

## **Episode 13: Dr. Laura McGuire on consent, trauma-informed practices and restorative justice**

Courtney Bullard:

Welcome to the Law and Higher Ed Podcast. I'm your host, Courtney Bullard, a Chattanooga attorney specializing in Title Nine compliance, and owner of Institutional Compliance Solutions. We have a lot happening at ICS, so I wanted to take a quick minute before we get started with this episode to highlight some items.

First, several complimentary webinars are in the queue in these coming months, so if you go to [www.icslawyer/ics-events](http://www.icslawyer/ics-events), you can see all of those listed and register. Note that many of them are free. Second, so many of you have reached out who are aspiring Title Nine coordinators, or new to the profession. Some are even lawyers who are getting into Title Nine litigation and looking for resources, you need the basics.

Some of you have attended large conferences but feel like you're drowning in information overload. Well, I listened and I'm currently creating an online course just for you titled, Title Nine 101. I'm so excited about this project because it will be affordable, on-demand training that will give you a great foundation in Title Nine. The history, the law, the regs, the standards, what's expected of institution, and on and on. Episode one of this podcast gives a high level legal primer. Title Nine 101, the online course, will go much deeper with measurable, tangible outcomes, and yes, a certification. Can you tell I'm excited? So look for the release in December.

Dr. Laura McGuire:

I love trauma informed care because at its core, it really is about empathy, respect, patience, which is something that everybody benefits from.

Courtney Bullard:

This episode is awesome. My guest is Dr. Laura McGuire. Laura and I discuss a controversial topic head on, trauma informed practices in Title Nine investigations among many other things, including restorative justice and consent.

Laura is a sexologist and consultant. She's a nationally recognized sexuality educator, trauma informed specialist, and inclusion consultant. She earned her bachelor's degree in social sciences from Thomas Edison State University, and her graduate degree is in educational leadership for change from Fielding Graduate University. She's a certified full spectrum doula, professional teachers, certified sexual health educator, and a vinyasa yoga instructor. Her experience includes both public and private sectors, middle schools, high schools, and university settings.

In 2015, she served as the first sexual violence prevention and education program manager at the University of Houston. In 2017, she became the first victim advocate prevention educator at the US Merchant Marine Academy. She's a member of the American Association of Sexuality Educators, Counselors and Therapists, Society of Professional Consultants, and a member of numerous boards and committees. She's the co-creator of the Smart App, which you'll hear us talk about in this episode.

Let me tell you, I learned so much from Laura during this episode, and even in my calls leading up to this episode. I'm really glad that we have made a connection now as colleagues. I think you are going to learn so much as well.

Hi, Laura, it is awesome to have you on the podcast today. Thank you so much for taking time out of your busy schedule to join me.

Dr. Laura McGuire:

Thank you so much for having me. I'm so excited to be here. I'm a long time listener.

Courtney Bullard:

I love to hear that, by the way. You never know who you're reaching or what's happening. So, but to have this connect us has been awesome.

So I want to start with your profession. You are a sexologist, among other things. Can you explain what exactly that means?

Dr. Laura McGuire:

Definitely, so we are a small field, sexologists, and because of that a lot of people don't know exactly what we do. But sexology is defined as the scholarly pursuit of understanding human sexual behavior. So some of us are therapists, some are educators, some do a lot of counseling and others focus mostly on research, but anything that falls into the scope of really trying to understand the science of human sexual behavior is sexology.

Courtney Bullard:

I know I said we wouldn't get into a ton of background, but I am interested to know if you're willing to share how you got into sexology.

Dr. Laura McGuire:

Yeah, absolutely. So I got into it, I did not go to school at all until a little bit later in life. I was a high school drop out, I went back to school in my mid-20s to get my GED. Then I went really, really, really fast through school and I actually got my doctorate in education with a focus on sexual health only four years and eight months later. So through that process, what I took away was the power of education. So I knew I wanted to focus on something with education and health. I had been a yoga instructor, massage therapist, even a belly dancer, before.

Courtney Bullard:

Oh, I love it.

Dr. Laura McGuire:

Yeah, and so I wanted to focus on health. I always had a passion for ending sexual violence against women and was for a long time since high school, part of Vagina Monologues and V-Day, I've met Eve Ensler, and Dr. Denis Mukwege, who just won the Nobel Prize. So all of that rounds up to, I started teaching sexual health to teen girls who were in and out of the juvenile justice system and were teen

parents. That really inspired me to say I want to go to grad school and really, really focus on, how do we make sexual health education more inclusive? I focused on sexual trauma, so how it affected people, how trauma informed care looked like in sexual health education, as well as LGBTQ inclusion, and the overlap of those two populations.

Courtney Bullard:

I love that story, that's a very cool background and I think I love hearing how people get into what they're doing. It never ceases to amaze me, there's always something in there that is fascinating and that can maybe inspire other people. You going back to school and getting to where you are now is pretty amazing.

Dr. Laura McGuire:

Thank you.

