstructive reading, meaning the events in these texts have already been happening and have been waiting to be witnessed, or in other words, carefully read. With this in mind, I hear Spivak emphasizing the need for a "slow and careful reading" (Morton, 2009, p. 23) of these key texts, and again later in Chapter 4 as I deconstruct the interactions between the margin/center and the production of marginality.

I start this analysis chapter with a review of the concept of deconstruction. I then think with Spivak (1974/1976) as I carefully read and reread the DCL, WHTF, and VAWA to investigate the following analytical questions:

- What meanings/explanations are left out or hidden in key texts designed to address sexual violence in higher education?
- What is being represented and privileged as truth in key texts designed to address sexual violence in higher education?

As Spivak used deconstruction to address the utopian promises of western feminism (Morton, 2009), I also use deconstruction as a safeguard to the utopian claims in the DCL, WHTF, and VAWA texts that were supposedly designed to protect survivors and prevent and end sexual violence in higher education. For example, the DCL (DOE, 2011) “explains schools’ responsibility to take immediate and effective steps to end sexual harassment and violence” and gives “examples of remedies that schools and OCR may use to end such conduct, prevent its recurrence, and address its effects” (p. 2). The WHTF (Not Alone, 2014) claims it will “help schools live up to their obligation to protect students from sexual violence” (p. 2). The VAWA Final Rule (2014) requires “programming, initiatives, and strategies...intended to stop dating violence, domestic violence, sexual assault, and stalking before they occur” (p. 62788). The utopian claims in the texts appear to represent the interests of sexual violence survivors as a disempowered group, yet the number of females experiencing sexual violence in higher education has remained relatively the same since the release of these documents. Also, too many institutions responsible for complying with and implementing the guidance and regulations have failed to do so, furthering the marginalization of this group. This part of my project will examine the *happenings* within the DCL, WHTF, and VAWA in search of hidden meanings and privileged truths that may contribute to this failure and the supposed *impossibility* of preventing and ending sexual violence in higher education. Through the use of deconstruction, this analysis is “persistently

transforming conditions of impossibility to possibility” (Spivak, 1993/2009, p. 6) as I *rethink* what is (*not*) happening with sexual violence in higher education.

The Process of Deconstruction

Jacques Derrida was a key figure in the movement towards poststructuralism, and he was one of the earliest philosophers to challenge structuralism and its limitations through his groundbreaking 1967 book *Of Grammatology*. In this book, Derrida questioned and critiqued deterministic structures and systems, claims that were central to structuralism, by noting that culture had already produced their practices (Nealon & Giroux, 2012). Deconstruction undoes the idea that signifiers have one true, inseparable meaning within structures and systems. Derrida (1974/1976) saw meaning as endlessly deferred, as opposed to the existence of one fixed meaning, and completely based on contexts, being mindful that no single context could secure meaning for others. The strategy of deconstruction brings poststructural thinking to the issue of sexual violence in higher education by disrupting binaries, hidden assumptions, privileged truth, and language.

Derrida (1974/1976) also focused on binary oppositions such as speech/writing, and the traditional privileging of the first word over the second. Derrida worked to prove that binaries are always already undone and do not hold true (Belsey, 2002), and to prove “how language operates to produce very real, material, and damaging, structures in the world” (St. Pierre, 2000, p. 481). His strategy was not to simply reverse binary oppositions, but to demonstrate that one term was not separate from the other.

Spivak (1974/1976) wrote the translator’s preface to *Of Grammatology* and shed some light on Derrida’s (1974/1976) ensemble of rules as she summarized “deconstruction in a nutshell” (p. lxxvii). Spivak’s (1974/1976) deconstruction is “to locate the promising

marginal text...to reverse the resident hierarchy, only to displace it; to dismantle in order to reconstitute what is always already inscribed” (p. lxxvii). The original binary order carries with it a violent hierarchy, thus it beckons to be reversed. Yet, the violent hierarchy remains after this reversal, and the original first term is now the abused. This new binary position cannot remain fixed, so it is disrupted in order to allow for something new to emerge; a new term or concept that is not visible with the original binary structure. This is deconstruction, “the overturning and opening up of a violent structure so that something different might *happen* [emphasis added]” (St. Pierre, 2011, p. 617).

Spivak (1993/2009) described herself as “a feminist much marked by Derrida’s work” (p. ix). Spivak’s translation introduced the world to deconstruction and its “way of rereading” (Spivak, 1993/2009, p. 11) texts. Deconstruction is difficult to define, as Spivak (1993/2009) noted, “There is...no useful definition of deconstruction anywhere in Derrida’s work” (p. 31). When I refer to deconstruction in my analysis chapter, I am thinking with the strategy of deconstruction situated within the work of Spivak. Within this dissertation project, I worked from the angle that “deconstruction has already happened; it is happening at this moment” (St. Pierre, 2011, p. 623) within and between each of the textual sources used in this inquiry. A rereading of these texts focuses on binaries and privileged truths, and uncovers other possibilities for meaning.

Decentering the Author

Derrida is credited with identifying the concept of destabilization, or decentering, as others have commonly described it. This concept was key to the birth of poststructuralism. Decentering is the supplanting of the author in favor of the reader as the primary subject of inquiry (Belsey, 2002). An example of decentering in this project is how the readers (HEI

administrators, students, attorneys) of the DCL, WHTF, and VAWA have supplanted the respective authors (Department of Education, White House Task Force, Legislatures) of these texts to produce meaning. This destabilizing shift in meaning coming from the reader instead of the author of a text is seen as having the greatest influence on meaning. Derrida also saw meaning being produced from other sources outside of the author such as cultural norms, other literature, etc. This concept aligns with the poststructuralist belief that there is no promise of consistency or universality of world truths. The reader of a text assumes the powerful position of determining meaning.

Poststructuralism claims that the intention of the author is not as significant as that of the meaning of the reader. Poststructuralism places a great deal of focus on the reader/speaker operating within a structure instead of on the structure itself (Belsey, 2002). This is an area where structuralism and poststructuralism differ. Structuralism would see the intention of the author as the primary source of meaning, and the idea of a text having one core truth. Poststructuralism sees the language of a text as being possessed by the reader. If this does not happen, “there is no final answer to the question of what any particular example of language in action actually means” (Belsey, 2002, p. 18). Readers’ perspectives can produce opposing understandings of what is meant in a text. These understandings can help examine how meanings of a text change depending on the reader’s identity. This has certainly been the case with the 2011 “Dear Colleague” Letter. There have been numerous interpretations of the meaning and intent of that document from the moment it was released to higher education institutions.

As previously discussed in “Chapter 2: The Doing of Disruptive Inquiry: Theory and Methodology,” I use three primary analytical questions in this dissertation to further explore

my overarching question in this inquiry: What is (*not*) happening with sexual violence in higher education? The analytical questions used in this analysis chapter are as follows:

- What meanings/explanations are left out or hidden in key texts designed to address sexual violence in higher education?
- What is being represented and privileged as truth in key texts designed to address sexual violence in higher education?

These two analytical questions emerged after thinking with Spivak (1974/1976) and the concept of deconstruction, and they propel the process of disrupting, deconstructing, and rethinking sexual violence in higher education in this project. In this portion of my inquiry, I also keep the following questions in mind as I think with the concept of deconstruction: How is the text constructed? What is being foregrounded and backgrounded in the text? What is being problematized? What is being normalized? What are the paradoxes, predicaments, and constraints? In this chapter on the *happenings* in sexual violence in higher education, I begin by deconstructing the language of safety, protection, and prevention in each of the texts. Next, I focus on how the texts are privileging intervention to address sexual violence in higher education followed by a deconstruction of the intervention/prevention dichotomy.

Looking Out for Safety, Protection, and Prevention

Sixty years after the first major study on sexual violence (Kirkpatrick & Kanin, 1957) and over seven years after the release of the infamous, but recently rescinded, 2011 Title IX “Dear Colleague” Letter (DCL), sexual violence in higher education continues to be an issue that colleges and universities find difficult to adequately address. After the 2011 DCL, the federal government continued to address sexual violence in higher education by releasing additional recommendations and regulations to higher education institutions (HEIs) in the

form of the 2014 White House Task Force (WHTF) Report on sexual assault, *Not Alone*, and the 2014 Violence Against Women (VAWA) Final Rule, respectively. The deconstructive *happenings* in these three texts will be the focus of this portion of my analysis as I put deconstruction to work to show the fundamental unreliability of language and meaning by examining the claims of safety, protection, and prevention, the privileging of intervention strategies to address sexual violence, and the intervention/prevention dichotomy.

No Safety, Protection, and Prevention in Words

The meanings in the DCL, WHTF, and VAWA texts are endlessly deferred and linger in a constant state of uncertainty, demonstrating the challenges associated with language. HEIs, attorneys, and higher education risk management agencies continue to debate the meaning of the language used in each of the texts. I have attended numerous webinars and trainings since the DCL was released in 2011 in order to better understand what my institution needed to do to be compliant. The facilitators for these programs presented countless interpretations of HEI responsibilities related to Title IX and VAWA. It seemed like I always walked away from these sessions with an updated compliance checklist. To address the confusion surrounding the DCL, OCR released a supplemental “Questions and Answers” guidance document in 2014. This document was an attempt to address numerous questions OCR had received since 2011 and the fluctuating interpretations of the DCL. This highlights the poststructural belief that the reader’s response creates meaning for a text, not the author’s intent, and how the reader can dictate if the structure of a text fails. Even with the Q&A guidance, the uncertainty surrounding the requirements in the 2011 DCL continued to linger until it was rescinded in 2017. Ironically, the 2017 “Dear Colleague” letter that withdrew the policies and guidelines in the 2011 DCL criticized the 2011 DCL’s

interpretation of Title IX and directed HEIs to follow new guidance titled *Q&A on Campus Sexual Misconduct*, which is itself a new interpretation of Title IX. This ongoing interpretation of Title IX again demonstrates the importance of the reader's ability to create meaning. HEIs, mine included, continue to grapple with the meaning of the new interim guidance related to Title IX along with the ongoing questions of compliance with VAWA.

The language in the DCL, WHTF, and VAWA is structured to express a commitment to ensuring safety and protection for students and prevention of violence against women on college campuses. The nature of the issue of sexual violence can produce language that is emotive in nature, as evidenced by the words used in the titles of the WHTF and VAWA. The WHTF report is titled "Not Alone" and attempts to convey a message to students that the recommendations made by the authors in the report will protect them, and if they are sexually assaulted they will not have to face the resulting trauma alone. In the same regard, VAWA was reauthorized through the Campus Sexual Violence Elimination Act, or the Campus SaVE Act. The choice of words in this title is intended to demonstrate that VAWA regulations will work towards eliminating sexual violence, but my reading finds it plausible that the SaVE acronym actually portrays students/survivors as powerless, passive, and needing to be saved from sexual violence instead of being self-reliant and independent. In this reading, students/survivors need help from others to address sexual violence, and thus SaVE them, instead of them having the agency to SaVE themselves. At first glance, the titles of these texts foreground for readers the intent to eliminate sexual violence, save survivors, and be by their side when they experience sexual violence. The content within the texts does this to an extent, but it also paints a different picture by emphasizing actions that address

sexual violence after the fact, thus privileging the need for intervention over prevention and continuing to normalize the idea that sexual violence will continue to happen.

Both the “Not Alone” report and Campus “SaVE” Act titles are emotive in nature. They appeal to the emotions of sexual violence survivors but also contribute to the very stereotypes that Marcus (1992) worked to address, such as females are vulnerable and need to be protected and saved because they are unable to protect and save themselves. Deconstruction has taught me to have a “suspicion of such totalizing claim[s]” (Elam, 2000, p. 83) such as those conveyed in the “Not Alone” and “SaVE” titles. The ideology presented in emotive titles like those in the WHTF and VAWA can end up supporting masculinist cultural and social scripts (male/strong = female/weak) instead of the social change that is needed to truly eliminate sexual violence.

Must/Should. A rather obvious example of the unreliability of language and its paradoxes is visible within the debate between the Office for Civil Rights (OCR) and HEIs about the use and intent of the words “must” and “should”³ throughout the 2011 Title IX DCL guidance document. There were 83 occurrences of these terms in the main text of the DCL. “Must” occurred 28 times and “should” 55 times. Lillian (2008) noted that understanding modals like “must” and “should” is more complex than simply the number of times they occur in a document, it also involves “the writer’s (or speaker’s) attitude toward...the proposition being presented” (p. 2). Modals such as “must” and “should” are generally connected to obligation and desirability, respectively, but are “sometimes difficult to distinguish with certainty” (Lillian, 2008, p. 5) whether they fall into the obligation or desirability category.

³ The terms “must” and “should” are modal auxiliaries, which typically fall into deontic modal categories of obligation or desirability. In addition to the works cited in the text, also see Brinton, L. J. (2000). *The structure of modern English: A linguistic introduction*. Philadelphia, PA: John Benjamins Publishing Company.

