



CIVIL RIGHTS INVESTIGATOR PRACTICAL SKILLS LEVEL III TRAINING & CERTIFICATION COURSE

Macomb Community College

September 20-21, 2018

HOUSEKEEPING ITEMS



- Sign in both days of training for certification eligibility
- Access to certificates is delivered from ccc@nchem.org within 7-10 business days following the conclusion of this training
- CEUs are granted on an individual basis by your field's accrediting body
- Materials site will remain available for three months following this training
- Contact members@atixa.org to learn about complimentary trial membership eligibility

YOUR FACULTY



DANIEL C. SWINTON, J.D., ED.D.

Managing Partner
The NCHERM Group, LLC.

Vice President
ATIXA

AGENDA



- 1 Title IX Overview
- 2 Your Role as Investigator
- 3 Investigation Guidelines & Expectations
- 4 The Process

NOT FOR DISTRIBUTION

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.

Title IX of the Education Amendments of 1972

Implementing Regulations at:

20 U.S.C. § 1681 & 34 C.F.R. Part 106

IX

THE IX COMMANDMENTS



Thorough	Reliable	Impartial	Investigation (prompt & fair – VAWA Sec. 304)
Prompt	Effective	Equitable	Process
End the Discrimination.	Prevent its Recurrence.	Remedy the effects upon the victim & community.	Remedies

BUT ALSO...THE CLERY AMENDMENT: VAWA REAUTHORIZATION, SECTION 304

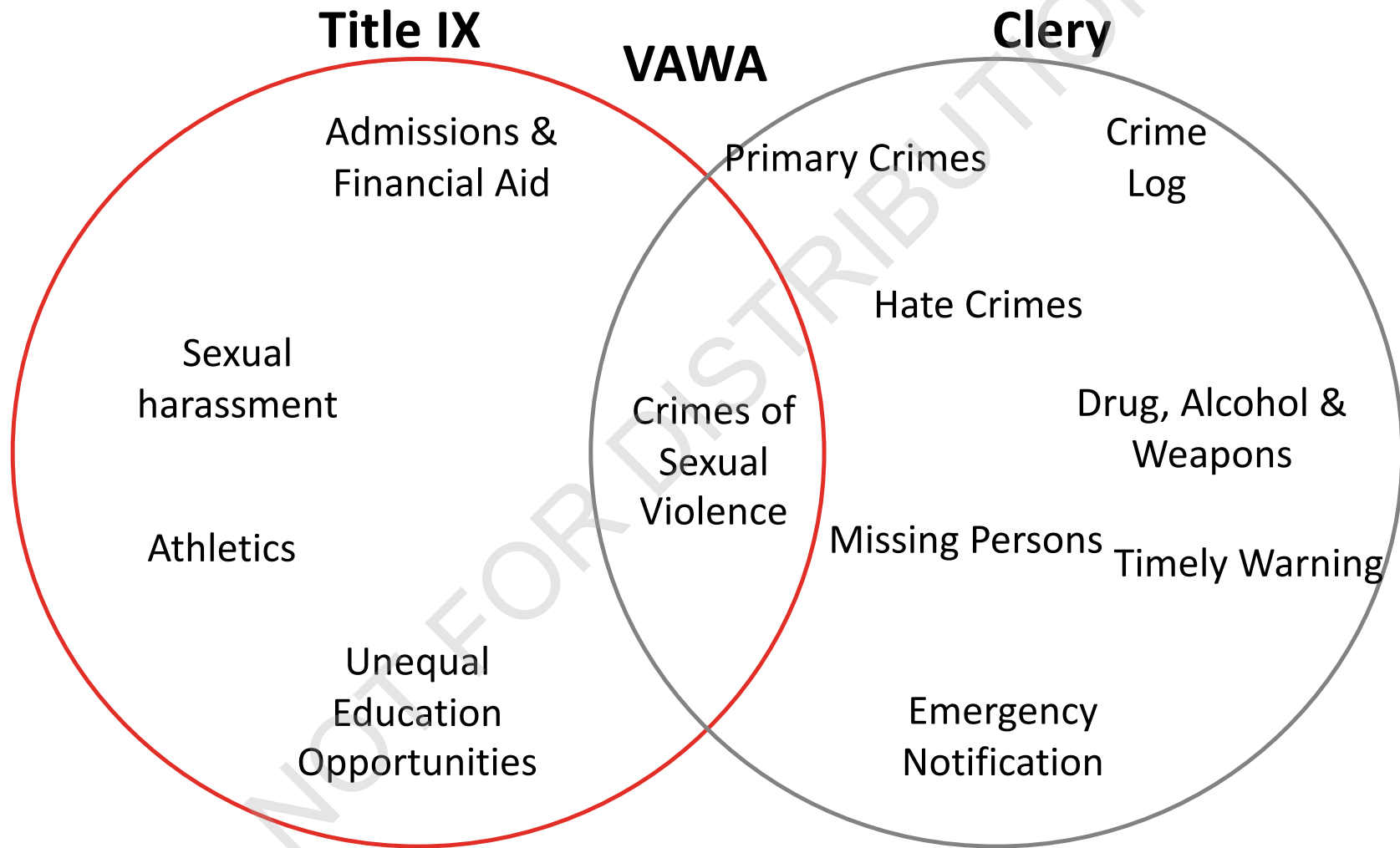


Section 304: “Campus SaVE”

- **Extensive** new policy, procedure, training, education, and prevention requirements for:
 - Sexual assault
 - Stalking
 - Dating violence
 - Domestic violence
- Prohibits retaliation

The “Big 4”

TITLE IX AND CLERY



UNDERSTANDING THE THREE FORMS OF SEXUAL HARASSMENT



Sexual Harassment is:

Unwelcome conduct of a sexual nature or that is sex or gender-based

Based on power differentials
(**quid pro quo**),

The creation of a **hostile environment**, or

Retaliation

HOSTILE ENVIRONMENT



- A hostile environment is created when sexual harassment is:
 1. Sufficiently **severe**, or **persistent or pervasive**, and **objectively offensive** that it:
 2. Unreasonably interferes with, denies or limits someone's ability to participate in or benefit from the university's educational [and/or employment], social, and/or residential program.
- From both a subjective (the alleged victim's) and an objective (reasonable person's) viewpoint.

HOSTILE ENVIRONMENT



- Totality of the circumstances to consider:
 - The frequency (persistent or pervasive), nature, and severity of the conduct.
 - Whether the conduct was physically threatening.
 - Whether the conduct was humiliating.
 - The identity of and relationship between the alleged harasser and the subject or subjects of the harassment.
 - The age and sex of the alleged harasser and the subject or subjects of the harassment.
 - The size of the school, location of the incidents, and context in which they occurred.

HOSTILE ENVIRONMENT CONT.



- Totality of the circumstances to consider:
 - The effect on the alleged victim's mental or emotional state.
 - Whether the conduct was directed at more than one person.
 - Whether the conduct unreasonably interfered with the alleged victim's educational or work performance.
 - Whether the statement is an utterance of an epithet which is offensive, or offends by discourtesy or rudeness.
 - Whether the speech or conduct deserves the protections of academic freedom or the First Amendment protection.
 - (*Davis v. Monroe County Bd. of Education*, U.S. Supreme Ct., 1999)

“SEVERE”



*“The more severe the conduct, the less need there is to show a repetitive series of incidents to prove a hostile environment, particularly if the conduct is physical. Indeed, a single or isolated incident of sexual violence may create a hostile environment.”
—(Q&A: A-3)*

- Physical is more likely to be severe without need for repetition: “attempts to grab a female student's breasts or attempts to grab any student's genital area or buttocks” (2001 Guidance).
 - Non-consensual sexual intercourse or contact are almost always sufficiently severe.
 - Consider the circumstances: E.g., the ability for victim to escape the harassment.
- Accompanied by threats or violence.

“PERVASIVE”



- Widespread.
- Openly practiced.
- Well-known among students or employees – reputation of a department etc.
- Occurring in public spaces (more likely to be pervasive).
- “Harassment is pervasive when incidents of harassment occur either in concert or with regularity” (2001 Guidance – Footnote 44).
- Frequency of the conduct is often a pervasiveness variable.
 - Intensity/duration.
- Unreasonable interference.
- A “gauntlet of sexual abuse” *Meritor v. Vinson*, 477 U.S. 57 (1986).

“PERSISTENT”



- Repeated.
 - Intensity.
 - Duration.
 - Welcomeness.
- Defined:
 - Continuing to do something or to try to do something even though other people want you to stop.
 - Continuing beyond the usual, expected, or normal time; not stopping or going away (Merriam-webster.com).

“OBJECTIVELY OFFENSIVE”



- Reasonable person standard in context.
- Age and relationships of accuser and accused.
- Number of persons involved.
- Frequency.
- Severity.
- Physically threatening.
- Humiliation.
- Intimidation.
- Ridicule.
- Abusive.

HOSTILE ENVIRONMENT OR PROTECTED SPEECH?





Hostile Environment?

SEVERE? PERVASIVE? PERSISTENT? OBJECTIVELY OFFENSIVE?