Courtney Bullard:

In my opinion. Okay, so you do a lot of work around consent education. I know you speak a lot on trauma informed practices, and as I said before, I really wanted to talk to you for all of those things. We could talk about consent for hours, we could talk about trauma informed practices for hours, but I wanted to, when it comes to consent, just talk on one aspect of it before diving deeper into more of a discussion on trauma informed practices. That question for you is, why is consent such a complicated concept when we're talking about it in a sexual context?

Dr. Laura McGuire:

So for me, I think that there's more of a danger in pretending that we as a culture are in a place where we can say that consent is simple. There's some very popular videos on YouTube and some presenters and some schools want to say, "Oh, consent's so simple." But the reality is that it's still very complex because it's a very new concept to the world.

So when we look at why is this so hard, why is this complicated? We really have to understand what messages we've been hearing for generations. How colonization has impacted that, how coming from different generations, different cultures, different background, has an impact on how we view sexuality and consent.

So one of my goals is to really help people more understand the history, the sociocultural context and the implications of all of those things so that we get a wholistic, in depth understanding of what we're really asking when we're trying to change from a rape culture to a consent culture. Helping to guide people through the cognitive dissonance that comes up with that. That feeling of, wow, this flies in the face of things I've heard before, or what I think of as romantic or sexy. So this seems really confusing now, and not brushing that off but instead saying you know what? It is because you've heard those opposite messages from the media, from friends, from family, all over. So let's talk about that instead of trying to avoid it or make it simpler than it is. Humans are complex, so consent is complex.

Courtney Bullard:

I love it, we need to Tweet that. I love it. Humans are complex so consent is complex. Okay, so you've done so much work in many different areas surrounding this topic, but for today's episode I really want

to focus on trauma informed practices because it's a hot button issue at the moment it seems, as you know. ATIXA released a position statement on trauma informed training in sexual misconduct cases here recently. So I wanted to start with the basics. What does it mean to be trauma informed? Maybe you're going to have to go back even to, what are the effects of trauma on someone, and then what's the origin of this concept in this space.

Dr. Laura McGuire:

So, trauma informed care when you really boil it down, it is I think pretty simple. That is, it's understanding the depth and breadth of trauma in the world. All of the people that are affected by all different forms of trauma, because there's many different kinds. Then with that awareness, working to ensure that we don't re-traumatize people, that we don't put barriers in place for people who are experiencing trauma, and that we are creating both individuals and societies that help to heal trauma.

So I love trauma informed care because at its core, it really is about empathy, respect, patience, which is something that everybody benefits from. I've seen a lot of schools that will try to create trauma informed systems for the students, but they don't apply it to their organizational structure as far as employees. But employees are experiencing trauma throughout their lifetime and even in the immediate, having crises as well. So being trauma informed is really saying, "I get it. This is a big thing. This isn't a figment of our imagination. Responses to trauma are not a choice that people can turn on or off." So how can we create systems, practices, procedures, and approaches that help people to heal and to succeed, versus making it harder for them because of what they survived?

Courtney Bullard:

That's super helpful. The reality is, trauma can occur in any context, not just sexual assault but to responses to all types of life events.

Dr. Laura McGuire:

Exactly, exactly. I mean, long term unemployment creates trauma, going through multiple medical procedures creates trauma. Then there's secondary trauma, observing or having to listen to somebody's trauma in their story. That can definitely add to what someone is experiencing themselves. Then there's complex historical trauma, even if something didn't happen to you but it happened in your family, in your community, it impacts you on both an emotional level but also a physiological level. We know that it actually changes the gray matter in the brain. So again, it's not fluff science, it's not touchy feely stuff. It really, we can physically see the damaging effects that it has on our physical being.

Courtney Bullard:

I do want to explore a little bit, this concept of secondary trauma, only because I hear you say that and I immediately think that there are definitely Title Nine coordinators and Title Nine investigators out there who are potentially experiencing secondary trauma from hearing stories from investigating these issues, just from dealing with their day to day job. Would you agree with that, it's possible?

Dr. Laura McGuire:

Absolutely, absolutely. I think here's a really interesting divide. So we talked a little bit about trauma informed care and you asked about the history of it. So it was a theory that was conceptualized in the

social work, therapeutic fields. Okay? So therapists were seeing a lot of trauma, they were trying to measure it, they worked with the neuropsych side and they were able to really quantify this. Okay, this is real, here are some of the affects. Then they also realized wow, these effects can be secondary as well. For therapists, social workers, et cetera, who have to deal with this in and out every day, we want to make sure we're aware of that and we protect against that and we make sure people have support so that they don't take on unnecessary trauma and that they can process everything that they're exposed to. Okay?

So, in that sense they were the forerunners, and absolutely. Do Title Nine and just people in higher ed and education deal with these things? Have to hear really disturbing, heartbreaking stories over and over and over again. Witnessing people just breaking down and having to talk about things they do not want to disclose in detail. That definitely has an effect. I think the danger they're in is that where the therapist and social workers and even many educators now have training in college, in their professional development, to be aware of this. A lot of Title Nine coordinators are coming from so many diverse backgrounds, from [inaudible 00:13:58] to student affairs to student conduct, who have had maybe no psychology courses, no understanding of self care and compartmentalizing and dealing with this kind of trauma. So that can be extremely dangerous. I think that it needs to be something that is required of this field.