In the DCL, deconstruction “reveals that communication is necessary but not transparent; language has meaning but that meaning is not absolutely determinable” (Elam, 2000, p. 87). The word “must” implies that something is necessary and essential, or involves “an obligation...to perform the activity” (Collins & Hollo, 2017, p. 88). The “must” statement examples (1-6) listed below follow the typical modal category of obligation. OCR’s power is certainly present within the text when there is an obligation to do something. On the flip side, the meaning of “should” is not as determinable as the “must” statements in the DCL. Other words related to “should” include shall and may. The word “should” typically falls into the modal category of desirability, but that is not always the case. The “should” statements (7-9) listed below fall into the desirability modal category.

1. “must process the complaint in accordance with its established procedures...” (Department of Education (DOE), 2011, p. 4).
2. “must promptly investigate...” (DOE, 2011, p. 4).
3. “school’s inquiry must in all cases be prompt, thorough, and impartial” (DOE, 2011, p. 5).
4. “must adopt and publish grievance procedures...” (DOE, 2011, p. 6).
5. “must use a preponderance of the evidence standard” (DOE, 2011, p. 11).
6. “Both parties must be notified, in writing, about the outcome...” (DOE, 2011, p. 13).
7. “schools should inform and obtain consent from the complainant” (DOE, 2011, p. 5).
8. “Title IX coordinators should not have other job responsibilities that may create a conflict of interest...” (DOE, 2011, p. 7).

9. “schools should ensure that steps taken to accord due process rights to the alleged perpetrator do not restrict...protections for the complainant” (DOE, 2011, p. 12).

The majority of the “must” statements in the DCL are related to intervention actions and procedures after a sexual violence incident, while *all* of the statements in the education and prevention section are primarily “should,” but also include “may” and “recommends.” Once again, these statements demonstrate the privileging of intervention over prevention by using “must” as obligation statements related to responding to sexual violence and desirable “should” statements in the education and prevention section. The elements listed in the DCL as critical to Title IX compliance refer only to grievance procedures, investigations, time frames for the complaint process, outcome notices, and steps to prevent a recurrence of an incident (DOE, 2011, p. 9). The “critical” focus on responding to incidents may actually contribute to the *impossibility* of ending sexual violence and undermine the commitment “to ensuring that all students feel safe in their school” (DOE, 2011, p. 2).

The differences between the “must” and “should” statements in the DCL perpetuate the ambiguities and tensions between the terms and allow for varying interpretations and misappropriations for addressing sexual violence in higher education. HEIs describe the “must” and “should” language as unclear and unreliable, and are further confused when OCR does not differentiate between the two terms during Title IX investigations or compliance reviews. OCR has found HEIs in violation of Title IX for not meeting the “should” guidelines in addition to the “must” statements and has required HEIs to revise policies and procedures to become compliant with “must” and “should” guidelines. If both terms are treated equally during OCR investigations, the question is raised as to why the authors did

not foresee the contradictions and simply use the “must” statement throughout the text. OCR sees the “should” statements as critical to addressing sexual violence, while HEIs view them as optional.

HEIs claim that the lack of clarity on whether “must” statements are mandatory and “should” statements are optional hinders their efforts to address campus sexual violence. On the other hand, sexual violence survivors see this debate as a way for HEIs to avoid meeting their responsibilities to address campus sexual violence. HEIs are often bottom-line organizations when it comes to compliance requirements. Many are working with limited resources and are struggling to do more than meet minimum mandates such as those in the DCL and VAWA, which means that the focus of these HEIs necessarily leans towards meeting “must” statements over “should” statements. For example, a counterpart of mine at another community college shared the challenges she faced in trying to do more education and prevention at her institution. During a late Friday afternoon meeting at her institution to review the required checklist for the DCL and VAWA, a fellow administrator commented that they should not be spending their time worrying about the “should” statements, because their primary focus *should* be on the things that *must* be done-for compliance. This mentality is likely present at many HEIs, and while it does propel most institutions towards compliance, it also privileges the “must” statements and prioritizes protecting the institution. This approach short-changes students and survivors and reduces the goals of safety, protection, and prevention to a completed checklist.

Ensuring Safety for All

The 2011 Title IX DCL supplemented the 2001 Title IX *Revised sexual harassment guidance* and served as a reminder of the responsibilities HEIs have “to respond” to sexual

harassment, newly interpreted by OCR to include sexual violence, to eliminate sex discrimination. Doyle (2015) called the academic year following the release of the DCL as the “year of risk management” (p. 25) in higher education. She explored the ways well-intended Title IX bureaucratic structures produce a sense of risk and vulnerability. Risk and vulnerability emerge through questionable actions by the HEI and potential non-compliance with OCR mandates to address sexual harassment and sexual violence. Based on this fear and vulnerability, HEIs will do what is needed to reduce the potential for institutional harm. Doyle (2015) and Gersen and Suk (2016) both framed the Title IX structure as a sex bureaucracy, a “steady expansion of regulatory concepts of sex discrimination and sexual violence” (Gersen & Suk, 2016, p. 881) that are overemphasized and “ineffectual” (Kipnis, 2017, p. 8).

The DCL “associates a discrimination free campus with a campus that ‘feels safe’” (Doyle, 2015), which places equity and safety on equal footing. Kipnis (2017) perceived the word “safety” as just one of the latest campus buzzwords. The DCL articulates a commitment to “ensuring that all students feel safe” (DOE, 2011, p. 2); however, my reading shows gaps and contradictions in this commitment. The phrase “ensuring that all students feel safe” is a performative statement because it is both saying and doing something and goes beyond a simple assertion such as, “*Title IX is the key to campus safety.*” A performative statement can “only be what it is in so far as it is structured by the necessary possibility that it fails or goes astray” (Royle, 2000, p. 9). Deconstruction works to highlight what troubles performative statements by examining what is absent, hidden, and left out that may make the statement impossible.

The words “to respond” to sexual violence implies that sexual violence has *always already* happened, thus the likelihood of sexual violence occurring on college campuses can actually make students feel unsafe. All of the “must” statements in the DCL guidance are primarily connected to the adoption and publication of grievance procedures, providing notice of where students can file a complaint, and offering students adequate, reliable, and impartial investigations within reasonable time frames. All of these required obligations focus on sexual violence that has already occurred and circle back to the words “to respond.” The commitment to “ensuring that all students feel safe” cannot be fulfilled by the Department of Education’s OCR department nor by the HEIs charged with following the outlined guidelines if the emphasis is placed on the response to sexual violence after it has already occurred.

The structure of the DCL only devotes half of one page of its 19 total pages to the discussion of prevention and education programs, and the language in this section is much softer than in other parts of the document by using words such as “should,” “recommends,” and “may” when it comes to discussing the proactive measures HEIs could take to end sexual violence through education and prevention. For example, the DCL uses the following “should” statements in the Education and Prevention section:

- “schools should take proactive measures to prevent sexual harassment and violence” (DOE, 2011, p. 14).
- “programs should include a discussion of what constitutes sexual harassment and sexual violence...” (DOE, 2011, p. 15).
- “programs also should include information...encouraging students to report incidents...” (DOE, 2011, p. 15).

Moreover, as other research has shown, even what counts as “prevention education” and “prevention language” misses the evidence-based form of prevention known as self-defense or active resistance. I explore this prevention angle in more detail when I deconstruct intervention/prevention later in this chapter.

The lack of commitment to prevention strategies privileges the response, or intervention, as the way to address sexual violence and ensure safety for all students. A hidden message in the DCL is that sexual violence is an expected occurrence, and females are victims-in-waiting. In fact, my community college counterparts across the state were slow to respond to the DCL, and, like my own institution, put more emphasis on meeting the “must” statements within the text. While most of these institutions eventually completed the “must” checklist and improved policies and procedures to address sexual violence incidents, several of them are still lacking in their education and prevention efforts related to sexual violence. The actions and inactions of these institutions illustrate how privileging the “must” statements foregrounds the efforts HEIs should take to address sexual violence after it happens and places education and prevention guidance in the background.

Not Alone: Promise to Protect

The 2014 White House Task Force (WHTF) Report, which was formed to investigate sexual violence in higher education, is the second text used in this analysis. The WHTF reports that 20% of college women experienced sexual violence while in college and outlines a number of guidelines for the development of sexual violence policy. Some of the guidelines include defining consent, outlining the role of the Title IX coordinator, and outlining procedures and protocols that “should” be used when students report sexual violence, to name a few.

The purpose of the WHTF (Not Alone, 2014) is to “Protect Students From Sexual Assault” (p. 2), and it expresses a commitment “to helping bring an end to this violence” (p. 5). Similar to the contradictions in the DCL’s commitment to safety, the language in the WHTF also stands in contradiction to its stated purpose. Joe Biden, a key member of the task force and a long-time advocate to end violence against women, stated in the opening page of the WHTF, “Freedom from sexual assault is a basic human right...a nation’s decency is in large part measured by *how it responds* [emphasis added] to violence against women” (Not Alone, 2014), but I would argue our nation’s decency should be largely measured by its efforts to prevent sexual violence *and* by how it responds to sexual violence incidents when they occur. Biden may have used the word “responds” to represent prevention and intervention in a broad sense of the word, but similar to the DCL, the WHTF privileges intervention over prevention in the language in its text.

Responding to incidents of sexual assault is a necessary component of holding perpetrators accountable for their behavior. Focusing on the response to sexual assault contradicts the claims of the WHTF that protecting students from sexual assault is its purpose. Protecting students goes well beyond responding to violence against women. Protection requires a strong emphasis on creating strategies to decrease the current statistic that 20% of females will experience sexual violence while in college. This mentality could lead to a reimagining of the report “Not Alone” for survivors as “Never Assaulted” for all females.

The WHTF also states that when sexual violence happens on college campuses, students need “all” pieces of the HEI’s plan to be in place to address sexual violence. Doyle (2015) noted this is a risky moment for HEIs. They are bound by law to respond to sexual

violence incidents and protect students, but those same students can be a “walking situation” (Doyle, 2015, p. 30). I question whether just having “all” pieces of a plan in place “to respond” to sexual violence truly aligns with the WHTF purpose to protect students. Even when HEIs have “all” of their policies and procedures in place, fear of non-compliance leads to poor decision-making, or the “madness of the apparatus” (Doyle, 2015, p. 11). The same students the WHTF wants HEIs to protect now represent risk and potential non-compliance.

The definition of the word “protect” is “to cover or shield from exposure, injury, damage, or destruction” (Merriam-Webster, 2017). This definition refers to something that happens *before* sexual violence, not after its occurrence. As the WHTF claims to be committed to ending sexual violence, most of the action steps and recommendations listed in the text are after the fact of a sexual assault. These include empowering males to intervene if they see an assault occurring, modeling reporting and confidentiality protocol, providing trauma-informed training, and outlining a roadmap for filing a complaint.

Similar to the DCL, the prevention section in the WHTF is addressed on two pages of the 20-page document, while the section on responding effectively to sexual assault spans over five pages. The emphasis on response can conceivably produce the belief in survivors and HEIs that prevention strategies are secondary to the response to sexual violence. The limited coverage of prevention in this text can minimize the importance of the information shared in that section and can contradict the promise to protect students. This backgrounding of prevention continues to privilege responses to sexual violence incidents after they occur and encourages HEIs to put more effort towards intervention. This continues to normalize sexual violence as a part of the college experience, especially for females, and perpetuates the idea that sexual violence is difficult, if not impossible, to prevent.

SaVE: The Intent to Prevent

Congress enacted the first Violence Against Women Act in 1994 to address domestic violence, sexual assault, and stalking. The Act was created to improve the “investigation and prosecution of violent crimes against women” (Office on Violence Against Women, 2018). It was reauthorized in 2000, 2005, and again in 2013 through the Campus Sexual Violence Elimination Act (SaVE) Act. The latest reauthorization became law in 2014 when the latest VAWA regulations were finalized. This version added additional protections for students and required HEIs to develop plans to prevent violence and educate victims. VAWA also provided a small amount of grant funding to help institutions reduce campus crimes of domestic violence, dating violence, sexual assault, stalking, and prevention efforts.

Like the DCL and WHTF, VAWA also contains contradictions in its content. Even with the emphasis on education and prevention programming, VAWA (2014) states, “The regulations require only that institutions *offer* [emphasis added] training” and “we *encourage* [emphasis added] institutions to mandate such training” (p. 62770) and the language used throughout the regulations. While the word “prevent” is the first term in the purpose of VAWA, a large part of the VAWA regulations text is dedicated to the required intervention strategies that HEIs must comply with. As in the DCL and WHTF, intervention strategies are again privileged in VAWA over prevention. The only required training component of VAWA is for officials who are directly involved in disciplinary hearings for sexual violence cases. The strategies outlined in VAWA include: 1) providing students with a description of disciplinary proceedings, 2) listing potential sanctions if a student is found responsible for sexual violence, 3) listing protective measures available to victims, 4) training bystanders to intervene, 5) offering fair and impartial disciplinary hearings, and 6) reporting crime

statistics. VAWA (2014) states that these activities “promote safety and security college campuses,” (p. 62753) and while they do, they are again primarily strategies designed to address sexual assaults “after” they have already occurred.