Faculty-based examples

- Giving a student a back-rub.
- Post-class sex demonstration.
- Require students to read *50 Shades of Grey* and give an assignment to compare their own experiences against those from the book.
- Female faculty member repeatedly referring to male students as “penises.”
- Telling repeated “dirty” jokes in class.

SEVERE? PERVASIVE? PERSISTENT? OBJECTIVELY OFFENSIVE?



Staff-based examples

- Telling dirty jokes: In common area? Staff meeting? To a single individual?
- Sending porn to a colleague.
- Rolling eyes and making masturbation motion with hand at comments during a staff meeting.
- Coming up behind a colleague and giving a brief shoulder rub.
- Repeated staring at a colleague of the opposite sex; accompanied by occasional winking.
- Colleague repeatedly mentions how much he/she likes a person's outfits.

QUID PRO QUO SEXUAL HARASSMENT



- *Quid Pro Quo* harassment is:
 - Unwelcome sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature,
 - By a person having power or authority over another constitutes sexual harassment when
 - Submission to such sexual conduct is made either explicitly or implicitly a term or condition of rating or evaluating an individual's educational [or employment] progress, development, or performance.
 - This includes when submission to such conduct would be a condition for access to receiving the benefits of any educational [or employment] program.

TITLE IX & EQUITY



STEPS OF A CIVIL RIGHTS INVESTIGATION



1. Notice or Complaint
2. Preliminary Investigation (initial strategy)
3. Gatekeeper Determination (by Title IX Officer)
4. Notice of Investigation to Responding Party and Notice of Formal Allegation (“Charge”)(Timing may vary)
5. Strategize Investigation (Will continue throughout process)
6. Formal Comprehensive Investigation
 - a) Witness Interviews
 - b) Evidence Gathering
 - c) Final meeting with parties
7. Analysis of Evidence
8. Finding recommendation

APPLYING DUE PROCESS



DUE PROCESS IN PROCEDURE



- A school's process should include:
 - Notice – of charges and of the hearing.
 - Right to present witnesses.
 - Right to present evidence.
 - Opportunity to be heard and address the allegations and evidence.
 - Right to appeal. (recommended)

NOT FOR DISTRIBUTION

DUE PROCESS IN DECISION



- A decision must:
 - Be based on a fundamentally fair rule or policy.
 - Be made in good faith (i.e., without malice, ill-will, or bias).
 - Have a rational relationship to (be substantially based upon, and a reasonable conclusion from) the evidence.
 - Not be arbitrary or capricious.
- Sanctions must be reasonable and constitutionally permissible.

ISSUE SPOTTING

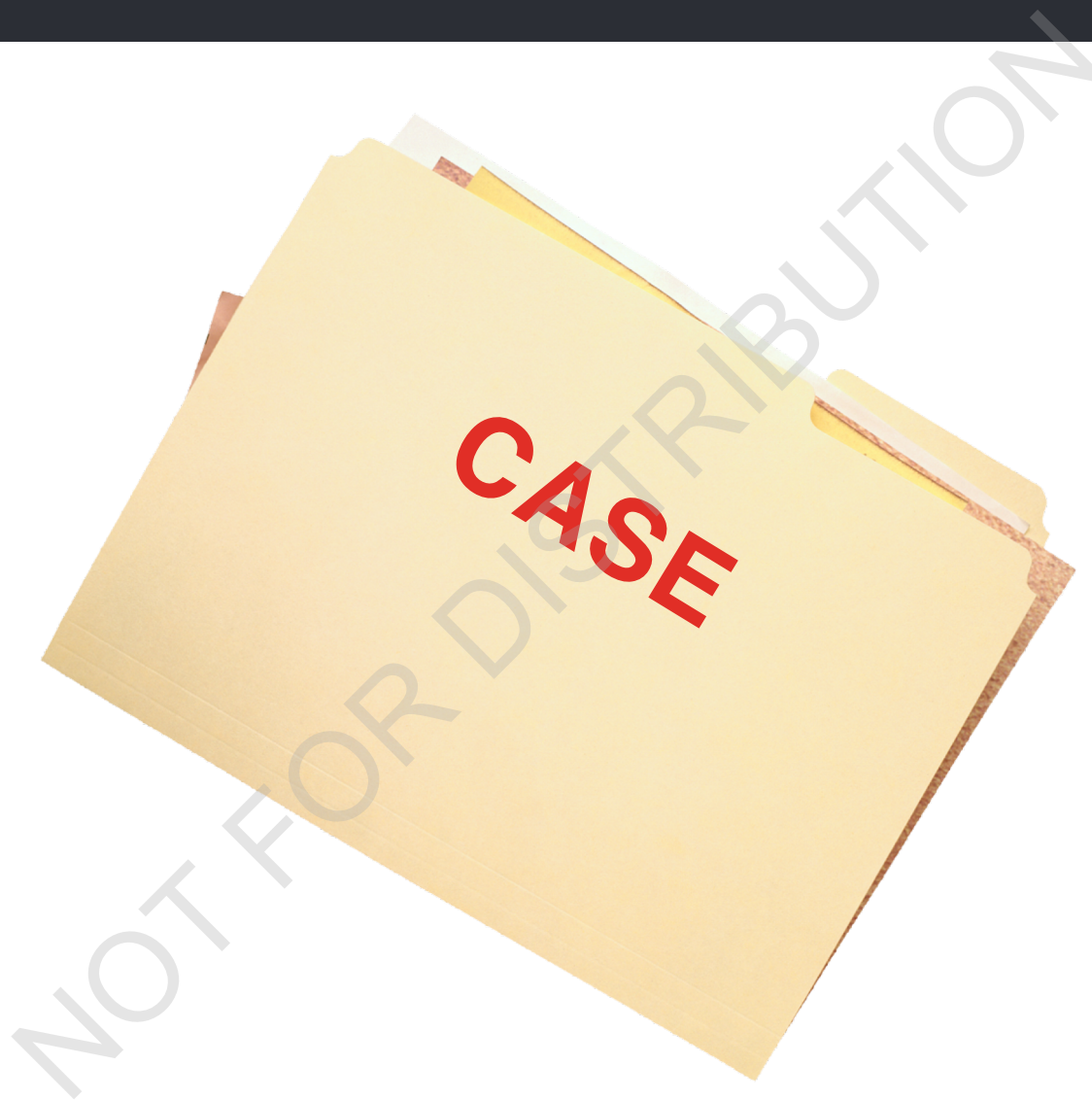


CONSIDERATIONS IN ISSUE SPOTTING



- Engaging in issue spotting based on the Reporting Party's statement is an important first step in development of your investigation strategy.
- You will continue to identify issues as you interview others and gather evidence.
- Continuing to revisit the facts gathered and identifying issues is critical to a comprehensive civil rights investigation
- Identifying the issues posed will provide the framework of policies in play that must be identified.

ISSUE SPOTTING EXERCISE: COURTNEY & SHAWN



ISSUE SPOTTING



- What are the issues presented here?

NOT FOR DISTRIBUTION

STRATEGY OF THE INVESTIGATION



STRATEGY IS KEY



- The investigation team, in consultation with the Title IX Coordinator or designated Deputy strategizes throughout the entire investigation. This includes:
 - What are the issues presented?
 - Are there undisputed facts? Which ones are significant to the investigation?
 - Are there facts in dispute? Which ones are significant to the investigation?
 - What Policy(s) elements may have been violated?
 - Who do you need to interview?
 - What should be the order of the interviews