Courtney Bullard:

I completely agree. I talk about self care a lot in my own lawyer, cheesy way, because of just my own experience in going through some cases and my particular role in those cases when I worked on a college campus, but it seems to me that there needs to be something more out there that's more formalized, I guess, to help Title Nine coordinators and anyone else touching these cases, in order to ensure that they stay with their profession. Number one, because we need good folks to stay in this profession. Number two, of course as you said, it's dangerous if they're not getting the right help and the right information. I just feel like it's a huge missing link right now, which is why we're seeing the attrition rates that we're seeing.

Dr. Laura McGuire:

Absolutely, absolutely. That's one of the things I do try to educate about and to go out and be supportive in training and consulting with schools on, but sadly I think a lot of institutions are still in this mind frame of, you got to tough it out. They have to just accept that this is part of the job. They're not supporting the people who have to deal with this. Like you said, they eventually burn out and they leave and that's a real tragedy for the students that they need to serve.

Courtney Bullard:

Yeah, that's well said. So when we talk about trauma from a sexual assault, talk to me about some of that. What do we see? Is it different than other types of trauma, is it the same? You already said you can't choose your response, but would like to hear just from you. Educate us a little bit about trauma in the sexual assault area, and then we'll dive into more some of the backlash we've seen, and your thoughts on all of that.

Dr. Laura McGuire:

So trauma around any kind of sexual experience is very, very complex. It's because not only are you experiencing violence, but there's all of this social, psychological, cultural context that goes into that as well because of sexuality. So for example, someone grows up with abstinence only messages. They're told that if you have other sexual partners, you're like a piece of chewed gum, or you're like a piece of tape that you use over and over again and gets dirty, which is very much how I grew up. I grew up Southern Baptist and Catholic. So we got all of those analogies about sexual experience.

So then somebody experiences trauma and they think, okay, so now not only have I been violated, but now I'm not worthy of future relationships or love. I have no idea how to conceptualize this or explain this to anything. Their body and their brain will feel those physical effects. We know that the prefrontal cortex will lessen, it will even sometimes shrink down if it's acute, long term trauma. So that's the part of the brain that allows us to regulate our emotions, allows us to think logically and pragmatically and calm ourselves down. Well, that part says, "You know what? I'm not as needed right now. We're in a crisis situation." So it's harder for the person to access right after, and even long term.

We know that the hippocampus where we keep our memories, that also decreases. So that's why it's very hard for survivors to create a linear explanation of what happened to them, they usually remember things in bits and pieces, very much out of order, or memories will come back over time as their body and brain go back to a state of peace and feeling safe again. Then the amygdala, which is the part of the brain which tells us, "Oh my god, something horrible is happening. We better freak out." That increases, so you can imagine this, the part of our brain that's calming us that's remembering things, that's harder to access. Then the part of our brain that's saying, "Wow, we're in danger all the time. We better panic," is really churning out those hormones all the time.

So that's why it's really hard for people to then again, get resources, explain to someone exactly what happened, and regulate their emotions afterwards. That's not a choice, their brain is responding physiologically to the trauma. So it's again, not something they can say, "Today I feel like getting over this trauma and just being happy and calm again." If something also reminds them of that trauma, what we call triggering, which sadly has become something that people make fun of and use out of context, but when you are actually triggered from a trauma, what it means is that the brain is going back into that memory of what happened to you. Then you go into a state of hyper vigilance, which means feeling like everything around you is a potential predator or danger, and you go into that panic, flight... edit that-

Courtney Bullard:

Fight or flight.

Dr. Laura McGuire:

Fight, flight or freeze, it's important to remember the freeze one too, mode. So that's where someone can be in class after and they smell the cologne of their attacker. All of a sudden they're crying or they get extremely angry, and people are like, what's wrong with them?

Courtney Bullard:

So just to clarify, just to stop right there really quick because I think that was a really important point. So fight, flight, or freeze?

Dr. Laura McGuire:

Yup.

Courtney Bullard:

Because you hear so many people say they froze, and other folks will say this doesn't make sense to them. What do you mean you froze? So, I really wanted to just take a second and highlight that point because I think it's a really good one.

Dr. Laura McGuire:

Absolutely, yeah. People think that you would have some kind of action based response, you're going to fight the person, you're going to run away from the person. But really, we know the most common react and especially with sexual violence because we also know that it's most likely coming from somebody you know and has groomed you, that you just shut down. Your body says, "We better just turn everything off and survive this." Again, that's not a choice, the person isn't consciously saying, "Oh, I'll go along with it." Their body is saying for them, "There's no way we can fight or run away from this, so we just have to try to be complicit and survive." That's ultimately what our body and brain is always trying to do is help us survive. Even our trauma brain is saying, "If I was in danger, then I need to still be on alert because I could be in danger again at any time," even if that's not true.