Prevention strategies are emphasized far more in VAWA in comparison to the language used in the DCL and WHTF guidelines. VAWA “encourages” HEIs to offer prevention and awareness programming to new students, but does not “require” that every student enrolled attend this training. During my career, I have facilitated many optional workshops, and I have come to realize that the students who needed the information the most were unlikely to attend. An important consideration is that sexual violence is an under-reported crime, so while encouraging students to attend prevention and education programming is helpful, I think males and females who need the information the most are also likely to dismiss it or not attend at all due to the nature of the subject material. It is worth noting here that some of the content requirements for prevention programming have had no impact on sexual assault prevention. Some of this required content includes providing a statement that the institution prohibits sexual misconduct; providing definitions for terms such as consent, awareness programs, and risk reduction; describing safe options for bystander intervention; and describing disciplinary procedures (VAWA, 2014, p. 62752).

An additional contradiction to the intent of VAWA to prevent and end sexual violence against women is the limited non-grant funding sources to pay for mandated prevention and awareness programming. Outside of federal grant opportunities, like those offered through the Centers for Disease Control (CDC), no other funding source was provided by VAWA to lessen the financial burden on HEIs, which can be costly. VAWA stated, “Although we understand institutions’ concerns about the burden associated with

developing prevention programs, the statute requires institutions to develop these programs” (p. 62759). This statement does not change the fact that smaller HEIs with budget constraints struggle in their development of quality prevention programming. Some of these institutions have only been able to offer a limited number of in-person prevention workshops each academic year and have deferred the purchase of online prevention programming due to the hefty expense. The lack of funding for prevention programming is counterintuitive to VAWA’s intent.

Deconstruction of Intervention/Prevention: Two Sides of a Coin

As discussed earlier in this chapter, “deconstruction not only decenters structures that presume foundational/transcendent meaning, it also deconstructs the structure of binary oppositions” (St. Pierre, 2011, p. 617). The process of deconstruction uncovers the entanglement of dichotomous terms in relation to a particular issue or phenomenon such as sexual violence in higher education. Deconstruction illustrates how the terms are purposefully constructed as opposites in a particular context, and at the same time works against the elimination of the values and differences between the terms. These differences in terms are unstable, yet powerful enough to produce the constructed oppositions. The process of deconstruction creates space for an analysis of what is (*not*) happening with the terms intervention and prevention in the DCL, WHTF, and VAWA.

Since the release of the DCL, WHTF, and VAWA, intervention (post-sexual assault) and prevention (pre-sexual assault) strategies have been characterized as conflicting positions in the efforts to address sexual violence in higher education. They have been constructed as one side of a coin versus the other side of the coin, not as a whole coin. The language in the DCL, WHTF, and VAWA is full of contradictions and ambiguities that end up emphasizing

and privileging the use of intervention strategies over prevention strategies to address sexual violence in higher education, thus constructing the intervention/prevention dichotomy. Those who insist on more intervention strategies see sexual violence as being an endemic issue that needs to be addressed through consequences. Research indicating sexual violence in higher education is a major problem, especially for females, constructs HEI campuses as unsafe and fuels the demand for additional or tougher intervention strategies to restore a sense of safety. HEI policy tends to be shaped by ominous data. Those who support prevention and education efforts emphasize strategies to stop sexual violence before it happens (Gidycz & Dardis, 2014; McCaughey & Cermele, 2015; Senn et al., 2015; Senn et al., 2017). It is unlikely that the harshest intervention strategy or the single best prevention strategy will eliminate sexual violence in higher education. Instead, we must look at both sides of the coin in order to see intervention/prevention as a false dichotomy and continue to work on integrative approaches to (re)construct HEIs as truly safe.

Intervention/Prevention

Higher education institutions (HEIs) have always been tasked with maintaining a safe and peaceful learning environment for students, but recent national attention on sexual violence in higher education has increased scrutiny of safety in the classroom, around campus, and in the surrounding community (Krebs et al., 2007; WHTF, 2014). Political and legal pressures have placed an unprecedented amount of responsibility on higher education institutions to respond to these pressures and effectively address sexual violence (U.S. Department of Education, 2011), as incidents of sexual violence can tear at an institution's mission and question an institution's commitment to prevent and address sexual violence. This increased attention and scrutiny of sexual violence in higher education has contributed

to the constructed oppositions within the intervention/prevention dichotomy. Policy makers tend to respond to increased attention and scrutiny of sexual violence by cracking down on perpetrators through more practical intervention strategies. Matthews (1994) argued that bureaucratic agencies hamper efforts to end sexual violence because they privilege intervention strategies and “shift the focus to...managing the aftermath of rape rather than to changing social relations in order to prevent rape” (p. xiv). This privileging of intervention over prevention remains true today as seen in the DCL, WHTF, and VAWA. Prevention is a difficult sell in bureaucratic climates that prefer the supposed quick fix solution of intervention.

When HEIs privilege intervention strategies to address sexual violence in higher education, it confirms sexual violence is an inevitable occurrence. Also, intervention strategies mostly intersect with students who are accused of sexual violence. Intervention strategies rarely impact students who are never reported for sexual assaults. Certainly, holding perpetrators accountable for their behavior is an important aspect of producing survivors as valued by their HEI and moving towards some resemblance of justice. Since a low number of survivors report their sexual assaults, it is highly likely that many perpetrators on college campuses will never face any consequences. Even when incidents of campus sexual violence are reported, fewer than 10% of the accused individuals get charged or convicted of a crime (Lighty, St. Clair, & Cohen, 2011).

Gersen and Suk (2016) noted that an increase in campus sexual violence cases results in replicated bureaucracy, and in the case of Title IX, more investigators. Campus environments constructed as *not safe* typically call for an “army of bureaucrats” (Doyle, 2015, p. 96) and additional campus security officers to focus on intervention. Thus, the HEI

becomes “a security apparatus for itself” (Doyle, 2015, p. 97). Also, the privileging of intervention strategies may unduly impact minorities (Gersen & Suk, 2016). The lack of transparency during Title IX investigations, and the perception that due process for accused students lacks fairness and impartiality only compounds the situation for minorities, especially since OCR does not track data such as the race of involved parties (Kipnis, 2017). The privileging of intervention comes with its fair share of drawbacks.

Reversal: Prevention/Intervention

The first “step” in the deconstruction of the intervention/prevention dichotomy is to reverse the original order of the terms to prevention/intervention. This reversal allows for the destabilization and evaluation of the terms within the new hierarchy that privileges prevention over intervention to determine if this binary is just as invalid as the original, or if it is a better strategy to use when addressing sexual violence in higher education. Before I begin with the reversal of the intervention/prevention binary, it is important to set the stage for that reversal by reviewing some of the literature on sexual violence prevention in higher education.

The primary purpose of prevention and education programs on college campuses is to reduce the incidents of sexual violence by limiting the likelihood of a student being a perpetrator or a victim and to improve societal responses to victims (DeGue, 2014; Dupain & Lombardi, 2014). Lee, Guy, Perry, Sniffen, and Mixson (2007) discovered that best practices in prevention and education programming involved the entire campus community and worked to promote healthy behaviors and cultural norms such as “egalitarian gender roles, gender equity, healthy relationships, and healthy sexuality” (p. 21). Other studies showed that while prevention programs improved student knowledge about sexual violence and showed

promising practices, they did not result in decreased sexual victimization (Anderson & Whitson, 2005; Daigle, Fisher, & Stewart, 2009; Vladutiu, Martin, & Macy, 2011).

Some education and prevention efforts have focused on attitudinal changes towards sexual violence. The literature has suggested that these programs have improved attitudes on a short-term basis and helped bystanders understand their role (Anderson & Whitson, 2005; Garrity, 2011). In another study, Gidycz, Orchowski, and Berkowitz (2011) evaluated a campus sexual violence program and found that male participants reported less sexual aggression and were less likely to spend time with friends who exhibited sexually aggressive behaviors. Other prevention programs have focused on ways bystanders can recognize threats of sexual violence to others and possibly prevent attacks from occurring. Students who attended bystander programs have self-reported that they are more likely to intervene after training (Banyard, Moynihan, & Plante, 2007; Burn, 2009; Coker et al., 2011; Gidycz et al., 2011). Even though these bystander programs have shown some promise, none of them have shown the ability to reduce behaviors related to sexual violence (Gidycz & Dardis, 2014).

Per the WHTF, required prevention programming follows the CDC's public health model and is categorized as primary (prevent incident), secondary (respond to incident), or tertiary (long-term response to incident). How programs get categorized into these levels can, at times, create tensions. McCaughey and Cermele (2015) explored these tensions and deconstructed what counts as primary prevention. They found that self-defense was excluded from the primary prevention level because the CDC ignored it as a "protective factor" (McCaughey & Cermele, 2015, p. 5). Rape prevention educators commonly frame self-defense as intervention, further hampering self-defense from being seen as primary prevention. Interestingly, bystander intervention is categorized as a primary prevention

program in the public health model, even though the point at which a bystander would intervene is the same point at which a potential victim could intervene on her own behalf to stop the attack. McCaughey and Cermele (2015) exposed a hidden curriculum within prevention programming that produces victims as always already assaulted. They argued that self-defense should be considered a primary prevention strategy based on the empirical literature showing its effectiveness. Self-defense training could also help rewrite gendered scripts that promote rape culture. Also, McCaughey and Cermele (2015) were critical of the compartmentalization of prevention strategies as primary, secondary, or tertiary and noted that this privileges some strategies over others.

Research has shown that only two primary prevention programs have been effective at preventing sexual violence, and these programs were geared toward middle and high school students (Centers for Disease Control and Prevention, 2014). Colleges are spending more money than ever to develop prevention and education programs such as sexual assault awareness nights, on campus prevention and education programming, and online training resources. However, as McCaughey and Cermele (2015) pointed out, self-defense is routinely left out of this programming, and people are rarely “informed that active resistance, or self defense, is a way to protect themselves against sexual assault” (p. 2). In the next section, I discuss self-defense as one approach in displacing the intervention/prevention dichotomy.

Just as intervention has shortcomings, so to does prevention. Current primary prevention programs often lack rigorous empirical evidence to demonstrate their effectiveness, often take long periods of time to reflect attitudinal changes and changes in campus culture, and have not been found to decrease sexually aggressive behavior (Banyard

et al., 2007; Gidycz, et al., 2011). Some HEIs are reluctant to invest in these programs long-term and settle for short-term programs, which themselves have not proven effective.

Education and prevention efforts should be data-driven, but that requires additional staffing to review what data is available from other institutions, and to collect and analyze education and prevention efforts at their own institution. Many college and universities simply do not have the funding resources to commence with this initiative.

Funding for prevention programs is scarce at many institutions and additional funding opportunities must be made available for HEIs to fully implement comprehensive prevention and education programming. Grant funding is simply not enough. Although prevention and education strategies such as self-defense do show promise, privileging prevention over intervention seems to be an *impossible* proposition. Ending sexual violence will involve an approach that values both sides of the coin equally.

Displacing Intervention/Prevention: The Whole Coin

Displacing intervention/prevention shows why prevention and intervention strategies are equally important in the quest to end sexual violence in higher education. Ignoring the values and differences of the terms, or conversely focusing too heavily on them, ends up perpetuating the dichotomy. In light of this, how can we approach these terms differently? One possible answer is to focus on integration because compartmentalizing each term erases their connections. The first step towards this integration involves a dismissal of constituted oppositions. Instead of seeing the differences in prevention/intervention as representative of truth, I instead look at how the pairing works together and critique the terms for their possible contributions in addressing sexual violence in higher education.

The deconstruction of prevention/intervention reveals that the terms are not opposites. As Cahill (2001) noted in her discussion of philosophical oppositions, terms such as prevention and intervention are “mutually defining reversibilities whose elements adhere to each other even...as they differ from each other” (p. 6). The emphasis on intervention over prevention in the DCL, WHTF, and VAWA has caused some HEI administrators to table the examination of their assumptions about these terms. This examination is necessary in order to keep working toward development of prevention strategies that stop sexual violence “before” it happens *and* the improvement of intervention strategies that address sexual violence “after” it occurs.