OTHER ELEMENTS TO CONSIDER IN STRATEGY



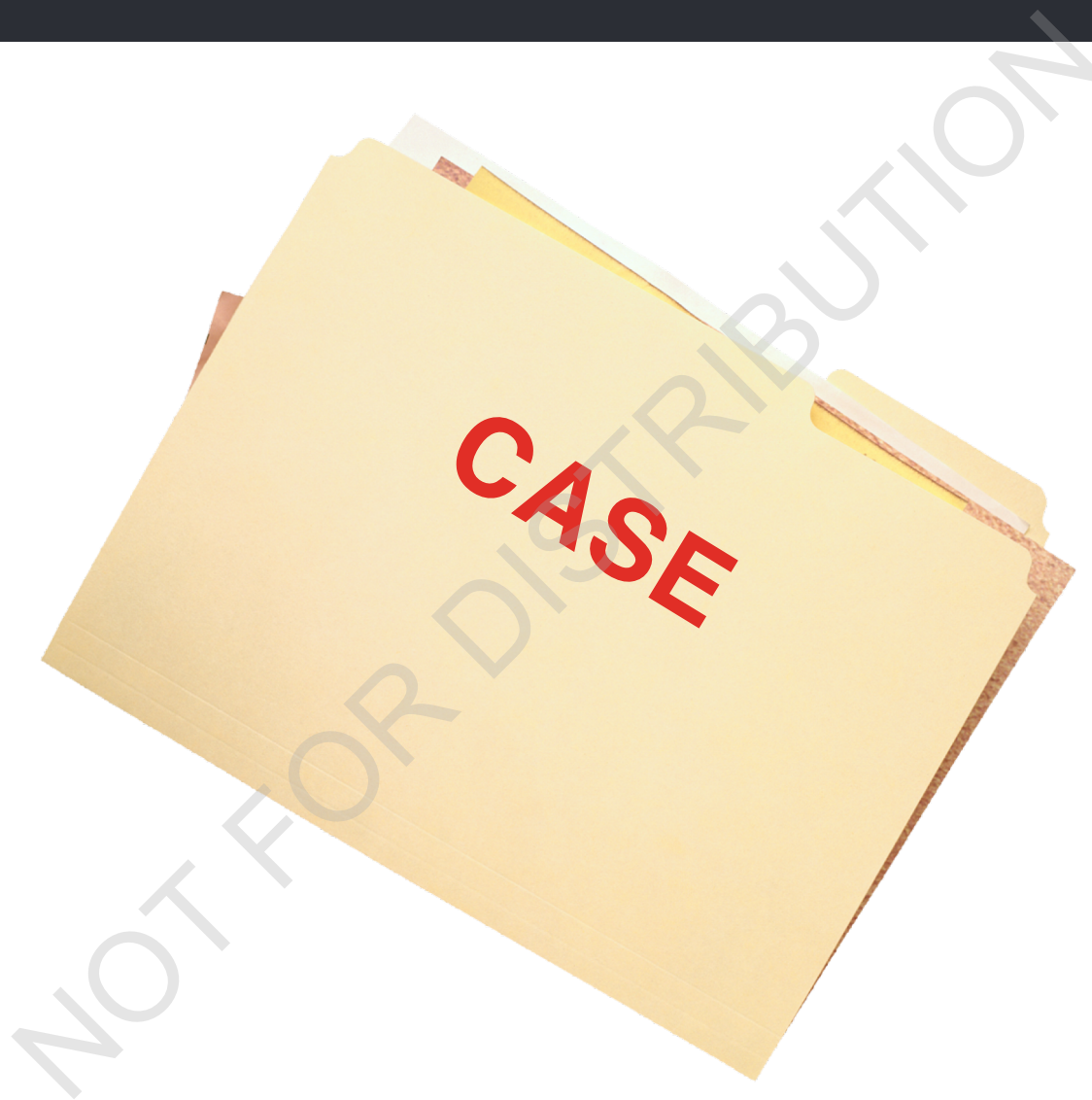
- What are the key issues involved?
 - What additional strategies do you need to address key issues?
- What additional documentary evidence will be important to the investigation?
- Discuss your Methodology for this case (what approach will you use?)
- Timeline (within 30-60 days will vary by case)

STRATEGIZE WHEN TO INTERVIEW PARTIES AND WITNESSES



- Parties and witnesses should be interviewed as soon as possible:
 - So that recollections are as fresh and accurate as possible.
 - To secure necessary remedies in a timely manner.
- Strategize notifying the Responding Party of the report:
 - Immediately upon receipt of the report or notice.
 - In other circumstances, interviewing witnesses and accumulating evidence first may be the best practice.

STRATEGY EXERCISE: REBECCA TATE & REESE SMITH



CASE STUDY: REBECCA TATE & REESE SMITH



- Identify the issues posed here
- Strategy Development
 - What potential violations of your policy would apply?
 - Is there undisputed information? Is it relevant to explore?
 - Is there disputed information? Is it relevant to explore?
 - Are there any key issues that aren't policy violations?
 - Who do you want to talk with (order of interviews?)
 - What represents your next steps?

INTERVIEWING: GENERALLY

- The Environment
- Managing Expectations
- Questioning Skills
- Interview Guidelines



THE ENVIRONMENT



- Where will you do the interview?
 - Your office?
 - Conference room?
- Skype, phone, and email interviews
- Important aspects:
 - Neutral environment.
 - Minimize distractions.
 - Sit in their chair.
 - Check your lobby/waiting area for distractions and “hidden messages.”

THE INVESTIGATORS



- Maintain professionalism, but balance with relaxed atmosphere.
 - Attire.
 - Demeanor.
- You are an extension of the environment.
- Your neutrality is key, but should be balanced with compassion.
- Maintain good eye contact and comfortable, open body language.

CONSIDERATIONS



- Consider who should conduct the interview and who should be note-taking.
- Allow time. (What if you don't have enough?)
- Use breaks strategically.
- Remain calm and professional.

NOT FOR DISTRIBUTION

ELEMENTS OF THE INTERVIEW



- Greeting – first opportunity to establish rapport and tone (beginning of the “Spiel”):
 - Thank them for coming in.
 - Acknowledge difficulty of situation.
- Explanation of process:
 - Go through all steps and what happens in each.
 - Use your flow chart if you have one
 - Share the timeline requirements.
 - Options after this meeting is over.

EXPLANATION OF PROCESS



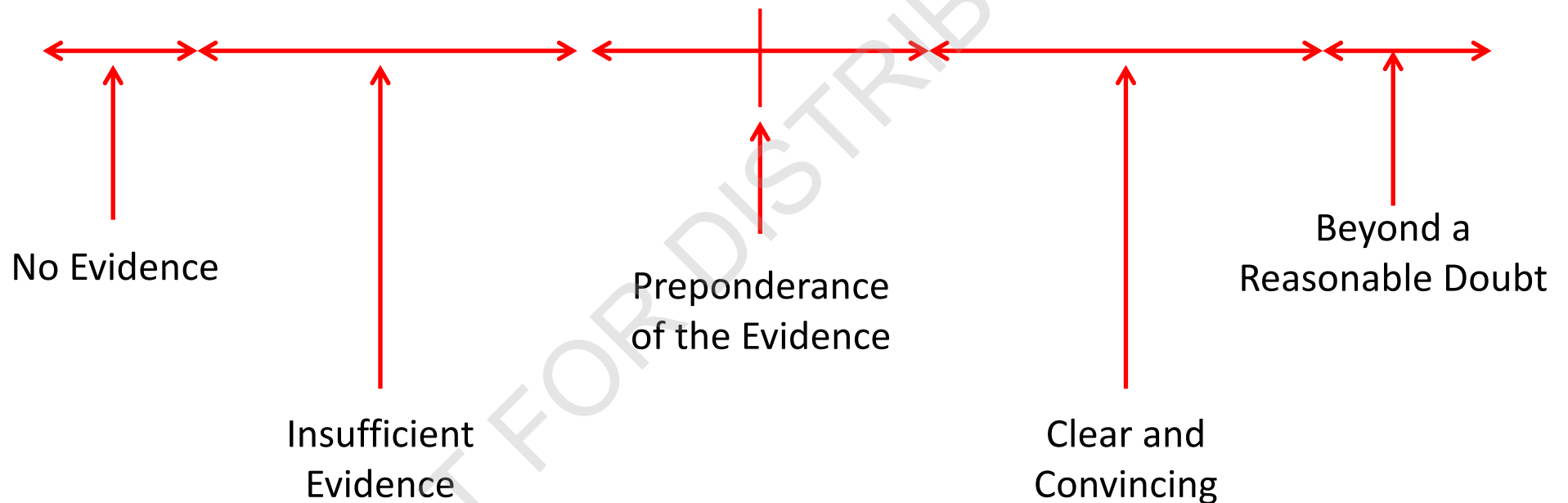
- Discuss what happens next.
 - Strategy, more meetings with others, etc.
 - Interim actions (supporting, preventing, etc.).
 - How long this may take.
 - Other options they have (criminal, other processes, etc.).
- Share facts but without findings with Title IX Coordinator, and each of the parties separately.
- Share of the Final Report with recommendation for findings with Title IX Coordinator.
 - Title IX Coordinator sign off “Thorough, Reliable and Impartial”.

EXPLANATION OF PROCESS CONT.



- If there is a Hearing:
 - What it looks like.
 - Who will be there.
 - The process/procedures.
 - Possible sanctions and other outcomes.
- The Appeal:
 - Grounds.
 - Requests.
 - Timelines.
- Explanation of the standard of proof.

PREPONDERANCE STANDARD



EXPLANATION OF ROLES



- Explanation as to **your role** in the process.
 - Neutral fact finder.
- Explanation of others' roles in the process.
 - Decision-makers
 - Advisors (for all parties).
 - Appellate officers.
- A few comments about advisors:
 - Who – lawyers, faculty, parents, victim's advocates, coaches, friends, roommates, etc.
 - How many?

MANAGING EXPECTATIONS



- No one is happy at the end of these cases; you are helping manage their frustration.
- People who conduct investigations with skill rest secure in the knowledge that all involved, including witnesses, are treated objectively and fairly.
- Be sure complainant and accused understand parameters of the policy, what it does and does not cover, how process plays out, and what process can and cannot accomplish.
- Provide ample opportunity for interviewee (especially the complainant and the respondent) to ask questions.