Courtney Bullard:

So do you know before, if you ever have the unfortunate situation of dealing with or experiencing or being the victim of a sexual assault, I mean, there's no way of knowing which one you are, correct? How your trauma brain would respond, whether you're going to have... People say all the time, "Oh my gosh, I would punch that person in the face and run away," but then you get into a situation and that's not how you respond. So there's no way to know, am I right?

Dr. Laura McGuire:

Right, absolutely. There's no guaranteed way to know how someone's going to respond to trauma. It's interesting, we look at people who do know they're going into traumatic situations, such as people in the military, police officers, they know they're going to be in danger. They know they're going to have to fight against those natural instincts. So they expose themselves to high stress in training to prepare for that. But no, you and I are not going to expose ourselves to extremely stressful situations just to prepare, and that's not going to happen for most people we work with.

It's interesting too, that even in situations where someone is former military or in the military or is a police officer, when it comes to sexual trauma, they usually have a very different reaction because they have not been trained for that. You cannot train for that.

Courtney Bullard:

Right, exactly, okay. So fascinating, I love all your explanations, I'm learning a lot from our conversation already. I learned so much when we even had our intro call. So my other question for you is, or just clarification because I hear you saying this is a physiological response, which means it's measurable, you're talking about different areas of the brain and what happens, but obviously there's been a lot of criticism that this is all junk science. So you've probably already responded to this in your explanations,

but what is your response to those criticisms to folks who think it's junk science, and literally has no place in the Title Nine world?

Dr. Laura McGuire:

Well, I would say that in every criticism, there's some kernel of something you [inaudible 00:23:15] reflect on. I'm not going to say truth, but there's a kernel of something to reflect on. I think what to reflect on is, there are people who get into this work and are extremely passionate and become very biased and one sided. They take something that is true that is found by research, and they run with it. Then it gives everything a bad name. So I think that's where some of that pushback comes from. People making these huge, broad generalizations and statements and people are like, "Well, where are you getting this from?" They're like, "Don't worry about it."

Courtney Bullard:

Right, well there's this overall concern. There's a concern or folks that feel there is a trend with higher ed and these investigations, once everybody became trauma informed, then if a complainant comes forward, then that person is to be believed even if their story changes, even if they can't remember, even if... they're just to be believed at all cost, and therefore everybody's being found responsible. I didn't see that trend personally in my own work when working with institutions, but you could see where there could be some well meaning folks who learn about trauma informed practices or techniques, but they're not professionals like yourself who are licensed and trained. So maybe they do take it a little too far, or they're afraid. Afraid to every question when someone can't remember anything and say that that's a credibility issue because then what if it is a result of trauma. How do you know?

Dr. Laura McGuire:

Right. So I think in those instances, you can approach things from a trauma informed framework, which means again, understanding how trauma impacts somebody. Making an environment that does not blame them, that does not try to upset them in any way, that really makes sure the person is wholistically taken care of through the process. So that if they can be in a state of calm and safety, they will start to be able to explain and remember more.

I mean honestly, anyone off the street can tell you that, if your boss comes in and they are yelling at you, "What happened last Tuesday in that meeting?" What happens? "I don't know. What? Last Tuesday? I forgot, what are you talking about? I'm scared." Versus if your boss comes in and they're like, "Hey, how's everything going? So, something came up in the meeting last Tuesday that I knew I wanted to talk to you about. Do you remember what we were discussing?" You're like, "Oh yes, of course I do. I'm calm, I'm safe. You're approachable." So of course it's going to be the same thing when you're investigating somebody.

Speaker 3:

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Courtney Bullard:

So what are some tips that you might have for Title Nine investigators? Let me give you a little context. So of course, if your boss calls you in, I mean it makes almost any subordinate a little nervous like, what am I being called in for? But in Title Nine cases, they know they're being called in either to recount a really terrible event in their life, or to be accused of doing something.

So they walk in already probably on edge with some nerves. So do you have any tips to create that environment for people outside of, not cross examining them and yelling at them of course, but. That sounds really simple, I'm going to get on my soapbox for a minute, but I cannot tell you how many trainings I do that investigators, they're just going off what they know. Some of them, what they know they've seen on TV or they are lawyers like myself. So they are already trained to go for the jugular and be very direct, which is very off putting and does elicit good answers. I know this, but not all lawyers do. So just some tips or some thoughts that you have, and even resources that might be helpful as well.

Dr. Laura McGuire:

Absolutely. So I mean that's such a good point, is that again, a lot of people's background, their training. They're like, I'm here to find out the truth. So they [inaudible 00:28:26] this very aggressive foundation even if they don't mean that.

Courtney Bullard:

Yeah, absolutely.

Dr. Laura McGuire:

It just makes their job harder. So number one, I think one of the simplest things to do is think about where you're interviewing people. Do they feel welcome and safe? We know again, think about a therapist's office. A therapist's office versus a police investigation room, whether it's a victim or potential perpetrator coming in. Police, it's very astir, very cold, very clinical, and people do not look forward to going there and they again, the police like lawyers, sometimes have a very hard time getting a full story because people just immediately feel like they want to shut down.