The examination of prevention programming continues to be a focus for many scholars. For example, DeGue et al. (2014) looked at 140 outcome evaluations of primary prevention programs and found that only three of the programs had a significant long-term impact on reducing sexual violence. Gidycz and Dardis (2014) recommended self-defense as a “key component” (p. 9) of prevention programming because it could change campus norms and give females the confidence to resist an attack. McCaughey and Cermele (2015) reviewed the empirical research on self-defense against sexual assault and showed self-defense to be an effective way to stop sexual assaults and reduce the likelihood of their occurrence. Other scholars have also found sexual assault resistance programs to be effective. Senn et al. (2017) evaluated participant outcomes and long-term effectiveness of the Enhanced Assess, Acknowledge, Act (EAAA) program and found that it “significantly reduced the risk of completed and attempted rape” (p. 157). They examined this same program in 2015 and found similar results (Senn et al., 2015). This work is critical in the efforts to locate promising practices in prevention programming.

Intervention and prevention strategies cannot work as separate entities on the issue of sexual violence in higher education, as intervention cannot work without a true commitment to prevention, and vice versa. The two terms are part of the same coin. Intervention *and* prevention are entangled in too many issues related to sexual violence. Policy makers need to reject sexual violence as an inevitable event for some female students during their college years. This rejection can balance the need for prevention and intervention strategies and can demonstrate that choosing one strategy over the other only serves to maintain constructed differences between the terms. HEIs must continue to ask how sexual violence can be prevented and be open to strategies like self-defense that are not labeled as primary prevention. When prevention fails, it needs intervention.

Chapter Analysis Summary

In this chapter, I put deconstruction to work with a slow and careful reading and analysis of the *happenings* in the 2011 Title IX “Dear Colleague” Letter (DCL), the 2014 White House Task Force (WHTF) Report “Not Alone,” and the 2014 Violence Against Women Act (VAWA) Final Rule. I provided a review of deconstruction and explained how this process could help me examine the language in the texts for contradictions, breaks, and inconsistencies in order to uncover hidden meanings and privileged truths. The theoretical analysis in this chapter placed a critical lens on the shifting nature of language in the texts and contributed to the rethinking of sexual violence as a condition of *impossibility* in higher education. The analysis was centered on the following analytical questions:

- What meanings/explanations are left out or hidden in key texts designed to address sexual violence in higher education?

- What is being represented and privileged as truth in key texts designed to address sexual violence in higher education?

To address the first question, I troubled the claims of safety, protection, and prevention in the DCL, WHTF, and VAWA and their intended purpose to end and prevent sexual violence in higher education. My reading examined the tensions between the foregrounded titles and purposes as outlined in the guidelines, recommendations, and regulations, respectively. I exposed blind spots in the language of the texts that created paradoxes, contradictions, and constraints with the claims for safety, protection, and prevention. These blind spots showed that the emphasis on intervention strategies continues to normalize sexual violence in higher education as reality and truth and maintains the *impossibility* of ending sexual violence.

The findings related to the first question led me to the second analytical question as I examined the privileging of intervention strategies over prevention strategies in the DCL, WHTF, and VAWA. The bulk of the information in all three texts outlined intervention actions and strategies that HEIs *must* do, while education and prevention strategies are part of *should, may, or recommended* statements. The hidden message to HEIs is that it is more important to have policies and procedures to address sexual violence after it happens than strategies that work to prevent sexual violence from happening in the first place. Privileging intervention produces sexual violence in higher education as inevitable and the elimination of sexual violence incidents through prevention and education as impossible. Using the strategy of deconstruction in this work to reverse and displace the intervention/prevention dichotomy minimizes the differences between the terms in favor of ethical actions and strategies that focus more on survivors and less on compliance checklists in the quest to end sexual violence in higher education.

Based on what emerged from this analysis, I returned to my overarching question, what is (*not*) happening with sexual violence in higher education? Overall, too many HEIs are not ensuring safety for all students, not protecting females from sexual assault, and not preventing and ending sexual violence in higher education. The DCL, WHTF, and VAWA texts are not having the impact on sexual violence in higher education as intended. The number of females experiencing sexual violence while in college has remained steady at one in five since the release of the 2011 DCL. There is not enough emphasis on sexual violence prevention and education at HEIs. The emphasis on intervention blindly stabilizes the notion that campus sexual violence is reality and continues to normalize its existence.

In the next chapter, I put to work the concept of marginality to continue my exploration of what is (*not*) happening with sexual violence in higher education. Some discourses on sexual violence in higher education take place in the thresholds between the DCL, WHTF, and VAWA and the actual execution of the guidelines, recommendations, and regulations by higher education institutions. Margin/center politics will be deconstructed using the narratives of sexual violence survivors describing their interactions with the structures, systems, policies, and practices of higher education institutions (HEIs) after reporting a sexual assault and OCR Title IX investigation resolution agreements.

Chapter 4: Happenings in Marginality: Shaping the Contours of the Margin

As discussed in “Chapter 2: The Doing of Disruptive Inquiry: Theory and Methodology,” poststructuralism provides a framework to explore power and politics within the structures of higher education institutions (HEIs). Interactions between college students and HEI administrators highlight the presence of power relations and politics. These interactions can lead to the marginalization of students, particularly survivors of sexual violence, when they report a sexual assault with the HEI or file a Title IX complaint with the Department of Education’s Office for Civil Rights (OCR). HEI structures have a tendency to (re)enforce their “centered” status during their interactions with survivors. As I thought of my own interactions with students during Title IX investigations, Spivak’s (1993/2009) concept of the “teaching machine” began to emerge in my work as the “Title IX machine.” Just as the teaching machine works to normalize the doings of American education, the Title IX machine works to normalize the doings of the HEI in sexual violence cases. The Title IX machine places a higher value on the institution’s brand and reputation and shapes the contours of marginalized survivors as needed in its doings.

Disparities among female survivors of sexual violence, the margin, and the centered Title IX machine are evident in margin/center interactions as “power inequalities take many forms, and include processes of exclusion, marginalization, trivialization and misrepresentation when people are engaged in decision-making and policy-making in schools and other educational institutions” (Lynch & Baker, 2005, p. 148). In employing Spivak’s

(1993/2009) concept of marginality to explore the *happenings* in the margin/center binary, I work within the theoretical framework of poststructuralism and its key element of power to rethink sexual violence in higher education. Because power usually works in favor of the HEI, the Title IX machine may “work hard to make it appear that the hierarchy – and the disparity in power and resources that flow from hierarchy – is natural, and therefore, beyond modification” (Jensen, 2013, p. 45). This privileges the center’s policies and procedures and attempts to locate survivors of sexual violence in the margin. This mindset maintains oppressive structures and systems of the center, and it also maintains the contours of the margin and center as defined by the center.

In this analysis chapter, I employ survivor narratives from the documentary *The Hunting Ground* (Ziering & Dick, 2015), OCR Title IX investigation resolution agreements, and other articles related to these sources as I think about my overarching question in this study, “What is (*not*) happening with sexual violence in higher education?” Thinking with Spivak (1993/2009), I work to rethink sexual violence in higher education by uncovering new perspectives and further developing Spivak’s (1993/2009) concept of marginality. I think with Spivak (1993/2009) as I explore the *happenings* in margin/center politics and the production of marginality through the interactions between HEIs and survivors of sexual violence. To further explore my overarching question, I think with Spivak (1993/2009) and the concept of marginality in the third analytical question of my work:

- *How do margin/center politics produce marginality in sexual violence cases in higher education?*

To further address the concepts of marginality, the machine, and the margin/center binary in relation to survivors of sexual violence in higher education, I also approach my data

resources with the following questions: What is reclaimed and valued through marginality and who reclaims it? How are female sexual violence survivors placed *outside in* the “Title IX machine?” What is being produced and valued with(in) the margin/center binary in this study?

More About the Title IX Machine

As mentioned earlier in this chapter, an important concept used by Spivak (1993/2009) in her theory of marginality is that of the “teaching machine.” In this dissertation project, I borrow Spivak’s (1993/2009) concept of the machine and apply it to this dissertation project. I explore the concept of the machine by using Jackson and Mazzei’s (2012) “thinking with theory” alongside my own professional experiences with Title IX compliance, policy development, complaint procedures, and investigations that serve to maintain an institution’s status as the center. Returning once again to my overarching question, “What is (*not*) happening with sexual violence in higher education?” and thinking with the concept of machine, I see how the “Title IX machine” in this project works to normalize certain activities and shapes the contours of the survivors as *outside in* the machine (Spivak, 1993/2009).

The idea of being *outside in* the Title IX machine is a double bind, placing “marginality not as a positive space *outside* of the center, but as constituted *within* the center” (Jackson & Mazzei, 2012, p. 37). Deconstructing the happenings in marginality can flip the normalized inside/outside binary narrative and bring the outside in. The Title IX machine in this project operates in similar ways as the teaching machine, working to regulate “the way things are done” during Title IX investigations and valuing a complainant who complies with institutional practices, regardless of what those practices do. The basis of this analysis

chapter is to critique what is (*not*) happening with sexual violence in higher education using the concepts of marginality, margin/center politics, and the Title IX machine to explore survivor narratives and Title IX OCR findings.

Power and the Title IX Machine

Poststructuralists view power as a key component of the construction of the self. Spivak (1993/2009) initially used Foucault's (1980) work with power/knowledge and the idea of power as a productive force before shifting to deconstruction of the margin/center binary in her concept of marginality. One conveyer of power within HEIs is the Title IX machine, which is tasked with addressing campus sexual violence. This machine produces normalizing tendencies when it comes to HEI policies and procedures that subjects (sexual violence survivors) are expected to follow.

Other scholars have previously questioned HEI Title IX practices and actions. Doyle (2015) described the actions taken by HEIs in the name of Title IX as “the madness of the apparatus” (p. 11). She experienced this “madness” after she filed a Title IX harassment complaint against a student at her university. Dissatisfied with the way the Title IX staff handled her case, Doyle submitted a second complaint about the original complaint. Doyle's (2015) case lasted close to two years, and the “administrative trauma” (p. 9) she experienced led her to examine abusive power structures at HEIs. Like Doyle, Kipnis (2017) was involved in two Title IX complaints at her own institution as the accused person in both cases. Female students filed the first complaint against Kipnis based on an essay she wrote about campus sexual paranoia, and the second complaint against her was based on a hostile environment. Based on her experiences with these investigations, she described herself as the “poster person for Title IX overreach” (Kipnis, 2017, p. 151). According to Kipnis (2017),

the amount of institutional power HEIs have creates the messy state of “officialdom” (p. 36). Her experiences propelled her to explore due process concerns with Title IX in relation to accused faculty, staff, and students. While Kipnis (2017) focused on accused individuals, and this project focuses on survivor narratives, we both have major concerns about the failures of the Title IX system. Gersen and Suk (2016) examined the bureaucratic nature of Title IX at HEIs as a sex bureaucracy. As Doyle (2015), Gersen and Suk (2016), and Kipnis (2017) have all argued, Title IX “mini-bureaucracies,” or Title IX machines in this work, tend to overemphasize their policies and procedures in an effort to reduce their vulnerability.

Waiting on the opportunity to protect the institution and reduce this vulnerability, the Title IX machine idles in the corner until it is made aware of a campus sexual violence incident. At that very moment, it revs its engine and begins to move forward with a violent force, protecting the HEI at all costs as it carefully maps out a path based on its own policies and procedures to minimize damage to the institution’s reputation and status. As the Title IX machine moves along its created path to address sexual violence, its violent nature works to produce survivors as marginal. The horror stories of survivors navigating the path of the powerful Title IX machine, and the high number of OCR Title IX investigations of HEIs, is evidence of the Title IX machine’s mental and emotional violence. The violent actions of the Title IX machine are paradoxical to the foregrounded purpose of ensuring safety for all students as outlined in the 2011 DCL.

A key aspect of this analysis is the constitution of power between and within the margin (survivor)/center (Title IX machine) as I explore the status quo *happenings* in sexual violence in higher education. In this regard, I question HEI practices that are established as “normal” or “the way things are done” as the Title IX machine addresses Title IX complaints

and simultaneously works to maintain their centeredness by shaping the contours of survivors in the margin. The Title IX machine aspires to use its power to protect its center and constitute the margin that exists “outside in” the machine. I am part of a Title IX machine within my own institution. This machine is a structure that I intimately inhabit and at the same time critique for this project, and “it is difficult to escape what one critiques...”(St. Pierre, 2011, p. 622). Spivak stated, “The deconstructivist can use herself (assuming she is at her own disposal) as a shuttle between the center (inside) and the margin (outside) and thus narrate a displacement” (Spivak, 1996, p. 35). Occupying a position within the Title IX machine (center), I deconstruct the politics of the margin/center binary by exploring the perspectives of sexual violence survivors (margin).