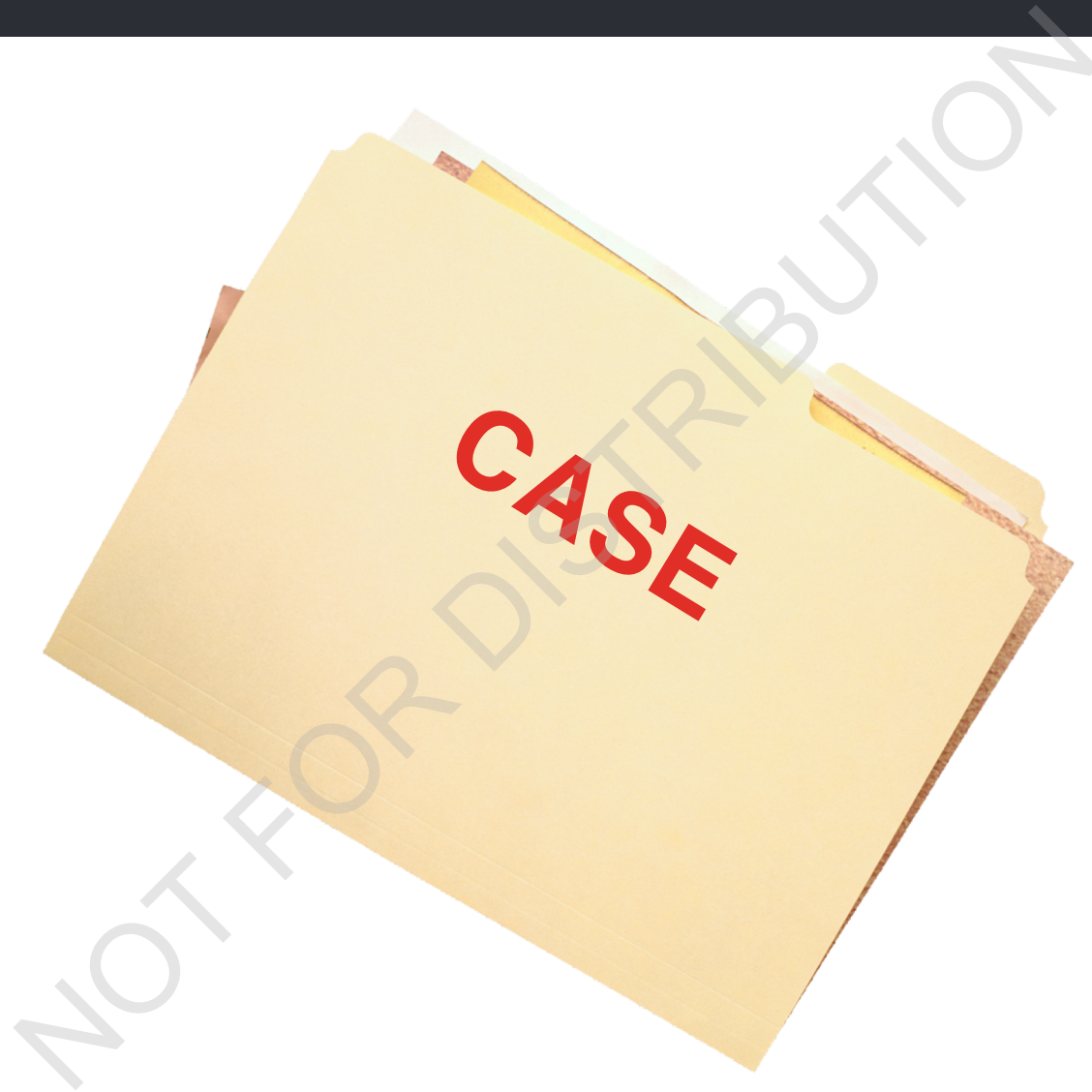
PRACTICE THE “SPIEL”



- Break into small groups
 1. Identify the Issues presented
 2. Practice the opening “spiel” – explain your process, what will happen, etc.



MARIA & CHRIS



QUESTIONING SKILLS & GUIDELINES



QUESTIONING GUIDELINES



Take the complaint from start to finish through a process of broad to narrow questions and issues that need to be addressed.

- Prepare an outline of your questions in advance.
 - Ask questions about the allegations and the evidence and the policy elements.
 - Focus on areas of conflicting evidence or gaps of information.
 - Drill down on timelines and details.
 - Review your questions before ending interview.

THE ART OF QUESTIONING



- Listen carefully and adapt follow-up questions.
- Work from your outline of your interview questions but be flexible
- Discuss thoroughness and the need for completeness; make sure parties don't leave facts out because they are afraid of getting into trouble for alcohol/drug use etc.
- Ascertain who the individual is and their relation to the other parties in the case.
- Be professional: gather the facts, make no judgments, and make no statements about the parties.
- Seek to clarify terms and conditions that can have multiple meanings or a spectrum of meanings such as “hooked up,” “drunk,” “sex,” “fooled around,” and “had a few drinks.”

CONSIDERATIONS



- Consider who should conduct the interview and who should do the note taking
- Have you developed questions to begin?
- Are you prepared with your “spiel”?
- Plan for enough time
- Use breaks strategically

NOT FOR DISTRIBUTION

CONDUCTING INTERVIEW



- Explain that you will be taking notes or recording and why.
- Acknowledge that they may have told others what happened multiple times already.
 - Ask who else they have talked to about the incident.
- Ask if they have written about this in any fashion:
 - Blog.
 - Facebook/Twitter/Social Media.
 - Journals or other writings.
 - Texts.
 - Video journals.

CONDUCTING INTERVIEW



- Ask if they have any questions about the process or the procedure.
 - Give them a copy of the brochure.
- Make sure parties don't leave facts out because they are afraid of getting into trouble.
 - Discuss the amnesty provisions (if applicable).
- Create comfort with language and sensitive subjects.
 - Let them know that they will not offend or surprise you.

CONDUCTING INTERVIEW CONT.



- Now begin the “interview.”
 - Let them talk.
 - Give them a starting point if they don’t have one.
 - Drill down later.
 - Interrupt for questions only when you must.
 - **Note:** some strategies may change based on their demeanor.
 - Expressive.
 - Angry.
 - Resistant.
 - Hesitant.

RESTATE/REFRAME



- Restate/summarize what is said. Helps validate that you are listening.
- Launder the language.
 - Remove negative or inflammatory language and emotions.
- Helps ensure you understand what is being said.
- Consider using these phrases
 - “So it sounds like...”
 - “Tell me more...”
 - “Walk me through”
 - “Help me understand”

INTERVIEW GUIDELINES CONT.



- Pay attention to alcohol/drug consumption and timing of consumption (your “horizontal timeline”).
- Be cognizant of the difference between what was “heard” (rumor) and what was “witnessed” (facts).
- Ask who else you should talk to and ask for any relevant documentation (i.e., texts, emails, etc.).
- Let parties know you may need to follow up with them as the investigation progresses.
- Recommend that the parties and witnesses not discuss the investigation.
- Discuss non-retaliation.
- Discuss FERPA issues.

CONDUCTING INTERVIEW CONT.



- At the end:
 - “Is there anything else you think is important for us to know?”
 - Are there any questions that you thought we might ask that we didn’t ask?”
- Is there anything you want me to ask the other party (or any witness)?
- What do you think the motivation for this complaint is? (Only ask if you have already not been told this information.)

CONDUCTING INTERVIEW CONT.



- To conclude (some investigators do this earlier to assist with empathy):
 - Find out if academics and/or work have been affected
 - Ask how this has affected them emotionally and/or physically.
 - Discuss counseling options if not already connected.
 - **NOTE:** Challenges that this may provide when there is not an advocate.

CONDUCTING INTERVIEW CONT.



- Let them know next steps and when they will hear from you, and that they can contact you anytime with questions or problems.
 - Get their contact information.
 - Voicemail?
 - Email?
 - Text?
 - Be as specific as possible about timelines.