You go into a therapist's office, there's a couch, maybe there's a nice scent, there's maybe music playing. You immediately feel like, I'm at home, this person cares about me, and I'm going to be given the time to talk through stuff. They're going to give me that verbal biophysical feedback that they believe me. I want to touch on that too, where a lot of people again, they'll see, "I can't be trauma informed or I shouldn't be because it will mean I assume guilt." This is America and you're innocent until proven guilty, which I totally agree with. I think one of the fallacies is, if I believe victims, if I support victims, I therefore believe automatically everybody's guilt and should be thrown away and the key thrown out the window. Sadly, I think there are people in this field who do again, maybe come from an extreme standpoint, maybe it's emotional for them. Whatever their personal history, they do feel that

way. They're like, everybody who says someone did something wrong, we should just put them on an island and leave them there.

It's interesting because I am unique in this field because I think especially as a sexologist, but in addition to that, I work with both victims and offenders. With offenders, I work on restorative justice measures to help them to work through what they've done and to learn from it and to do better. So I can be trauma informed with both, I can believe victims every time and not want to dismiss or not try to support the healing of people who are exhibiting problematic behaviors. They're not predatory in nature but there's things that need to be addressed that are wrong and they need to atone for that.

So to say again, trauma informed is this very one sided thing that goes against all the tenants of the American legal system. It's not true, it's simply not true.

Courtney Bullard:

I like that. So going back you were saying creating a calm environment is obviously tantamount in creating that secure and safe space where somebody is going to be more willing to get their story out and be heard. Any other tips you can think of?

Dr. Laura McGuire:

So again, I think it's a lot of that, how are you physically responding to someone, both in your tone and your body language to make them feel safe with you? Again, this is to the benefit of everybody. This is never going to sway something so that somebody's wrongfully convicted. By making everyone calm and relaxed, it is only a good thing. So again, thinking about, how am I approaching this person? Am I speaking to them in a warm and friendly way? Am I allowing them enough time and space to answer questions? Does my tone reflect a sense of empathy and compassion and understanding? Again, you can do that with both sides with anybody involved. You have to... here's an example I think that hits home.

When I work with offenders, a lot of times, they are so used to people being angry with them because they've been found guilty of something. Everybody's approaching them in this super aggressive manner, and I will be told, "When you get assigned this case, watch out. This person's been physically aggressive with people, they've thrown things, they yell a lot. You're going to have a hard time working with them." Same thing with, someone might say, "This victim's hard to work with. They're very aggressive, they have a hard time communicating when we did the investigation."

So when I greet them, I make sure my shoulders are back, my body language is open. I say, "I am so excited to work with you. Thank you so much for coming." I have a big smile on my face, and again, this is even work with the offenders. Boom, the guard goes down. They're like, "What? You're excited to meet me? I'm the bad guy. Nobody's excited to meet me."

Courtney Bullard:

Right, but they don't come in already defensive and when their defenses are up, it's so hard to get them back down. That makes so much sense.

Dr. Laura McGuire:

Exactly. So when you're working with victims, say, "We are really excited to help you. We are here to support and listen to you. Take your time, if you need to come back five times because over the next

three months you remember more, or you work with a therapist and that helps you remember more. We will continue to be here for you, whatever you need." So those are my tips is, think about everything from your body language, your approach, your language, and the environment, to create that trauma informed space where you're going to get the best results.

Courtney Bullard:

I love that. I have to have my own little caveat here. That is, I do know that for all of us that are on the ground doing the investigations, there's always this concern, you've got to walk a fine line in that if you start to appear as someone's advocate, then the expectations get a little blurry. Then you have folks that are very unhappy with the grievance process, but I always say and I did not come up with this on my own. I got it I think from listening to Brené Brown. She talks about soft front, strong back, in a totally different context, but it's the same thing. It's okay to have some empathy and to be compassionate with both the complainant and the respondent, that's okay. It doesn't mean you're their advocate, as long as your role has been explained to them, but creating that warm, friendly environment is so much.

A lot of people in the profession now have a JD or have a law enforcement background. I have so many people call me and say, "Well, I don't have either of those things. Does that mean I shouldn't go into this profession?" I'm like, "Absolutely not," because those two professions do sometimes, like I already said, create barriers in the ability to be empathetic, sometimes just as a result of the type of training we've received. So you've got to really have a mental shift when you get into the higher education landscape and to Title Nine work because you're dealing with members of your campus. You want to treat them with respect and dignity, but also in my opinion, empathy. This is my lawyer opinion, not my psychologist opinion, but I love hearing it from you because it just makes so much sense. I love the way you're explaining it.

Dr. Laura McGuire:

Yeah, and I think you bring up a great point. Another trap that sometimes people fall in is trying to be everything to everyone. We don't want to do that because then nothing gets done well. We want to say, "I'm here for you. We're here to support you, but we're going to connect you with an actual advocate who is going to have a whole nother dimension to that. An advocate's not a therapist, so we want to get you with a licensed therapist through this process as well." Making sure they understand, here's this whole team of people who are here to support you. They all have different roles, they're not going to pretend to be who they're not but everybody's here to make sure things are fair and a positive experience as much as possible.