The Shaping of Contours

Spivak (1993/2009) noted that “as the margin or ‘outside’ enters an institutional or teaching machine, what *kind* of...machine it enters will determine its contours” (p. ix). Each year in this country, thousands of individuals from the “outside” enter the doors of higher education institutions and become college students. They are also entering a “machine” that will constantly work to determine their contours. Higher education institutions (HEIs) welcome these students into their unique cultures and practices with open arms as portrayed in *The Hunting Ground* (Ziering & Dick, 2015). This documentary showed university administrators from several different institutions giving welcome speeches to students and making statements such as, “To our new treasured students, this is your year,” “Few things are more worthy of celebration than the entry of a new class of students into the university,” “Let us, the faculty, know what we can do to help you reach that goal,” and “We will be there to advise you, to support you, to guide you, to point you to vast resources and opportunities

on your way.” Campus welcome speeches provide a HEI the opportunity to express all things positive about an institution and to begin shaping the contours of their students as treasured, celebrated, and supported. Mentioning the possible dangers that face college students during these speeches, especially the dangers of sexual violence, would produce quite a different set of contours.

The cultures and practices of HEIs dictate how they respond to sexual violence and guide what they value when addressing this issue. Students who become victims of sexual violence and file a report with college administrators are unaware they have entered a “Title IX machine” that is *always already* working to shape their contours in order to satisfy the needs of the HEI. Stanley (2016) noted that the structures of organizations shape the activities of individuals who engage their borders and manage those on the *outside* who regularly use their services.

As shown by the examples of campus welcome speeches above, HEIs cleverly propose a share of the structured “center” to all students who cross their threshold. Institutions depict their contours as open, welcoming, supportive, and safe and thus constitute their students as treasured, valued, and protected. Institutions are promoting and selling a brand, and students “initially” buy it. The welcome speech is one mechanism of control the “institutional machine” employs to shape what students believe about the institution. Unfortunately, female college students, especially those enjoying newfound independence and freedom in their freshman and sophomore years, are likely to become a victim of sexual violence or attempted sexual violence while in college. As they navigate the Title IX process at their HEI, they begin to question the “open, welcoming, supportive, and safe” claims made by their institution. Sexual violence is one of the most common crimes on college campuses

(Krebs et al., 2007), although close to half of colleges reported zero sexual assaults in 2012 (Kaiser Family Foundation, 2014). The literature I reviewed shows that females are the most likely victims of sexual violence, and that they are reluctant to report these incidents to campus officials (Karjane et al., 2005). Responses to campus sexual violence reports by the center, the Title IX machine, frames the margin for survivors and produces female complainants as a thing, “a complaint” that is interfering with the work of the overall “institutional machine.” The interactions between the margin and center are complex and contain more than just the struggles between the oppressive center and the oppressed margin; they are also about how the center and the margin shape each other throughout these interactions. Inappropriate responses to sexual violence by HEIs and the Title IX machine attempt to shape survivors of sexual violence as dishonest and responsible for their assault. This work will place a spotlight on these responses by the Title IX machine and the thresholds where marginality is produced.

Thinking from a poststructural perspective that challenges the stability of structures, it is expected that the contours of HEIs begin to evolve as the prevalent issue of sexual violence lands at the door of their Title IX machine, their center. Institutions claim the margin (survivors) by publicizing that they take reports of sexual violence seriously and that they handle incidents of sexual violence appropriately (Ziering & Dick, 2015). As a former associate professor at Harvard noted, “There is a desire to have [the sexual violence incident] addressed internally... part of that is silencing the ... problem. It’s viewed as a public relation management kind of problem” (Ziering & Dick, 2015). The center desires to maintain its status as a safe campus, avoid negative publicity, and preserve a consistent revenue stream.

As HEIs work to maintain their positive status, “the putative center welcomes selective inhabitants of the margin in order better to exclude the margin” (Spivak, 1996, p. 35). One survivor echoed this sentiment as she stated, “I felt so cared for, until I actually needed Yale, then I became administrative matter” (Ziering & Dick, 2015). This statement demonstrates how the center’s initial interactions with students portray the institution as “open, welcoming, supportive, and safe.” As long as sexual violence survivors go along with the Title IX machine’s policies and procedures, they are continuously welcomed by the center and offered a false sense of security. By welcoming these selective inhabitants of the margin, the center can demonstrate that they take campus sexual violence seriously through their interactions with these survivors. Preserving the HEI status as being inclusive “might mean not including those who do not share this view” (Ahmed, 2017, p. 3). Survivors who demand more from the center or challenge the center’s handling of a sexual violence case are then more easily excluded from the center, as they are deemed *different* from their own group.

The actions of the Title IX machine “can be as dangerous as it is powerful, and the radical [survivor] in the university can hope to work...toward controlling the dangers by making them visible” (Spivak, 1993/2009, p. 60). One former dean indicated that her institution would “make it difficult for students to report...and discourage complainants from going to the police” (Ziering & Dick, 2015). These actions result in a lower number of reported incidents and reduce the likelihood that a report would become public record.

Numerous sexual violence survivors shared similar experiences with their respective institutions in *The Hunting Ground* (Ziering & Dick, 2015) and exposed the work of the Title IX machine when they reported their sexual assaults and filed Title IX complaints with the

Office for Civil Rights (OCR). HEIs work to address complaints internally and “part of that is silencing the kind of problem” that campus sexual violence can create. As survivors speak out or file official complaints, they are attempting to control the dangers of sexual violence in higher education by making them visible. When the dangers become visible, as noted earlier, both the HEI and its students often marginalize survivors for challenging the status quo of the Title IX machine’s operations. The survivors who speak out and challenge an institution are thus *outside in* the center and the margin. On the other hand, HEIs can also be *outside in* for doing what they deem necessary to protect their status and brand. HEIs found in violation of Title IX after a survivor has filed a complaint can find themselves marginalized by their HEI counterparts for their inappropriate actions. This is an example of how margin/center politics can produce marginality in sexual violence in higher education.

Thresholds of Marginality: Struggle, Resistance, and Accountability

In this section of the analysis, I examine the *happenings* in sexual violence in higher education by employing Spivak’s (1993/2009) concepts of marginality, margin/center politics, and the Title IX machine. I specifically explore the *happenings* in three thresholds of marginality: a) struggle, b) resistance, and c) accountability through survivor narratives from *The Hunting Ground* (Ziering & Dick, 2015) documentary and OCR Title IX investigation findings. The survivor narrative of Kamilah Willingham was especially compelling and will be discussed throughout each threshold. Several additional resources were used to expound on Willingham’s story beyond the documentary. First, I focus on the threshold of *struggle* by exploring the interactions of the margin/center as survivors report their assaults and navigate the HEI Title IX process. Second, I explore the threshold of *resistance* as survivors refuse the Title IX machine’s normalizing tendencies by sharing their stories with the media, publishing

essays, and creating various campaigns to call attention to HEI failures in addressing sexual assault. The third threshold, *accountability*, focuses on a re-centering of the center through OCR findings, and how even after being found in violation of Title IX, the center continues its attempts to reclaim its centered status and push survivors to the margin. This part of my analysis will address my third analytical question: How does the margin/center produce marginality in sexual violence in higher education? As I think with Spivak (1993/2009) in the exploration of these *happenings* in sexual violence in higher education, I also look for ways to rethink the impossibility of sexual violence in higher education. The ability to prevent and end sexual violence and to provide an ethical response to survivors is often seen as very difficult to do, or “as an experience of the impossible” (Morton, 2009, p. 38).

Struggle

The impact of sexual violence is immeasurable, and it has far-reaching implications for survivors and their families and communities. The trauma of sexual violence can lead to physical injuries, an increased likelihood of depression, and anxiety (Zinzow et al., 2010), Post-Traumatic Stress Disorder (PTSD) (Elklit & Christiansen, 2013; Masho & Ahmed, 2007; Zinzow et al., 2010) and suicidal ideation (Basile et al., 2006; Cogle, Resnick, & Kilpatrick, 2013; Le, Behnken, Temple, & Berenson, 2011; Stepakoff, 1998; Tomasula, Anderson, Littleton, & Riley-Tillman, 2012; Zinzow et al., 2011).

Student survivors of sexual violence are also likely to struggle academically. Academic impact can include missed classes, reduced course loads, lower grade point averages, and withdrawal from courses or from the institution completely (Fisher et al., 2000; Jordan, Combs, & Smith, 2014; Kirkland, 1994). Students may experience these difficulties immediately after the attack, or they may have a delayed response. An inability to

concentrate, increased anxiety levels, and lack of sleep due to their experience decreases energy levels and leads to a decrease of academic motivation (Fisher et al., 2000). The academic impact on survivors of sexual violence shows the need for improved support services and retention programming that addresses the connection between sexual victimization and performance in the classroom (Jordan et al., 2014).

Statistics on sexual violence in higher education may be slightly skewed due to the fact that many sexual violence incidents are never reported (Karjane et al., 2005; Krebs et al., 2007; Lisak, Gardinier, Nicksa, & Cote, 2010). Students who chose not to report an incident of sexual violence saw it as personal matter, not important enough to report, or they feared reprisal (U.S. Department of Justice, 2014). Not reporting sexual violence leads to more unwanted consequences for survivors. They are less likely to get the assistance they need, the culture of secrecy prevails, and communities may continue to deny that sexual violence is an issue that needs to be addressed politically, legally, and institutionally (Krebs et al., 2007). College responses to incidents of sexual violence play a critical role in preventing survivors from feeling marginalized.

Higher education institutions have always been tasked with the responsibility to maintain a healthy balance between the right to learn and the maintenance of a safe and peaceful learning environment. Widespread national attention on sexual violence in higher education has put more focus on addressing and ending sexual violence and rape-supportive cultures (Krebs et al., 2007; WHTF, 2014). According to Burnett et al. (2009), college administrators have failed to validate rape experiences and appropriately address sexual violence and rape culture through preventative education and support. Sampson (2002) stated

that this failure is connected to a fear that incidents of campus rape will damage an institution's reputation.

The lack of appropriate responses to incidents of sexual assault has led to hostile campus environments for sexual violence survivors. Kingkade (2013) reported on a formal complaint filed against one university and noted that hostile environments deterred victims from reporting sexual assaults, and even when victims did report sexual assault incidents, the punishment was often light if the perpetrator was found in violation of campus policies. The lack of responsiveness in combination with lenient outcomes against perpetrators perpetuates rape culture on college campuses.

I recognize that a survivor may face a lifetime of struggle after a sexual assault; however, this work focuses on the struggle that begins when a sexual assault survivor enters a higher education institution's (HEI's) Title IX machine in search of the support and understanding promised in the HEIs welcome speech. Spivak's (1993/2009) concept of marginality allows me to see the entanglement of sexual violence in higher education with the questionable practices of the Title IX machine on college campuses. The exposure of these practices by sexual violence survivors challenges the common HEI response of "we take these reports seriously" when a sexual assault occurs on campus. A 2014 Gallup Survey found that 95% of college presidents deemed that their institutions appropriately address sexual violence. In many instances HEIs are addressing sexual violence appropriately, but in far too many situations this is certainly not the case. Several studies found that close to 90% of women sexually assaulted on campus do not report the incident (Fisher et al., 2000; Kaiser Family Foundation, 2015), and a 2016 Campus Climate Survey Validation Study indicated that one of the top reasons survivors do not report sexual assaults was due to concerns that

the HEI would treat them poorly, not respond effectively, or fail to take any action. There is clearly a disconnect between HEIs and survivors in regards to how sexual assault is being addressed. HEIs claim survivors are *inside* their Title IX structures because they have checked all the boxes on the Title IX checklist designed to address sexual violence. Conversely, survivors clearly see themselves as being *outside in* based on their negative interactions with HEI policies and procedures and their poor treatment by the Title IX machine.

(Re)Naming the Survivor to Satisfy a Need. The moment a survivor reports a sexual assault and begins to navigate Title IX policies and procedures at an HEI, negotiations between the margin and center also begin. While survivors are looking for the safety, protection, and support that made them feel valued by the HEI when they enrolled as a student, the Title IX machine has a different purpose in mind when addressing a sexual assault report. This excerpt from *The Hunting Ground* (Ziering & Dick, 2015) uncovers this purpose and shows how the center operates to satisfy its own needs:

When a student comes to an administrator with a problem, it's not like the administrator wants the harm to be perpetuated, but their first job is to protect the institution from harm, not the student from harm.

Spivak (1993/2009) noted that giving a generalized margin a name satisfies a need for those naming it. Some administrators in the Title IX machine satisfy the need to protect the institution by challenging the survivor's story of sexual assault and renaming the survivor as something *Other*, because the institution must maintain its status as a safe place. The HEI is thus valued more than the survivor. For example, if something "bad" happened to a student, she must bear some of the responsibility. The survivors in *The Hunting Ground* (Ziering &

Dick, 2015) indicated they experienced victim-blaming (*Did you say no? What were you wearing? What were you drinking? You shouldn't go out in short skirts.*) and secondary-victimization after reporting their sexual assault. One survivor said she made the decision to report her sexual assault after talking with a friend, and was expecting to get resources, support, and guidance, but instead got a “football metaphor” from the administrator:

Rape is like a football game, Annie, and if you look back on the game, what would you do differently in that situation? Were you drunk? What would you have done differently if you could replay the situation again?