WHEN ASKING QUESTIONS

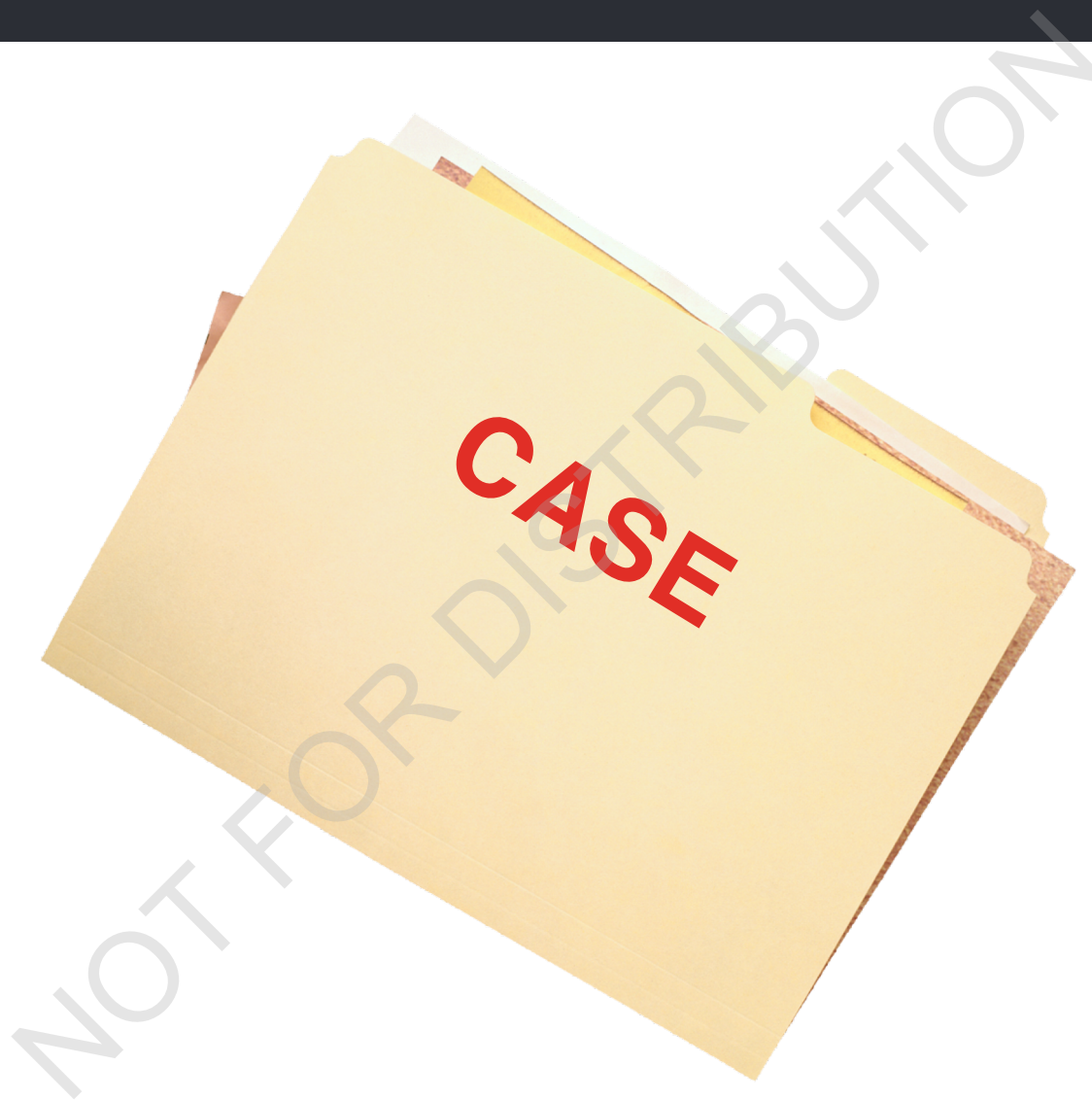


- Determine:
 1. What do I need to know?
 2. Why do I need to know it?
 3. What is the best way to ask the question?

NOT FOR DISTRIBUTION

QUESTIONING EXERCISE

MARIA & CHRIS



SMALL GROUP EXERCISE



- Identify one person to be the interviewee
 - Try not to “break character.”
- 1–2 investigators.
 - You’ve already done the “spiel”.
 - Begin with the questioning.
- 1–2 observers.
 - Observe, do not interrupt.
 - Note verbal and non-verbal behaviors of Investigators.

SMALL GROUP EXERCISE: PROCESSING



- Observers: Provide Feedback
 - Pros – verbal and non-verbal.
 - Things to look out for – verbal and non-verbal.
- Interviewee:
 - What did you feel during the spiel and while being interviewed?
 - What did you like/not like?
- Investigators:
 - What did you think worked?
 - What would you change?

THE FIVE DOCUMENTS TO CREATE POST-INTERVIEW



1. Interview transcript in final form (to be verified by witness).
2. Future Pointers document.
 - a) New Witnesses.
 - b) New Evidence.
 - c) Future Questions to Ask.
 - d) Witnesses to Go Back to With New Information.
3. Opinions & Perceptions.
4. The “Drips” Document.
5. Bulleted Key Takeaways from the Interview.

RELUCTANT REPORTING PARTIES



- Requests Not to Investigate
- Notifying Parties
- Confidentiality Requests
- Pattern, Predation, Threat, or Violence



RELUCTANCE TO REPORT



When a reporting party is reluctant to make a formal complaint, or returns to withdraw a formal complaint, investigators should honor that request and determine the reason for reconsideration.

- Those reasons involving investigation or hearing process should be addressed by the investigator. Those involving other issues should be addressed by support person.
- A comprehensive investigation and/or resolution should not automatically involve the Reporting Party, as it may be conducted without that person's involvement if sufficient independent evidence allows.

WHY DO INDIVIDUALS UNDERREPORT?



- Fear of not being believed
- Fear of being blamed
- Not defining what happened as sexual violence
- Fear of retaliation
- Fear of social suicide
- Concerns about confidentiality
- Distrust of medical, law enforcement or institutional processes
- Cultural norms
- Emotionally fragile

THE RELUCTANT REPORTING PARTY



- The college or university should explain to the Reporting Party that:
 - Its responsive action may be limited based on the level of privacy requested by Reporting Party
 - It cannot guarantee privacy if doing so would jeopardize the safety of the Reporting Party or others
- Emphasize that only those with a need to know will be informed
 - Train those who will be informed about confidentiality expectations

THE RELUCTANT REPORTING PARTY



- The Reporting Party MUST be notified as to their options:
 - That the process will still be available to them, regardless of how long they wait to initiate an action
 - That the institution will support them in any way it can (housing, classes, no contacts, etc.) consistent with their willingness to allow their identity to be known
 - That, if information is brought to the attention of the institution that may involve a threat to the community, the office may be forced to proceed with an investigation, but that the Reporting Party will be notified of this process

THE RELUCTANT REPORTING PARTY



- If a Reporting Party requests that his or her name not be used:
 - The institution should take all reasonable steps to respond and investigate consistent with that request
 - So long as doing so does not prevent the school from responding effectively and preventing the harassment of other students or the Reporting Party
 - PPTV – Pattern, Predation, Threat, Violence

PPTV CONSIDERATIONS:



- Pattern, Predation, Threat, Violence or Weapons:
 - Additional complaints of sexual violence involving the same perpetrator.
 - Whether committed by multiple perpetrators.
 - Whether the perpetrator has a history of arrests or records from a prior school indicating history of violence.
 - Whether report reveals a pattern of perpetration at a given location or by a particular group.

PPTV CONSIDERATIONS: MUST WE PROCEED?



- Pattern, Predation, Threat, or Violence (cont.)
 - Whether alleged perpetrator threatened further violence or violence against the student or others.
 - Whether violence was perpetrated with a weapon.
 - Age of the victim.
 - Whether the school possesses other means to obtain relevant evidence (e.g., security cameras or personnel, physical evidence, etc.).
- If institution proceeds, it should notify reporting party and use appropriate interim measures to protect party.

PPTV SCENARIO



- A male student is accused of non-consensual sexual intercourse by a female student. The female confided in the director of the Women's Center (also a faculty member) and asked that the institution not investigate the matter. The director notifies the Title IX coordinator, but indicates the victim does not want the matter investigated.
- Coordinator reviews the male student's file and notes that he received probation for pushing a female security guard and calling her a "stupid bitch" 11 months ago and a reprimand for an alcohol violation 15 months ago.
- The student agrees to meet with the Title IX deputy coordinator/investigator.

LARGE GROUP DISCUSSION



- The Female student requests the following:
 - That the institution not investigate the incident.
 - A no-contact order be issued between them.
 - The male student be removed from the residence hall (same as the victim's).
 - She be allowed to withdraw from two of her courses without financial penalty.
 - You do not tell her parents/partner.

NEUROBIOLOGY OF TRAUMA

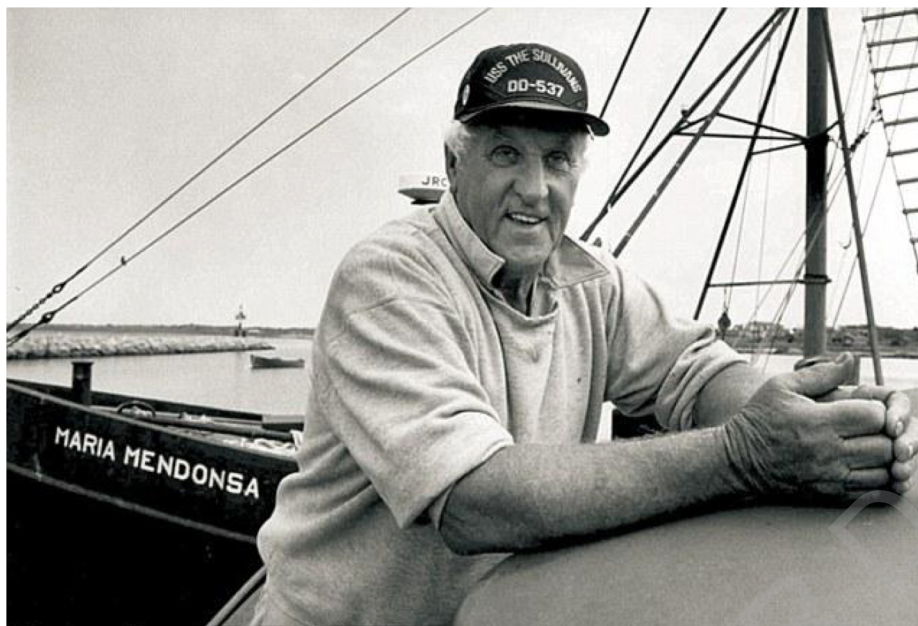
- Introduction to Trauma
- Neurobiological Impact of Trauma
- Considerations for Interviewing



A hallmark of a traumatic experience is that it typically overwhelms an individual mentally, emotionally, and physically.