Courtney Bullard:

I just want to jump up and down and be like, "Yes, yes, yes," because this is exactly... I'm so big on roles. I talk about it 24/7, you have to know what your role is and make sure you stay within your lane. You do have to have boundaries. If you approach something in the way that you're suggesting, I can hear a lot of Title Nine coordinators or investigators listening being like, "Oh my gosh. Well, these folks are going to be in my office every other day. Then I'm overrun." So just creating the boundaries and managing expectations, all while being empathetic and explaining your role, ensuring that that's articulated over and over again. I think it's like, you need the whole package, it's not just one thing or the other. You

need it all. So I love that you... I'm saying love a lot in this podcast, but it's true. I'm just listening to you and I'm writing furiously and yes.

Dr. Laura McGuire:

Yay.

Courtney Bullard:

I love it. So, I think we can wrap this up, I think. Am I right or would you agree with me that you do definitely think that trauma informed practices have a place in Title Nine investigations?

Dr. Laura McGuire:

Yes.

Courtney Bullard:

But that it's not necessarily all victim-centric? It could apply to anybody involved in the process, a witness, obviously the respondent, even parents of students who come in with their child. All of it.

Dr. Laura McGuire:

Absolutely, and thank you for bringing that up, that for people to remember that this affects a whole community. This is not an isolated thing. Again, even for the person who's accused, for the person who witnessed something, for their friends, for their classmates, for their teachers. All of those people are processing what's going on and having many different emotions and reactions to it. So, that's where again, it's really about culture a shift, and a campus culture expectation of a trauma informed space for everyone.

Courtney Bullard:

I love it. So you mentioned one other term that I want to talk about for a minute, and either I'm going to have you back to talk about consent and the history of consent and the cultures, because I think that is another area that I definitely want to dive into, or talk with someone that you recommend. But you mentioned restorative justice. It's a term that I've heard a lot now in this industry, it's one that I don't even know that I fully, fully understand. I do know there's debate out there over whether in this space for example, informal resolutions are something that can work, that are recommended. In these cases informal resolutions can mean a lot of things in the Title Nine context. Restorative justice might be one of them.

So, can you just talk a little bit about what restorative justice is and any thoughts that you have on the appropriateness of other avenues besides straight up Title Nine investigations, so informal resolutions or what have you, on campuses?

Dr. Laura McGuire:

Absolutely. So yeah, this is actually one of the most popular trainings I give. I did give it last year at ATIXA, and this year I'll be back and I'll be one of the featured presenters talking actually about building bridges with adversaries and people who don't get on board with these topics. But last year when I did this, it was amazing. We actually had to turn people away, there was so many people in that room,

including a lot of members of the press because this is something people know is needed. We can't just dismiss every single person on earth who hasn't completely digested again, these very new concepts of enthusiastic and affirmative consent.

So what do we do with that? I think restorative justice, it is something that is so useful, it is so applicable to Title Nine and is grossly underutilized. So, when I had created restorative justice programming, it's a lot of explaining to people what it is and what it isn't. So when people hear that term, the misconception is, this means that offenders and respondents, they get away with whatever, as long as they say sorry and it's a slap on the wrist. That is the opposite of what restorative justice is. What it really is is, again, this is a huge concept [crosstalk 00:41:07]-

Courtney Bullard:

Right, we're probably going to have to have another podcast on this as well, but go ahead.

Dr. Laura McGuire:

Is, it's looking at again, going back to that healing piece. Healing really doesn't happen when you throw somebody out and you wash your hands of whatever went on. A lot of institutions default to that. They kick the student out and they say, "Well, there you go. We did our best." Who that helps is literally nobody, including the victim. Restorative justice brings in the victim, the community, and the offending party to say, "What does healing and true justice look like in this unique situation?"

So it's not for every case, it's definitely not for people who have those real deep psychological issues and are predatory in nature. They want to hurt somebody, they're going out there to hurt somebody. This would not apply to them, but it applies to the situations where we're talking about, and I know you've spoken on your show. I've worked with a lot of respondents who are on the spectrum, are neuro divergent. A lot can come from different cultures around the world where they totally had no idea what they were doing was considered inappropriate under Title Nine on a college campus. There's just many different reasons that people would do things that we're like, that's not okay, this hurt someone, but they do not get that.

So part of it is, everyone has to be willing. So in particular, a respondent has to want to be part of this, you cannot make someone do it, but they want to. I have found that the majority do want to learn from what happened. They are sorry, and they don't want this to ever happen to them or anyone else again. So if you frame it as, we need to educate you, we need to talk if the victim's willing, and have them explain how this really impacted them. What you perceived as whatever, funny, not a big deal, flirtatious, how scary and upsetting that was for them.

Then the community, how was your community affected and then how can you work to make things right? Everybody then ideally, if this process is set up correctly and all of those things occur, everybody walks away feeling like they were hurt and things are going to get better, versus a punitive system that tries to make people feel better by again, punishing someone, pretending that they're not a complex, multifaceted human being, and never addresses really how the victim or community feel.