Willingham experienced this same line of questioning after she reported being sexually assaulted by a friend at Harvard Law School. The person she reported the incident to asked her the following questions, “Did she think he misunderstood the friendship? Why didn't she fight back? Why didn't she fight him?” (Ziering & Dick, 2015). Willingham pointed out that even though there was an “extreme reluctance to believe me” (Ziering & Dick, 2015), she ultimately felt valued and vindicated when the student who assaulted her was expelled. She was claimed as valuable by the institution and positioned *inside* the Title IX machine. However, the following September, she received a Facebook message from the dean of students saying the perpetrator had appealed, and he was allowed to return to the institution. In violation of Title IX, Willingham was not notified of the appeal, and she was not included in the appeal process. The message to Willingham was clear—survivors should avoid Harvard's disciplinary hearings.

The questionable actions described above by the Title IX machine produces a (re) naming of the survivor and pushes her to the margin, away from the machine's center. By suggesting that a survivor's choice of attire, alcohol consumption, or unwillingness to fight

an attacker leads to her sexual assault marks her as responsible, shamed, and possibly even a liar instead of a survivor. This naming shifts the responsibility for the incident to the survivor. She is now *outside in* the Title IX machine. An institution that she thought valued her has now betrayed her. One survivor stated, “My rape was bad. The way I was treated was worse” (Ziering & Dick, 2015). Students who experience sexual violence often feel betrayed by their institution as they navigate the Title IX process. Smith and Freyd (2013) found that survivors who felt betrayed by a college or university had a higher level of anxiety and symptoms that were trauma-specific compared to survivors who did not feel betrayed by their institution. For some survivors, this betrayal leads to resistance and produces a different marginality than the *happenings* during the struggle.

Resistance

As I explore the production of marginality and the *happenings* between the margin/center in the resistance threshold, I also consider the following questions:

- How are survivors in the margin defining themselves?
- How do survivors critique and say the “impossible no” to the Title IX machine they are intimately a part of?

These questions continue the exploration of the politics at play between the margin/center in the Title IX machine and examine the reclaiming of marginality when survivors resist the doings of the Title IX machine. Although this work focuses on female survivor narratives, I think it is worth noting that there are also numerous instances of accused students who have resisted the doings of a Title IX machine “run amok” (Kipnis, 2017, p. 6). Thinking with Spivak (1993/2009), this section explores how survivors are defined and positioned as they say an “impossible ‘no’ to a structure, which one critiques, yet inhabits intimately” (p. 66)

when they resist the norms of the Title IX machine and assert a new value to its center by standing up to their institutions. One survivor stated, “You are built from the ground as a Tar Heel, as a member of the community that is so much bigger than you. I was directly going against it” (Ziering & Dick, 2015). This is an example of the institutional machine inviting her “into the center at the price of exacting from [her] the language of centrality” (Spivak, 1996, p. 34). To be *outside in* the Title IX machine is to say an “impossible no.”

As shown in the struggle threshold above, institutional responses to sexual violence have been lacking and in some cases have created hostile environments for survivors (Harris, 2016; Mangan, 2016; New, 2015; Wadhvani & Rau, 2016). The examples in the section above demonstrate that this is true in many sexual assault cases. The causation of these responses can be connected to campus rape culture and patriarchal institutions that privilege males over females. Myths about sexual violence serve as the foundation of rape culture, and they can have a huge impact on the treatment of survivors and the resources made available to them. Rape myths are defined as false assumptions, beliefs, and stereotypes about survivors and perpetrators in situations involving forced sexual intercourse (Lonsway & Fitzgerald, 1994). Lonsway and Fitzgerald (1994) found that many individuals on college campuses held rape myth beliefs, thus leading to rape-supportive cultures. Rape myths perpetuate rape culture, and institutional responses to this culture are intertwined with the production of marginality.

Higher education institutions have been steeped in sexism since their inception, and many beliefs about sexual violence in higher education emerged from patriarchal institutions. There is still a societal belief that males are hyper-masculine and unable to control their behaviors (Hill & Fischer, 2001), which leads to the “boys will be boys” response when

incidents of sexual misconduct are reported on college campuses. Hyper-masculinity is the belief that violence is manly, but it is also dangerous in combination with uncaring attitudes towards women (Mosher & Serkin, 1984). This view of women as *Other* promotes the idea that they are deserving of abuse and enables the continuation of a rape-supportive culture (Schwartz & DeKeseredy, 1997). *The Hunting Ground* (Ziering & Dick, 2015) demonstrated the power of patriarchy and rape culture when survivors spoke about how their college seemed to be more concerned about the accuser and his needs after they reported a sexual assault. One survivor was told, “You don’t know what he’s going through right now. He could be really having a hard time” (Ziering & Dick, 2015). In Willingham’s case, she was told that the male who assaulted her had been “put through it,” (Ziering & Dick, 2015) referencing both the Title IX process and her decision to be a part of *The Hunting Ground* documentary. This demonstrates the privileging of the accused male’s experience over the female survivor’s trauma during and after a Title IX investigation and reinforces the male/female binary.

Complainant as Compl(ia)nt vs. Compl(ai)nt. A survivor’s decision to resist and challenge the doings of the Title IX machine is a result of many factors. These factors include poor treatment by HEIs after reporting a sexual assault and the desire to push back against rape culture, patriarchy, and bureaucratic structures that seem to be counterproductive to Title IX’s purpose. Matthews (1994) examined the impact of bureaucratic structures on six rape crisis centers in California after they became more reliant on “state” funding and had to follow the regulations and requirements attached to those funds. Matthews (1994) found that increased reliance on “the state” for funding resulted in a “contradictory effect” (p. xii) to the anti-rape movement in the 1970s and early 1980s. Positions at rape crisis centers were

professionalized, or in other words bureaucratized, and the centers became more focused on providing services to victims *after* a rape instead of empowering women and preventing sexual violence. In order for the centers to operate and provide services to victims, they had to strictly “comply” with bureaucratic structures and guidelines. In order for the victims to get services, they also had to “comply” with these established structures. Like rape crisis centers, HEIs became even more bureaucratized after Title IX guidance was released in 2011 and as HEIs began to fear being non-compliant. While HEIs do not get federal funding for Title IX, they risk losing it if they are non-compliant. Fear of losing federal funding leads to the replication of bureaucratic structures, and this replication results in dehumanization (Gersen & Suk, 2016). In order for HEIs to reduce the risk of losing their funds, they need “compliant Title IX complainants.” As with the California rape crisis centers, the overwhelming focus on Title IX compliance has minimized women’s empowerment and added bureaucratic regulations that exposes women to institutional violence and undermines the ultimate Title IX goal of safety.

Acts of resistance by survivors are based on the attempts by HEIs to (re)name them. Spivak (1993/2009) points out that this process of (re)naming is a way to identify survivors through separation in order to meet the needs of the HEI. In the struggle threshold, complainants can be (re)named responsible, shamed, and dishonest. In this threshold, HEIs position survivors as “complainants” as long as they comply and collude with their normalizing tendencies, but are quickly (re)named as a dehumanizing “complaint” when they collide with these same normalizing tendencies by filing a Title IX complaint against HEIs or by going public with their concerns about the HEI’s questionable policies, procedures, and practices. Survivors view their “complaints” as constructive, as the outcome may result in

vindication and meaningful changes in Title IX processes, while “complaints tend to be treated as destructive” (Ahmed, 2017, p. 2) by HEIs. A complaint can produce a conflict between survivors and HEIs, and this conflict can place HEIs in a space of risk and vulnerability because of the possibility of a Title IX violation (Doyle, 2015). As Ahmed (2017) noted in her work about complaints and diversity work, institutional risk and vulnerability can expose complainants/survivors to institutional violence. This is similar to the “structures of relation violence that likely produced the original complaint” (Doyle, 2015, p. 40). This institutional violence is often at the hands of the Title IX machine, the same machine that is supposed to address abusive behaviors and keep students safe.

At the initial point of a sexual assault report, the Title IX machine names the survivor a “complainant,” the name used for reporting victims in many HEI sexual misconduct policies and procedures. HEIs desire survivors who are “compliant complainants.” For example, when Willingham reported her assault the Dean responded, “I just want to make sure, above all else, that you don’t talk to anyone else about this” (Ziering & Dick, 2015). The Title IX machine values “compliant complainants” who remain silent, but not complainants who complain about or question its actions, processes, or practices. Survivors are offered space on the *inside* of the HEIs structures as long as they are “compliant.” The moment they speak out about their negative experiences or question Title IX policies and procedures, they are (re)positioned *outside* and (re)named as a “complaint” for not being “compliant” and lose the *inside* status initially offered to them. Ironically, HEIs desire “compliant” survivors that properly and quietly go along with institutional Title IX processes, while many of these same HEIs are themselves not compliant with Title IX guidance.

Filing a Complaint. When HEIs fail survivors with inappropriate actions or fail to comply with Title IX guidance, some survivors demonstrate their resistance by filing an official Title IX complaint with OCR. Two survivors from *The Hunting Ground*, Pino and Clark, filed a Title IX complaint against UNC-Chapel Hill, and OCR took their case. UNC-Chapel Hill’s General Counsel stated that the accusations were “false, untrue, and just plain wrong.” Clark said these words were the equivalent of a “betrayal.” When survivors challenge the actions of their institutions and the Title IX machine, they remake themselves as the center within a margin and a margin within the center. Even then, the center continues to claim its privileged status in the center by rebuking survivors who file Title IX complaints. In response to their institution’s betrayal, Andrea Pino and Annie Clark began sharing an ideal model for filing Title IX complaints against HEIs. Clark was then (re)victimized as she experienced retaliation from her peers when they threatened her in-person and online and broke into her dorm room. Clark’s own peers, who “bought” into the center’s message and supported the center at all costs, were pushing her to the margin for the center. The Title IX machine could then stand on the sideline and watch the production of marginality unfold without even getting in the game.

Survivors Speak Out. Heberle (1996) suggested that survivors’ “speaking out” about their sexual violence experiences reinforces gendered social scripts and presents females as vulnerable. She recommended that stories of sexual violence “include successful prevention and resistance as reasonable and necessary” which “can lead to increased knowledge about the contradictions and fissures in the logic of the rape script” (Heberle, 1996, p. 72). When survivors speak out as a form of resistance, “deconstruction is occurring: where meaning is missed and destabilization occurs – or, deconstruction as the event” (Jackson & Mazzei,

2012, p. 28). Through this “event,” survivors refuse their positioning in the margin by claiming space *inside* the center when they speak out or join campaigns against sexual violence and the inappropriate way HEIs treat survivors. The purpose of speaking out is “not to win the center...but to point at the irreducibility of the margin” (Spivak, 1996, p. 35). These actions destabilize the center and validate survivors in the margin. Survivors are also validated when they create campaigns such as The Courage Project and #JustSaySorry⁴ in the hope of producing something new in the discourses surrounding sexual violence in higher education. These two campaigns, along with Title IX complaints and other forms of resistance, demonstrate the constant making and remaking of the margin and the center as they interact back and forth.

Andrea Pino from UNC-Chapel Hill created *The Courage Project* in hopes of breaking the silence experienced by many survivors. This campaign was a photo project of survivors on campus, who eventually asked for a meeting with campus deans and administrators to discuss their concerns about Title IX policies and procedures, but were consistently passed off and delayed. Willingham’s social media campaign, #JustSaySorry, was directed towards HEIs, Harvard in her case, in an attempt to obtain an apology for the mishandling of sexual assaults and Title IX cases. Part of the campaign involved burning articles of clothing with the Harvard logo to demonstrate she no longer desired a logo she once thought would shield her “from racial and sexual harassment” (Willingham, 2016, p. 4) or to be part of the center of an institution that values some of its students (survivors) less than others.

⁴ Survivors of sexual violence created this campaign to push higher education institutions to issue an apology to survivors when sexual assault cases are mishandled.

Accountability

As of March 2018, there are currently 337 active OCR Title IX investigations (Chronicle of Higher Education, 2018). When this list was first published in 2014, there were 55 colleges under investigation. In *The Hunting Ground* (Ziering & Dick, 2015) an individual stated, “It is outrageous the extent colleges are complicit in sexual assault against women on campus. Universities have much more to gain from frats, alumni, housing, alumni giving – it’s a powerful industry.” The number of active investigations and the investigation findings since 2011 indicate the weight of this statement. OCR case findings indicate that many institutions are not able to meet the “must” statements in Title IX guidance, let alone the “should” statements. This section of the analysis will look at the production of marginality in the accountability threshold by examining margin/center interactions based on Title IX OCR findings. These findings are commonly released in the form of letters of findings and Resolution Agreements, which are becoming more common and give the HEI an opportunity to become compliant within a negotiated time frame with OCR.