<http://www.dailymail.co.uk/news/article-2213805/Romantic-moment-sex-assault-Feminist-blogger-slams-Kissing-Sailor-iconic-1945-Times-Square-photo-drunken-predator.html>



'The excitement of the war being over, plus I had a few drinks,' he told CBS. 'So when I saw the nurse, I grabbed her, and I kissed her.'

- George Mendonsa

'It wasn't my choice to be kissed,' she said then. 'The guy just came over and grabbed!'

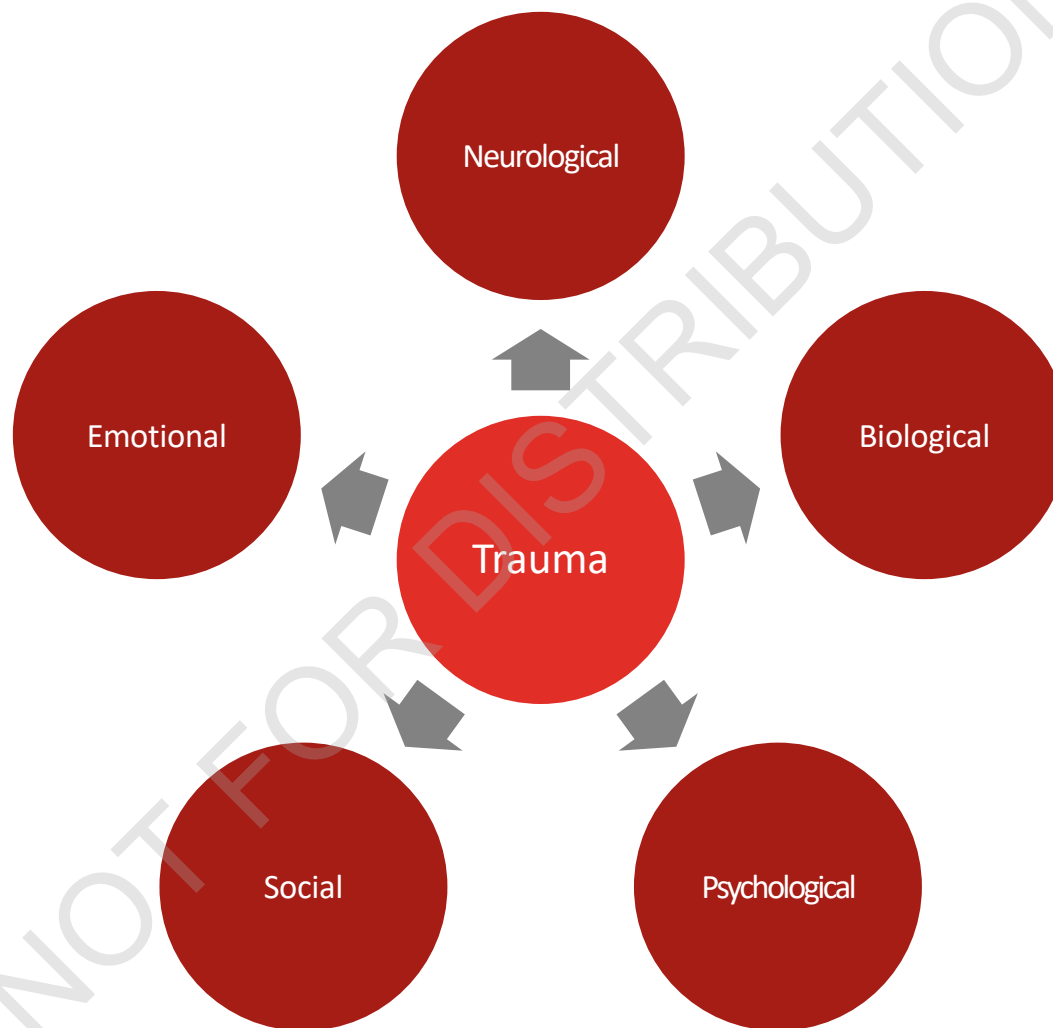
'I did not see him approaching, and before I know it, I was in this vice grip.'

- Greta Zimmer



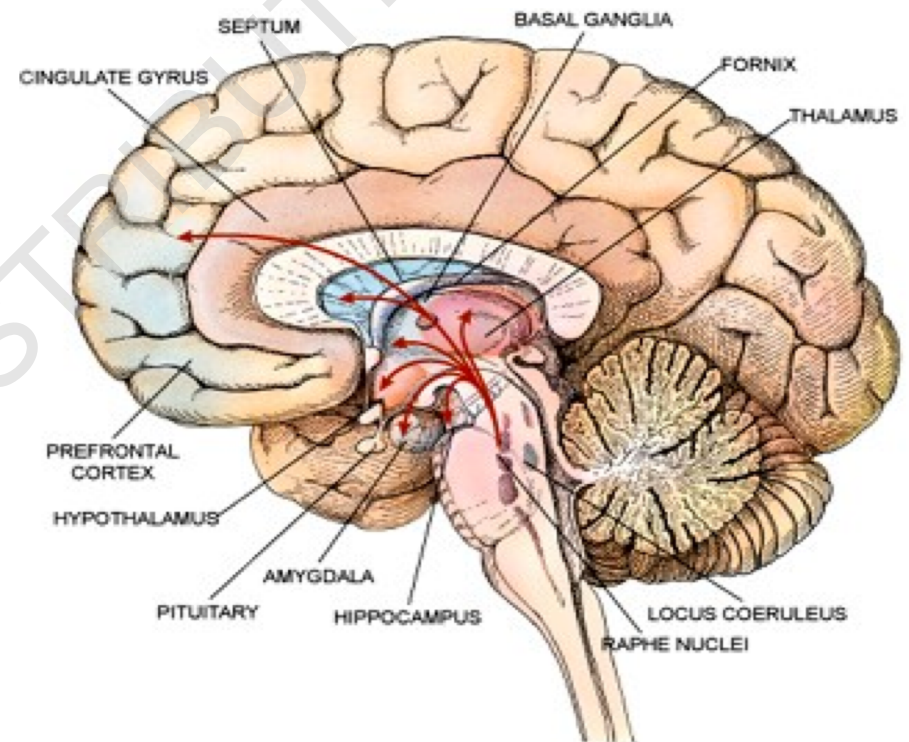


IMPACT OF TRAUMA ON FUNCTIONING



HOW THE BRAIN AND BODY RESPOND TO TRAUMA

- Hypothalamus
- Pituitary
- Hippocampus
- Amygdala



PERCEIVED THREAT



- When the amygdala senses a threat in the form of sexual assault,
- It signals to the hypothalamus,
- Which signals to the pituitary gland,
- Which signals to the adrenal gland,
- Which releases hormones or chemicals throughout the body to help react to the threat and likely trauma.
- We call this the “hormonal flood”.

TONIC IMMOBILITY



Up to half of those who experience a sexual assault will also experience tonic immobility, like being awake during surgery.

- Hormonal flood and dysregulation of the autonomic nervous system can cause the body to shut down.
- “Rape-induced paralysis.”
- Know what is happening but can’t fight.
- Biological response based on survival; think of the animal world.

THE BRAIN'S RESPONSE TO TRAUMA



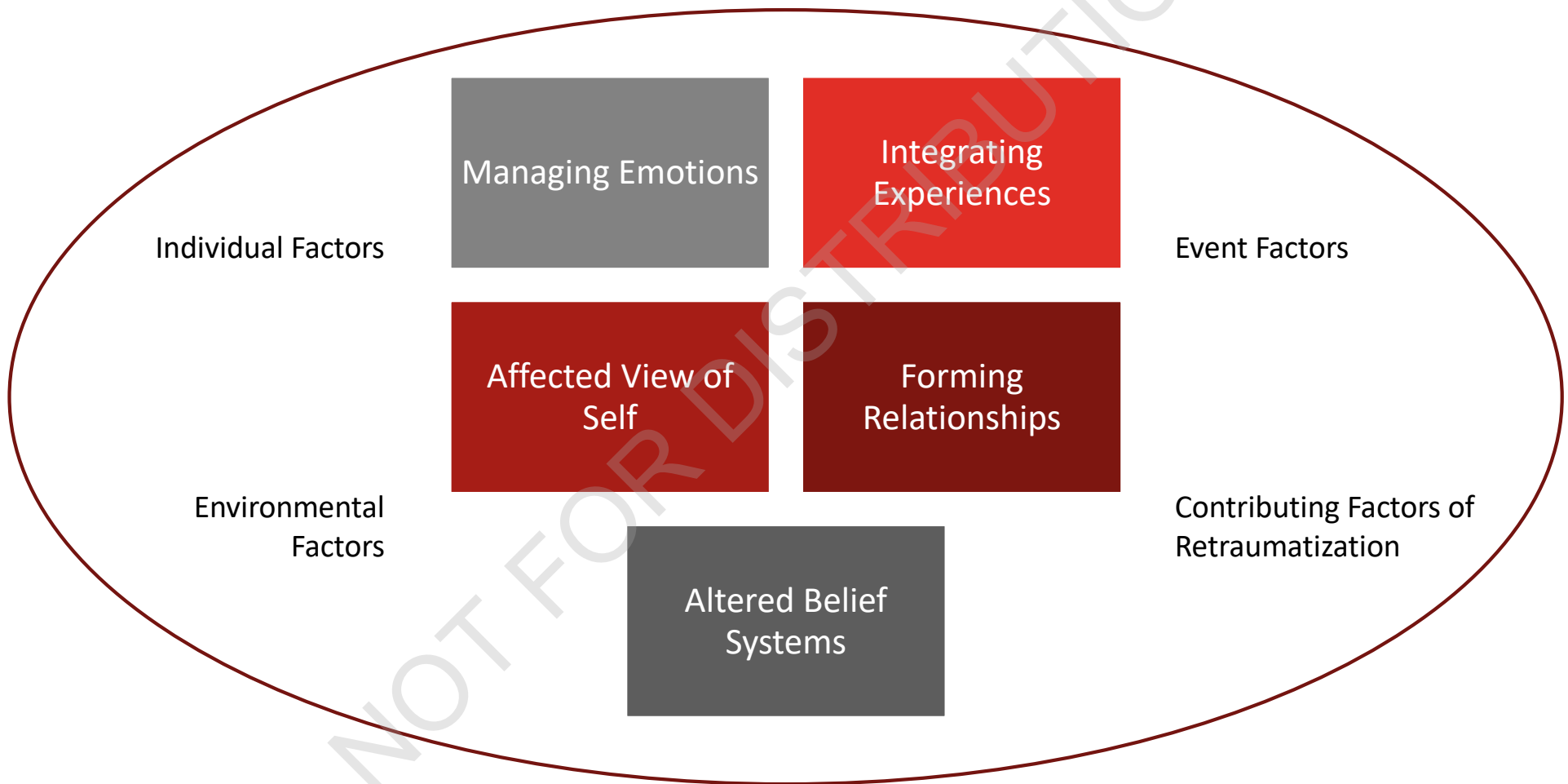
- In response to the anticipated trauma of sexual assault, hormones are released into body which impact:
 - Ability to react physically
 - Ability to think rationally
 - Ability to consolidate or group memories