Courtney Bullard:

So, I'm going to go back to yet another LinkedIn conversation. For some reason there's been a lot happening on there these days. One of my members and a colleague had posted about informal

resolutions. Actually, I think she was responding to somebody else. They were posting about informal resolutions because these new proposed regs that are supposedly coming down this month opened the door for informal resolutions in sexual misconduct cases, including sexual assault cases, whereas before, OCR's position was mediation is not an option, period.

There was this whole discussion about, well the premise behind mediation is that both people were at fault. In my mind I'm like, no, that's not true. I know mediation is different from restorative justice, but really sometimes I think it becomes semantics because it really just depends on what your informal resolution process is for your campus, and restorative justice could be the same thing as your informal resolution process.

Mediation is something we hear about in more of a legal context, so I don't know that it's always appropriate, but I'm saying all these things to ask the question of, are you saying that restorative justice can be appropriate even in cases of sexual assault, as long as everyone's willing to participate? That it can actually be a very "good outcome" for all the parties involved, including the victim?

Dr. Laura McGuire:

Yes, and I did restorative justice with one case that was definitely deemed as sexual assault, but again, it was one of those situations that make people uncomfortable. A person said yes but they were drunk and they couldn't... the respondent said they couldn't tell they were drunk because everyone was speaking coherent, no one was passed out. That was probably my most resistance respondent, because again, he had had so many emotions tied to this experience as well as the victim and her family were very aggressive too and very hurt. So I really strongly advocated for the option of restorative justice with that case.

I think that a really good way of answering this question is that my perspective on this and my formulation before I got into actually doing the work came from what the United Nations does with war crimes. So part of that is, because I was a delegate at the UN for the Commission on the Status of Women in 2016 for an NGO. I listened to how other countries were dealing with very extreme violent war crimes against women. So this was not any kind of confusing situational thing. No, this was [crosstalk 00:46:42]-

Courtney Bullard:

Yeah, mixed messages or anything. Yes, exactly.

Dr. Laura McGuire:

Right. What they did though was very similar to what you're talking about where they went to the victims and they said, "What does justice look like to you?" For a lot of them it was things like, "I want to know this person has to do some kind of atonement for what they've done. I want them to understand how this impacted me. I want there to be some kind of long term thing where they educate other people on their transgressions." They really made it this very personal process where they appreciated that justice did not look the same for one person to the next.

Talking about being victim-centric, that truly is giving power back to the person the power was taken away from. So I was so inspired by that conversation. I'm listening to from Iceland to situations

they were investigating in South America, all over the world, what that looked like and their approach and how effective it was.

So, I think that that's where institutions should not be afraid of it or think again that, oh, this is being dismissive or this is saying like you said, everybody's guilty. No way, absolutely not.

Courtney Bullard:

Yeah, I just don't see that at all. I'm not sure if it's just a misunderstanding of the term mediation and it's just the verbiage that we're using. I love again, love, here we go, but you saying that they went to the victims and said, "What would justice look like to you?" I train my investigators to ask complainants, one of the first questions I ask is, "In a perfect world, what would you like to see happen?" Because nine times out of 10, they will say, "I don't want to go through a full investigation and a hearing. I just want him..." obviously it could be various genders, but in a lot of cases let's say it's a male respondent. "I just want him to apologize and understand this wasn't right and to stay away from me as long as I'm at school."

They're not all situations where they're like, "I want them off campus and I want them kicked out," but we're saying to them, "Well, sorry. If that's their response, I want them to say they're sorry or whatever. As a university, they're still in the position legally where they're like, "Well, we still have to go through this process." That's not necessarily the best thing for the complainant.

Dr. Laura McGuire:

Well, and I think also it's important to explain to people what options might look like because they might not have any concept of, oh wow, I could face them and they just have to listen and not [inaudible 00:49:15] and I just get to tell them how this impacted me. I say this with full disclosure as someone who is a survivor. So I also know what it's like on the other side, what justice would look like to me. For most situations, you're like, I just don't ever want this person to hurt me again, therefore, I want them to go away. But people don't usually give you the option of, well what if they could do this or they could do that, or you could have a situation where you really get to process the impact on your life and your family and they had to listen to that. Then I'd be like, oh that sounds interesting, Let's talk about that more. So I think it's important for people to give examples of what could be done.

Courtney Bullard:

Well, I think there's going to be so much more to come on this topic if the imperium comes down in the way that it was drafted, and informal resolutions are opened up and more of a viable option for campuses. I do think we're going to see a lot more on this and people will be needing your services to help create a really good restorative justice platform to work from, if that's what makes sense for their campus, is my own opinion.

Okay, so I'm definitely going to have you back to talk about consent. I feel like we could have 10 podcast episodes probably just based on all of the work you're doing in this area because there's so much that you're doing. I know we've only tapped into a small part of it. So tell listeners a brief overview of what services you offer, how can they find you if they want to hire you to come to their campus. I know you're working on some other projects as well. So share everything that you've got going on and what's in the pipeline with your work.