Some of the most common OCR Title IX findings since 2011 include unclear policies and procedures, a disregard for Title IX responsibilities, inadequate investigations, communication and notification failures with involved parties, and insufficient interim measures and remedies. Notre Dame (Appendix D) was one of the first universities to come under fire by OCR during a 2011 compliance review. OCR found that Notre Dame’s sexual misconduct policies were confusing and inconsistent (Chronicle of Higher Education, 2018). The University of New Mexico (Appendix E) was found in violation of Title IX and acknowledged gaps in their responses to sexual assault and agreed to begin making policy and procedure changes. These gaps included inadequate responses to sexual assault,

confusing reporting processes, insensitive and traumatizing investigations, and failing to provide interim measures to complainants (Chronicle of Higher Education, 2018). University of Montana - Missoula (Appendix F) and the Virginia Military Institute (VMI) (Appendix G) were found in violation of Title IX in 2013 and 2014, respectively, for failing to provide interim measures to sexually assaulted complainants (Chronicle of Higher Education, 2018). These cases show that what is valued by the Title IX machine is the institution, and what is not valued is the survivor. OCR findings work in unison with survivors in a re-centering of the center as it is named and identified by OCR as non-compliant with Title IX after survivors file complaints. Survivors who enter the contours of these institutional Title IX machines post-OCR findings may experience fewer struggles after their infiltration, since the kind of machine they have entered has been (re)claimed by those who came before them.

Margin/center politics can continue to produce marginality for survivors and HEIs during and after an OCR Title IX investigation. To demonstrate this ongoing production of marginality, I return to Willingham's survivor narrative and her experiences with Harvard's Title IX machine while she was a student and after she graduated. Harvard's administrative hearing board found her perpetrator responsible for her sexual assault and expelled him. As discussed earlier in my analysis, the outcome left Willingham feeling valued and supported by Harvard. Then, without proper notice to Willingham, the perpetrator was granted an appeal and allowed to return to Harvard. The actions of Harvard's Title IX machine pushed Willingham to the margin and prompted her to file a complaint with OCR, which found Harvard in violation of Title IX in 2014 after investigating Willingham's complaint. The OCR Resolution Agreement Letter (Chronicle of Higher Education, 2018) to Harvard (Appendix H, redacted) stated:

OCR has concluded that the Law School failed to comply with the Title IX requirements for the prompt and equitable response to complaints of sexual harassment and sexual assault.

OCR also found that the Law School improperly used a “clear and convincing” evidence standard of proof in its Title IX grievance procedures, in violation of Title IX.

The Law School and the University have agreed to address OCR’s concerns outlined above through the attached Resolution Agreement. (pp. 2-3; p. 17)

Willingham’s desire to hold Harvard’s Title IX machine accountable for its actions produced a re-centering of the center. Harvard was now pushed to the margin by Willingham’s complaint and OCR’s finding. Harvard was now *outside in* with their students, their community, and other HEIs.

Doyle (2015) stated that a complaint often leads to a complaint about a complaint. For example, after this re-centering of Harvard as *outside in*, 19 professors (mostly male) of the Law School spoke out against Willingham and advocated for her perpetrator after she shared her story in *The Hunting Ground*. By continuously criticizing Willingham to the media, and attempting to (re)name her a liar, Harvard was satisfying the need of the Title IX machine to reclaim its “rightful” place as the center, uphold male privilege and patriarchal traditions, and once again push Willingham to the margin. Willingham then responded to the professors in a well-articulated article outlining her unwillingness to be (re)named a liar and returned to the margin. Her article ended with these words: “To all of you 19 Harvard Law Professors: Do Better” (Willingham, 2016, p. 8). Harvard’s constant desire to identify Willingham as the margin through her separation from the center, and Willingham’s refusal

to stay bound to the margin, is the classic operation of Spivak's margin/center politics and marginality.

Chapter Analysis Summary

This analysis used the poststructural concept of marginality and margin/center politics to trouble and expose what is (*not*) happening within sexual violence in higher education through sexual violence survivor narratives and OCR Title IX investigation findings. The concept of marginality was used to examine how the contours of higher education institutions shape the contours of the margin entering them, and how margin/center politics produce marginality through the doings of the Title IX machine in three thresholds: struggle, resistance, and accountability.

The exploration of the *happenings* at work within marginality was based on the following analytical question:

- How do margin/center politics produce marginality in sexual violence cases in higher education?

My analysis showed that margin/center politics produces marginality for both HEIs and sexual violence survivors. HEIs constantly claim and reclaim their centered status through the actions of the Title IX machine that values and privileges the institution over its students. HEIs produce marginality in their interactions with survivors during and after Title IX investigations by normalizing their handling of sexual violence cases as appropriate and compliant with Title IX. On the other hand, survivors produce marginality as they claim and reclaim a space in the center by challenging the actions of HEIs and filing Title IX complaints to force HEIs to treat survivors more appropriately and make changes to their Title IX policies and procedures.

Using this portion of my analysis, I again asked, what is (*not*) happening with sexual violence in higher education? This work demonstrated that HEIs are willing to protect themselves at all costs and without regard for sexual violence survivors. Students are enthusiastically welcomed into the center of the HEI when they first enroll, but are easily pushed to the margins when they become sexual violence survivors who question the so-called “normal” practices of the center and/or file a Title IX complaint. Survivors who continue their education at the HEI after a complaint are produced as *outside in*. They are still *inside* the university as a student, but they are also on the *outside*, as the HEI will likely always refer to them as a “complaint” to satisfy its need. HEIs who are not taking ownership of their Title IX responsibilities are producing themselves as *outside in* when they are found in violation of Title IX after a complaint is filed or exposed by the media.

Moving Towards (*Im*)Possibility

In the final chapter of this project, I summarize what emerged in this conceptual analysis by reviewing my overarching question and analytical questions and discuss implications for policy and practice based on this analysis. I then discuss the method of inquiry and the contributions of this work. Lastly, I close with a personal reflection on the Title IX machine.

Chapter 5: Opening the Curtain: Looking for *Possibility* within *Impossibility*

Over the past 30 years, numerous laws and regulations have been passed to address sexual violence. In conjunction with second wave feminism in the 1970s, these legal efforts provided more rights and resources to survivors, shed light on acquaintance rape, and challenged men's power over women. Despite these successes, sexual violence continues to be a major societal issue. Higher education institutions are microcosms of society and are certainly not immune to the problem of sexual violence. Research outlining the scope of sexual violence in higher education has shown that the number of females who will experience a sexual assault or attempted sexual assault while enrolled in college is 20% (Krebs, et al., 2007; Krebs et al., 2009; Krebs, et al., 2016). The current condition of sexual violence in higher education as a condition of *impossibility* is unacceptable. As shown by my analysis of what is (*not*) happening with sexual violence prevention and investigations in higher education, critical inquiry into this issue must continue. This project contributes to previous inquiry on sexual violence in higher education and proposes a rethinking of the "status quo."

In this final chapter, I provide a brief review of what emerged from this project in relation to my overarching question and analytical questions. I then rethink what is (*not*) happening with sexual violence in higher education by discussing the policy and practice implications related to this inquiry in the quest to continue the movement away from the condition of *impossibility* to one of *possibility*. Next, I discuss the method of inquiry and the

contributions of this project. Lastly, I close with a personal reflection on the Title IX machine and a “not so final” look at the never-endingness of deconstruction.

Conceptual Analysis Review: A Look at What Emerged

In this post-qualitative project, I engaged with the theoretical work of Spivak (1974/1976; 1993/2009) to conduct a conceptual analysis of sexual violence prevention and investigations in higher education using *deconstruction* and *marginality*. Throughout the analysis process, these theoretical concepts constantly tangled with the data (literature, theory, and data sources) as a way to *think* differently. In this section, I summarize what emerged while “thinking with theory” (Jackson & Mazzei, 2012) using my exploration of both what *is* and what *is not* happening with sexual violence prevention and investigations in higher education and the analytical questions below:

- What meanings/explanations are left out or hidden in key texts designed to address sexual violence in higher education?
- What is being represented and privileged as truth in key texts designed to address sexual violence in higher education?
- How do margin/center politics produce marginality in sexual violence cases in higher education?

These questions helped me trouble sexual violence in higher education to uncover hidden meanings, privileged truths, and the production of marginality. The findings in this work exposed tensions between higher education institutions and government bureaucracies related to compliance, and tensions between survivors and the Title IX machine during Title IX investigations.

In my first analysis, I used Spivak's (1974/1976) deconstruction to trouble what is (*not*) happening with sexual violence in higher education by (re)reading the following texts: 1) 2011 Title IX "Dear Colleague" Letter (DCL), 2) 2014 White House Task Force (WHTF) Report, "Not Alone," and 3) 2014 Violence Against Women Act (VAWA) Reauthorization Final Rule. My aim was not to reject or tear down the content in the DCL, VAWA, or the WHTF, but to disrupt, trouble, and rework these texts to open up a messiness that is often found in textual dilemmas. These dilemmas impact students, faculty, and staff navigating the Title IX process, Title IX workers *inside* the Title IX machine, and higher education institutions working to protect themselves at all costs.

To explore these dilemmas, I began by looking at what *is* happening in these texts. The contradictions and hidden meanings uncovered within the claims for safety, protection, and prevention make these claims fall short. The privileging of post-sexual assault intervention strategies over pre-sexual assault prevention strategies undermines the emphasis on safety, protection, and prevention. Intervention strategies are linked to words such as "must" and "required," thus placing them atop the priority list. On the other hand, the words "should," "recommends," and "may" are commonly used when prevention strategies are presented. Higher education institutions are "creatures of compliance," meaning what "must" be done to be compliant with the DCL, WHTF, and VAWA will usually garnish far more attention than what "should" be done. The focus on intervention strategies in the texts, and by institutions implementing them, produces sexual violence as inevitable, and students, mainly females, as always already sexually assaulted. This works to maintain cultural and social rape scripts.

My analysis also opened up what *is (not)* happening in the texts. The supposed emphasis on safety, protection, and prevention in the DCL, WHTF, and VAWA is not translating to safety, protection, and prevention at far too many higher education institutions. For example, what counts as primary prevention strategies in the texts are not proving to be effective in reducing the number of sexual assaults, while self-defense training, a strategy that has empirical evidence demonstrating its effectiveness, is left out from what counts as primary prevention. Based on the need to be compliant, higher education institutions have been reluctant to incorporate self-defense training as part of their prevention programming. Also, as shown in the second part of my analysis, intervention strategies are also failing in far too many instances, thus negating the claims of safety, protection, and prevention.

The second part of my analysis employed Spivak's (1993/2009) concept of marginality as I deconstructed margin/center politics to see how marginality is produced between survivors (margin) and the Title IX machine (center). I specifically highlighted how the centered Title IX machine within higher education institutions works to maintain the condition of sexual violence in higher education as an *impossibility* and the "status quo." By (re)naming and identifying sexual violence survivors as the margin, the Title IX machine maintains its own status in/as the center. Both survivors and the Title IX machine continuously work to claim and then (re)claim space within the center.

What *is* happening with marginality in this part of my analysis? First, as higher education institutions work to maintain their space in the center after a sexual assault is reported, they employ the Title IX machine to protect the institution and shape the contours of survivors out of fear and vulnerability. Survivors can be a margin inside the center, or *outside in*, if they comply with the institutions norms and practices during Title IX

investigations. Survivors are pushed back to the margin if they resist the secondary trauma of being (re)named as “responsible” or “a liar” to satisfy the Title IX machine’s need to maintain the institution’s status as a “safe” campus. Survivors can also be a center within the margin when they speak out or file a complaint against their institution in search of accountability.

What did this analysis show *is (not)* happening in marginality? Survivors are not being valued, supported, celebrated, and treasured, as promised by higher education institutions during enrollment, when they report a sexual assault and become a Title IX complainant. If they do not comply with the (re)traumatizing practices of the institution, they are (re)named a dehumanizing “complaint” because they are no longer compliant with the center. This portion of my analysis shows that privileging intervention does not always translate to safety, protection, and prevention. However, it does necessitate the need to rethink Title IX coordinator and investigator position appointments and the type of training needed for those positions.

In the next section, I propose a rethinking of the impossibilities unearthed by exploring what *is* and what is *(not)* happening in sexual violence prevention and investigations in higher education in order to move forward with the possibility that sexual violence incidents can be addressed better than it is today. The inconsistencies and ambiguities in the DCL, WHTF, and VAWA demonstrate a need to rethink intervention and prevention, while the questionable actions of the Title IX machine call for a new approach to training requirements for Title IX workers. Also, based on the inability of many Title IX machines to provide adequate, reliable and impartial investigations for all parties involved in

an investigation, consideration is given to the concept of regional Title IX investigation centers.

Rethinking the Condition of Impossibility: Policy and Practice Implications

Title IX coordinators and investigators who only search for specific solutions in educational research studies are overlooking the insights poststructuralism can provide them and its effects on constructing knowledge and meaning. Poststructuralism has been described by some as a politically silent movement because of its emphasis on language and textual elements. This emphasis has been recognized as a way for poststructuralists to avoid getting involved with politics and feeling compelled to call others to action. Even with this in mind, I still experienced definite tensions between the “doing” of a conceptual analysis and a pull towards a political commitment to addressing sexual violence in higher education. This political commitment is also entangled with the tensions between HEIs and government compliance mandates, and the tensions between students entering the Title IX process and the Title IX machine.