This is a neurobiological response, not a choice.

TRAUMA-INFORMED PROCESSES



Ecological Understanding of Trauma Response



A TRAUMA INFORMED RESPONSE



- Recognizes the impact of trauma on a cognitive, physical, psychological, emotional, and neurobiological level.
- Victims' responses to trauma are quite varied.
- Understands how trauma can impact one's academics/work/social life.
- Recognizes need for support/positive relationships.
- Honors choice with goal of empowerment.
- Is respectful; considers boundaries and privacy.

A TRAUMA INFORMED RESPONSE



- Prioritize developing rapport and building trust.
- Avoid evaluative responses to a person's answers.
 - E.g.: that's too bad, that should never have happened to you.
- Do not moralize.
- Do not victim-blame.
 - E.g.: Why didn't you hit him? Why didn't you leave? Why did you get so drunk?



Language is
everything.

WHAT MIGHT SHUT A VICTIM DOWN



- Unsupportive responses.
- Avoid:
 - Taking control any more than you have to.
 - Escalating the situation.
 - Defining or labeling a victim's experience.
 - Asking why questions.
 - “Why did you . . . ?”
 - Verbalizing judgment in the moment.
 - Telling victims they must press charges.

INTERVIEWING CONSIDERATIONS



- Be cognizant of why someone may have responded in a “counterintuitive” manner.
- Be mindful that recall is often difficult and slow following trauma.
- Use non judgmental/non-blaming language.
- Avoid re-traumatization.
- Emphasize transparency and predictability.

EFFECT OF ALCOHOL



- Alcohol will interfere with encoding of the context details such as time, place, and exact sequence of events.
- What is encoded will be fragmented; may result in spotty memory.
- Brain will still process sensory information, like smell.



EXPECTATIONS DURING INTERVIEW



- Expecting a victim to give a linear account in the days after an incident, or after having been triggered, is not realistic.
- Memory fragmentation is a neurobiological condition.
- Having “inconsistent” memory, pausing, and stumbling to provide an account are normal.
- Considerations for credibility assessment?

VICTIM RESPONSE TO TRAUMA ALSO IMPACTED BY:



- Personality.
- Coping strategies.
- Available support systems and resources.
- General resilience.
- Past history of traumatic experiences.
- Cultural differences in the perception and expression of trauma.
- Normalization/adaptation.

INTERVIEWING THE RESPONDENT

- Elements of Interview
- Gatekeeping Posts
- Explanation of Process
- Preponderance Standard
- Explanation of Roles
- Conducting the Interview
- Small Group Exercise



INTERVIEWING THE RESPONDING PARTY



- Acknowledge difficulty of the situation and thank him or her for meeting with you.
- Provide a copy of your policies and procedures.
- Ask the person to share a complete account of what occurred. Avoid leading this discussion
- Question the responding party as to the allegations – ask a combination of open and closed ended questions.
- Get detailed – do not leave a question unanswered.
- Ask about witnesses and any other relevant information.
- Ask about possible motivation for complaint.

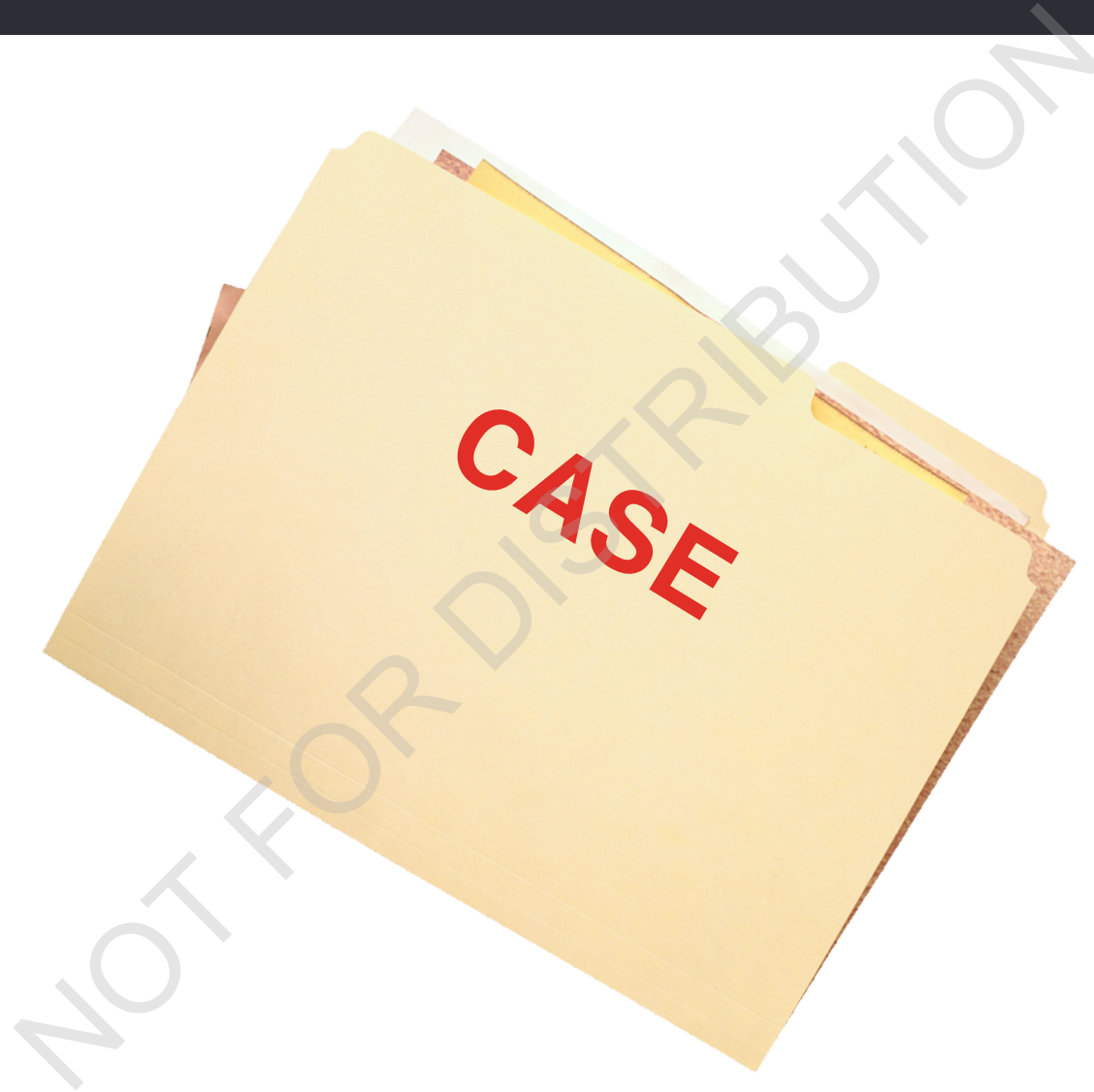
INTERVIEWING THE RESPONDING PARTY CONT.



- Let the Responding Party know next steps and when you will be in touch.
- Discuss counseling options if the individual is not already connected.
- Discuss non-retaliation and any intermediary steps such as no-contact orders, housing moves, and exclusions.
- If interim suspension/action is employed, review the terms and provide a timeframe.
- Encourage the person to maintain privacy of the investigation.