Dr. Laura McGuire:

Definitely. So I'm very active on LinkedIn, as you know. That's how we met, and so you can find me at Dr. Laura McGuire on LinkedIn. On Instagram, it's @drlauramcguire, and @equity, E-Q-U-I-T-Y, and agency, which is also my website. So if you want to contact me just personally as an individual, scholar, drlauramcguire.com, if you want the resources that my firm puts out, then equityandagency.com.

Some of the cool things we have coming up for 2020, we have a new app that's coming out, the Smart App, which stands for Sexual Misconduct Awareness and Response Technology, and it blends all these things that we've been talking about from somebody who's actually been out doing the work in the field in this one nice place in this app. It's a great launching point for everything from prevention education to reporting options. One of our big focuses is making sure that the victims who have a hard time accessing campus resources get them so the app is designed to be accessible for people with disabilities, and it's translatable into multiple languages for international students.

Courtney Bullard:

Awesome.

Dr. Laura McGuire:

So, very excited about that. Then other than that, I have two books coming out. One is called The Sexual Misconduct Handbook Guide for Higher Education. That's from Stylist Publishing, that will be out in 2020. Then the other is through Rowman and Littlefield, and that's Creating Cultures of Consent, a Guidebook for Teachers and Parents. That's for K12 audiences.

Courtney Bullard:

Oh, that's going to be so good. That's my own passion project is just, we need to be doing so much more at the K through 12 level. So I'm obviously going to be one of the first ones to buy both books, but that one in particular I think, that's going to be much needed. I will make sure to put all of that in the show notes so that folks can easily access it.

So, obviously they can reach out to you, I know you do a lot of speaking, you've already mentioned that you're speaking, have some upcoming workshops coming up. Some upcoming workshops coming up, anyway. You've got a lot of speaking that you do, so they can just reach out to you through your website if they wanted to learn more about those opportunities. Right?

Dr. Laura McGuire:

Absolutely, yeah. Reach out to me through either website or social media, and we do everything from keynotes to workshops. Then also, consulting packages, if people need long term support to get these things off the ground, I love doing that. Being that, we call that in education as a teacher, scaffolding. Being that supportive structure to allow the school to really launch in the direction they want to go, but not doing that blindly, but having that expert support system in place.

Courtney Bullard:

Perfect. Final question for you, maybe two, one or two. Final little fun question. So you already mentioned yoga, belly dancing, which I think are both awesome and very cool. I've taken some belly

dancing classes back in the day, I haven't in a long time. I love all that, but so am I being presumptuous if I say if you were not doing this work, you're probably doing yoga plus this work. What would you be doing, do you think, if you weren't in this field?

Dr. Laura McGuire:

Yeah, no still do yoga. So this is a fun fact about me that a lot of people find very interesting. I was going to be a nun.

Courtney Bullard:

Okay, that's an awesome fun fact. I never cease to be amazed at the end of my podcast when I get this information from people because it's always out of the box. So you thought you were going to be a nun? I guess because of your Catholic upbringing, right?

Dr. Laura McGuire:

Well, so just to explain a little bit of that. Yeah, I mean I was. I converted to Catholicism on my own when I was 13. The thing is, people now look at my life and being a sexologist and working in these fields and they think, wow, that's totally 180, you went the other direction. What I tell them is this. I say, "It's actually the same thing because what I was called to as a nun was to be in service of humanity 24/7, 365, for the rest of my life." I simply figured out that to do what I was called to do, this ministry, this work, I was not going to be able to do within the confines of religious life, but I'm really still doing the exact same thing even if it looks very different on the outside.

Courtney Bullard:

I love that. Have I said love enough this podcast? We're going to have to go back and count it, but that's awesome.

Dr. Laura McGuire:

[inaudible 00:55:38].

Courtney Bullard:

I'm so big on serving my clients and coming at it with a different approach, and it's what I love about what I do is working with people every day and being of service to them, what I can bring to the table. So, that is so cool. There's a perfect parallel, in my opinion. Makes sense, nun to sexologist. Maybe that's going to be the name of the podcast.

Okay, well awesome. Well, thank you so much. I really appreciate you giving us all of this insight. I have learned so much from this podcast, I know that everybody listening will learn so much. Title Nine coordinators and investigators, they're just getting the trainings they need as they should, that makes them legally compliant and help them to get the tools to do their job but there's so much more than just the trainings I provide that are needed. The information you're providing and that you're giving when you're consulting with institutions is so crucial to get that full picture and ensuring that campuses are doing their part in all of this. So I really, really appreciate you being on and I thank you so much for all of the information you've shared.

Dr. Laura McGuire:

Thank you, thank you so much. I look forward to connecting with you in the future.

Courtney Bullard:

So many nuggets from Dr. Laura McGuire in this episode. One of my favorites, humans are complex, so consent is complex. I know that all of you on the ground doing these investigations know that first hand. Thank you so much for tuning into this episode. As always, please connect with me on all of our social platforms. We're on Twitter, LinkedIn, and Facebook. Go to our website, [www.icslawyer.com](http://www.icslawyer.com), and contact us if you are interested in being a featured guest or in need of services that we offer. Thanks again for tuning into this episode, and until next time.

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