In order to move the needle on sexual violence in higher education in a positive direction, higher education institutions have to engage those people on their campuses “who would like to move beyond the agonistic politics” (Franco, 1996, p. 184) that hinder their efforts. I certainly hope this work challenges higher education institutions, and the particular faculty and staff members who work with sexual violence survivors, to rethink their policies and practices and look for hidden meaning and privileged truths. As I have shown through the literature discussed in this work, awareness of the prevalence of sexual violence in higher education has not always transferred into effective efforts to prevent and end sexual violence or supportive interactions with survivors.

In this section, I review the recommendations that emerged from this conceptual analysis, which include a call for improved approaches to prevention and intervention strategies and required certifications for Title IX investigators, as well as consideration for Title IX Regional Investigation Centers. Staying within the framework of deconstruction, it is important to note that recommendations for change must be contextually based and must be carefully presented based on the very power dynamics uncovered in this analysis. It is also important to recognize that changes in Title IX practices must also coincide with changes to institutional culture in order to truly move toward the possibility of eliminating sexual violence.

Integrated Prevention and Intervention Strategies

As shown by my deconstructive reading of the DCL, WHTF, and VAWA, intervention strategies are privileged over prevention strategies in the texts. Even within the area of prevention itself, what counts as primary, secondary, and tertiary prevention gets scrutinized, and effective strategies such as self-defense get omitted in lieu of ineffective strategies (McCaughey & Cermele, 2015). As stated earlier in Chapter 3, intervention and prevention strategies cannot work as separate entities on the issue of sexual violence in higher education, as intervention cannot work without a true commitment to prevention, and vice versa. Intervention *and* prevention are likely to be forever entangled in efforts to prevent and end sexual violence. The first step in improved integration of intervention and prevention is for policy makers to recognize their refusal or reluctance to balance campus prevention and intervention strategies. HEIs must rethink their current prevention efforts to better complement intervention, and also be willing to improve intervention strategies currently in use to enhance investigation practices.

Kipnis (2017) stated, “In my fantasy Clery Act...all institutions of higher education would be required to teach freshman women self-defense” (p. 216). Like Kipnis, I also believe prevention programming needs to include self-defense training, and that it should be recognized as a key prevention effort and recommended as a best practice. Sexual violence theorists such as McCaughey (1997), Marcus (1992), Cahill (2001), and Gavey (2009) have supported the use of self-defense for years, and empirical research on self-defense has shown it to be an effective prevention approach (Gidycz & Dardis, 2014; McCaughey & Cermele, 2015; Senn et al., 2015; Senn et al., 2017). Given the ineffectiveness of current prevention efforts to curb sexual violence behaviors, it is time to create intervention and prevention programming that includes “multifaceted, multi-layered attempts to prevent the problem” (McCaughey & Cermele, 2015, p. 10). In other words, prevention efforts can no longer be a supplement to intervention.

Avoiding the Deadly Sins of Title IX Investigations

Based on the experiences of sexual violence survivors shared in this project, and experiences of accused individuals (Doyle, 2015; Kipnis, 2017), it seems clear that there is a need for a more extensive training model for Title IX coordinators and investigators at all HEIs. These members of the Title IX machine should be required to participate in certification training that includes sexual violence theories, Title IX, VAWA, and civil rights requirements, trauma-informed investigations, and practical training on Title IX investigation scenarios to improve the likelihood of an appropriate and effective Title IX investigation. Too many coordinators and investigators have inherited Title IX responsibilities in addition to the duties they had prior to 2011 and still have not been adequately trained.

Henry et al. (2016) wrote a white paper for ATIXA outlining the seven deadly sins of sexual violence investigations. The first deadly sin discussed in their paper related to a lack of understanding of trauma-informed investigations. They recommended that investigators be trained in “ways to avoid retraumatization” (Henry et al., 2016, p. 5) of survivors and avoid questions that come across as negative or blaming the victim for the incident. Based on the inadequate and inappropriate Title IX investigator questions and comments survivors spoke of in the narratives used this work, I strongly recommend that any Title IX investigator directly involved in interviewing complainants at minimum be required to successfully complete trauma-informed investigation training. This training would be one component of a certification in Title IX investigations that would require annual renewal. I understand that requiring this certification may create more bureaucracy for the Title IX machine, but if it improves the treatment of survivors during an investigation it would be worth that price.

Regional Title IX Investigation Centers

Is it time to unplug Title IX machines from higher education institutions? Questionable Title IX machine practices like those revealed in this work, due process concerns from accused individuals, and a growing list of Title IX failures at institutions such as Penn State, Baylor, and most recently, Michigan State, certainly indicate the need to rethink Title IX investigations and who does them. In 2017, the state of Virginia conducted a pilot study to develop a regional center to investigate sexual and gender based violence incidents on college campuses. This center would have effectively removed higher education institutions from investigating these incidents (New, 2016). This proposal was both lauded and criticized. Proponents believed regional centers would eliminate the bias and partiality found in many higher education investigations, while critics were in favor of leaving

investigations in the hands of institutions that are able to focus more on assisting survivors (New, 2016). After completing the pilot study, the state of Virginia decided not to move forward with piloting the regional center because it would “entail too many legal and structural issues” (State Council of Higher Education for Virginia, 2017, p. 16). There was also concern that OCR would still hold HEIs accountable for addressing sex discrimination even though they would not be directly involved in the center’s investigations.

The state of North Carolina (NC) implemented a similar type of program in 2017 to address residency status for tuition purposes. The Residency Determination Service (RDS) centralized residency services for students enrolling at colleges and universities in NC. This process was created to streamline the residency process and make decisions regarding in-state and out-of-state residency status more consistent across the state. While RDS has proven costly both in time and funding, and has generated concern for its potential negative effect on community college enrollment, the potential for this centralized system to benefit students and improve the overall residency process also makes a regional Title IX investigation center appealing. If HEIs continue to struggle with Title IX investigations and if the current temporary Title IX OCR guidance does not address those struggles, Virginia’s proposed regional center for Title IX investigations may need to be reconsidered.

Method of Inquiry

In reviewing this conceptual analysis, some may question the use of certain data sources in this project. For example, I examined three textual sources, female survivor narratives from one documentary, and five randomly selected OCR resolution letters as my data sources. Post-qualitative inquiry emphasizes quality over quantity in a conceptual analysis, so I selected my data sources based on this methodology. I also note that both St.

Pierre (2011) and Spivak (1974/1976) indicated that significant data can be small and might occur only once within data sources.

This analysis also incorporated my own interpretations and subjectivities as I deconstructed the texts and explored the production of marginality surrounding sexual violence prevention and investigations in higher education. In this type of inquiry, “pure objectivity is impossible” (Esterberg, 2002, p. 11). My positionality in this work could be challenged because my professional work positions me on the *inside* of the Title IX machine. This intimate knowledge of Title IX could be viewed as creating an untrustworthy interpretation of my conceptual analysis, but it is key to remember that deconstructionists “reside in the middle of things” (Jackson & Mazzei, 2012). Because qualitative research has been criticized for relying too heavily on researchers’ unsystematic views to determine significance (Bryman, 2004), I established trustworthiness in my research through critical reflection, journaling, and post-reflexivity, a method of tenaciously recognizing and questioning a researcher’s privilege, knowledge, assumptions, and biases instead of suspending them during research (Vagle, 2014). Rubin and Rubin (2012) stated that qualitative researchers do not “deny that they influence what they are studying” but they “monitor the impact they have” (p. 17). Trustworthiness helped to establish a high level of confidence that my overarching question and analytical questions would be answered throughout the research and would not be overly influenced by my own subjectivity and interpretation. As Pascale (2011) stated, “we need to consistently explore not only our own locations as researchers but also the foundations and assumptions of the social research paradigms that we have inherited” (p. 38). Researchers interested in *being in the middle* (Jackson & Mazzei, 2012) and *critiquing their field from within* (Spivak, 1993/2009) should

follow Pascale's suggestion to overcome potential limitations with positionality.

Contributions of the Conceptual Analysis

The work that emerged from my analysis adds to the work of Gersen and Suk (2016) and Doyle (2015) by looking at the bureaucratic nature of Title IX. The Title IX machine's "do whatever it takes mentality" to protect the institution from harm during Title IX investigations ends up creating a state of conflict, as demonstrated by the actions of HEIs outlined in the survivor narratives. My exploration of the production of marginality revealed the failures of the Title IX machine much like Kipnis (2017) and Doyle (2015) outlined in their own experiences with the machine at their respective institutions.

This project also contributes to previous research on the tensions between the terms "intervention" and "prevention" by deconstructing the use of those terms in the DCL, WHTF, and VAWA. My analysis revealed the privileging of intervention strategies over prevention strategies in the texts, and the reviewed literature showed that the specific prevention strategies required in the texts have not proven to be effective in reducing behaviors related to sexual violence. McCaughey and Cermele (2015) also explored hidden agendas and privileged truths in the WHTF and VAWA by researching what counts as primary prevention programming, specifically focusing on the omission of self-defense as a primary prevention strategy.

In addition to this work being positioned within the above-mentioned scholarship, this project offers a unique perspective on sexual violence prevention and investigations in higher education based on my positioning as both the researcher in this analysis and a professional worker *inside* the Title IX machine. While the scholars above offer a similar perspective that this work offers, their research was not done from the *inside* of the Title IX machine. Being

on the *inside* means I experience and navigate the tensions created on college campuses by the DCL, WHTF, VAWA, and the Title IX machine itself, differently than someone looking in from the outside. For example, someone on the outside may not realize the challenges Title IX investigators face in trying to navigate what the Title IX machine wants them to do versus what they want to do for the parties directly involved in an investigation. My experiences with these types of challenges provide unique insight into this work.

My conceptual analysis of sexual violence prevention and investigations in higher education also makes a contribution to the growing body of inquiry using the process method *thinking with theory*, which Jackson and Mazzei (2012) encouraged qualitative researchers to employ. My project's overarching question and analytical questions emerged after an exploration of the literature, poststructural theory and concepts, and post-qualitative methodology. Like Jackson and Mazzei (2012), my work demonstrated the value of using philosophical concepts to trouble a specific topic to see what emerges by looking through a theoretical lens throughout the process of inquiry. The philosophical concepts of deconstruction and marginality helped me disrupt the "status quo" of sexual violence prevention and investigations in higher education and expose the structures within the DCL, WHTF, VAWA, and the Title IX machine that work to maintain sexual violence as a condition of impossibility.

This project demonstrated the process method of *thinking with theory* and showed its value as a unique approach to inquiry. There are numerous theories and concepts other than deconstruction and marginality that researchers can use to further trouble sexual violence in higher education, and other phenomenon, through the *thinking with theory* process. I encourage researchers to consider this approach if they are interested in using complex

theories throughout the process of inquiry.

Reflecting on the Title IX Machine

This conceptual analysis has proven to be an invaluable learning experience for me both personally and professionally. Throughout this analysis, the use of poststructuralism challenged me to think differently about signs and systems, structures, language, meaning, and power. Post-qualitative inquiry offered a way for me to remain “plugged in” (Jackson & Mazzei, 2012, p. viii) to theory, concepts, literature, and data sources throughout the process of inquiry. This experience has provided me with new ways to approach my professional work and to critically examine my own professional values, specifically those related to the work I do *inside* the Title IX machine. I mentioned in Chapter 1 that I needed to acknowledge my position on the *inside* as a space of privilege in this work. Now that this project is complete, I am even more aware that this space of privilege allows me to question the actions of the Title IX machine and disrupt sexual violence prevention and investigations from within. While the Title IX machine I entered as an investigator clearly values Title IX compliance first and foremost, deconstruction will forever remind me of the important work I can do by continuously interrogating the Title IX machine, margin/center politics, and the production of marginality by critiquing the space I inhabit.

Ending with a Beginning

This deconstructive project, like so many other texts, beckons to be deconstructed (Rolfe, 2004), but it is important to note that any deconstructive reading, including this one, is not repeatable. Because deconstruction is always already happening, there is always the opportunity for a new unique reading. There is always a need to continuously deconstruct the legal, political, institutional, and social contexts of sexual violence in higher education in

order to see the “unforeseeable, the incalculable, indeed the impossible” (Royle, 2000, p. 6). In the work to move sexual violence away from being a condition of *impossibility*, Spivak (1993/2009) reminds us that “it may be that the problem and the solution are always entangled, that it cannot be otherwise. That may be the reason why persistent critique...is a more productive course” (p. 59). In other words, “our work continues” (WHTF, 2014, p. 20) in the pursuit to end sexual violence. Yes, indeed it does.

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