INTERVIEW EXERCISE

REESE SMITH



INTERVIEW EXERCISE



- Read Reese Smith's story
- Does this change your strategy?
- Please talk about why/how
- Plan your interview questions

NOT FOR DISTRIBUTION

SMALL GROUP EXERCISE



- Break into small groups.
- One plays respondent.
 - Try not to “break character.”
- 1–2 investigators.
 - Conduct the “spiel” with Reese.
 - Then begin your questions.
- 1–2 observers.
 - Observe, do not interrupt.
 - Note verbal and non-verbal behaviors of Investigators.

SMALL GROUP EXERCISE: PROCESSING



- Observers:
 - Pros – verbal and non-verbal.
 - Things to look out for – verbal and non-verbal.
- Responding party/respondent:
 - What did you feel?
 - What did you like/not like?
- Investigators:
 - What did you think worked?
 - What would you change?

INTERVIEWING WITNESSES



SHARING INFORMATION WITH PARTIES AND WITNESSES DURING INVESTIGATION



- Decide how much information you will share in advance of each interview and have a rationale for what information will be shared and what will not be shared. (i.e. decide what information to “drip”)
- It may be helpful to not label the allegations as “sexual misconduct” or “sexual harassment” but to be strategic about the information you provide in describing the behavior.
- Explore only those facts that are relevant to the issue at hand.

INTERVIEWING WITNESSES



- Ascertain relation to the other parties in the case.
- Ask: “How do you know_____?” and “Tell me about_____”
- Address the need for complete truthfulness.
- Ask for opinions.
- Ask if either party spoke about the incidents after they happened.
 - Did they see any change in behavior?
- Start with broad questions, then move to narrow, more pointed questions.

INTERVIEWING WITNESSES CONT.



- Ask if they have been contacted already by one of the parties.
- Ask if they have made any previous statements, such as to private investigators.
- Ask if there is anything you should know that has not been covered or if there is anyone else they think should be contacted.
- Discuss non-retaliation and give examples .
- Discuss privacy and FERPA guidelines.
- Ask all interviewees to contact you if they remember anything else or want to add to their interview.

CHECK YOUR BIAS: DEVELOPING CULTURAL COMPETENCE



STEREOTYPES GENERAL AND SEXUAL



EXPLORING THE IMPACT OF CULTURE



“Culture” comes in many variations

- Consider the culture related to:
 - Race
 - Ethnicity
 - National Origin
- But also:
 - Sexual orientation
 - Gender identity
- Don't forget “Closed Communities” have a culture too
 - Sports Clubs
 - Organizations
 - Band

“BIAS” DEFINED



- Tendency to believe that some people, ideas, etc., are better than others that usually results in treating some people unfairly.
- Strong interest in something or ability to do something.
- Inclination of temperament or outlook; especially a personal and sometimes unreasoned judgment (*merriam-webster.com*).
 - “Biased” – To cause partiality or favoritism; influence, especially unfairly (*Dictionary.com*).

“PREJUDICE” DEFINED



- Unfair feeling of dislike for a person or group because of race, sex, religion, etc.
- Feeling of like or dislike for someone or something especially when it is not reasonable or logical (*merriam-webster.com*).
- Any preconceived opinion or feeling, either favorable or unfavorable (*dictionary.com*).

BIAS AND PREJUDICE



- Multi-partiality: You can never be truly “neutral” or “impartial”, but you can work to neutralize your biases
- Common hot-button areas of bias
 - Sexual orientation
 - Gender and Gender Identity
 - Race
 - Ethnicity
 - Religion or religious beliefs
 - Politics
 - Alcohol or drug use
 - Sexual freedom

TIPS ON CULTURAL COMPETENCE



- Recognize that culture plays a significant role in the impact of the trauma and the risk for continuing trauma
- Violence and trauma have different meanings across cultures and healing takes place within one's own cultural and meaning-making system
- Be aware of your own cultural assumptions and attitudes as well as those of the individual with whom you are meeting

TIPS RELATED TO CULTURAL COMPETENCE



- Avoid stereotypical assumptions about the survivor based on
 - Language/attitude
 - Physical appearance
 - Cultural assimilation
- While safety planning is important to all survivors, there may be unique implications related to an individual's culture – be sensitive. There is no one size fits all

THE IMPACT OF RELIGIOUS BELIEFS AND NATIONAL ORIGIN ON INVESTIGATIONS



- A person's religious beliefs or country of origin may impact both reporting and providing information in the investigation because of religious beliefs and fears of engaging in unacceptable behaviors, including
 - Consuming alcohol
 - Using recreational drugs
 - Engaging in pre-marital sex
 - Engaging in same gender sex or same gender identify
 - Engaged in sexual activity with an unacceptable partner (not of the same religion or nationality)

INCLUSIVE INVESTIGATIONS

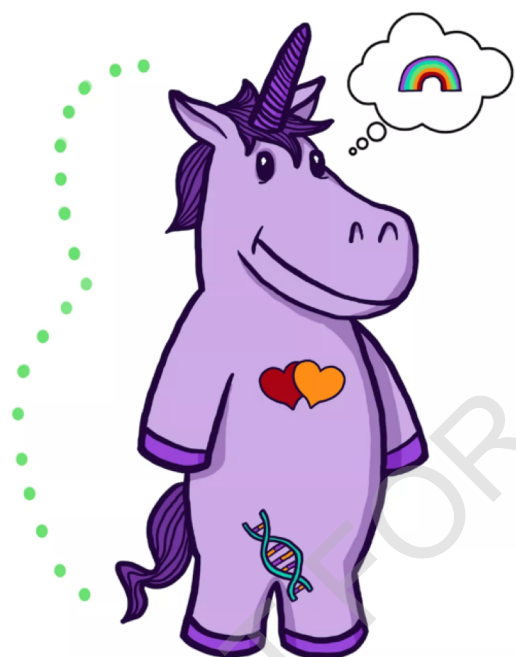
- Working with Gender Non-Conforming Individuals
- Working with LGBTQ Individuals
- Same Sex Sexual Violence
- Hate-Based Misconduct



The Gender Unicorn

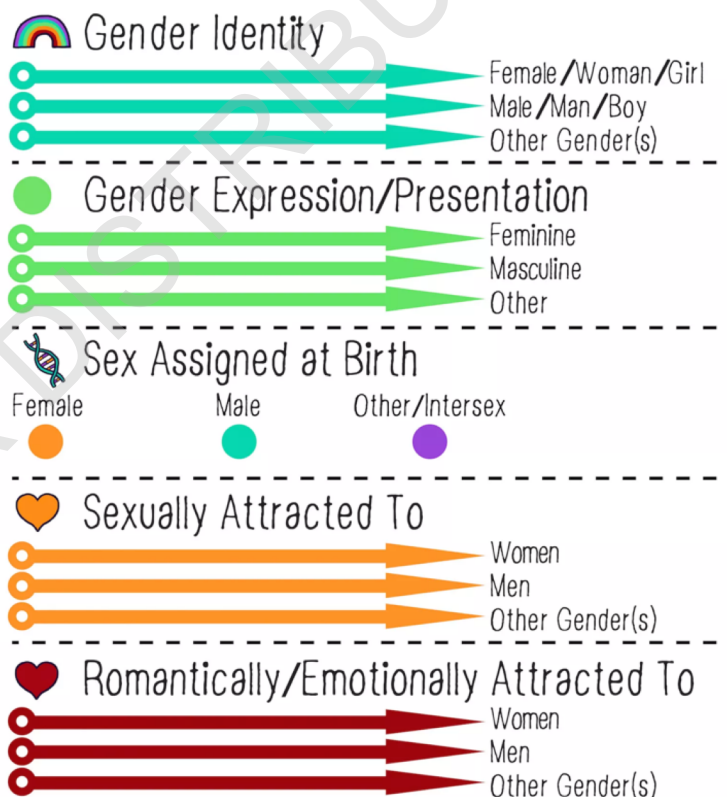
Graphic by:

TSER
Trans Student Educational Resources



To learn more, go to:
www.transstudent.org/gender

Design by Landyn Pan



Sexual Violence and Intimate Partner Violence Can Happen to Anyone...

- Regardless of gender identity and expression, and
- Regardless of sexual orientation.

HATE-BASED MISCONDUCT



- Targeting persons based on their real or perceived membership in an historically oppressed group.
 - When sex or gender is the basis, it's a TIX.
 - Be aware that trauma may be especially severe for the reporting party.
 - Reporting party may have heightened concerns about safety and retaliation.
 - Investigations may focus on identification of responding party or parties.

NOT FOR DISTRIBUTION

RELUCTANCE TO REPORT



- Concern about a homophobic response.
- Concern about preconception that sexual assault cannot occur between same sex partners.
- Fear of exposing LGBT community to negative stereotypes.
- Fear of the impact a report may have on a small, sometimes close-knit community on campus.
- Fear of being outed and implications for medical treatment.
- Concern about how “systems” will respond, especially law enforcement.
- Previous negative experiences with school staff, the law, or community members.
- Fear that male on male sexual violence in connection with hazing/bullying will be reduced to “boys being boys.”

CONSIDERATIONS FOR INVESTIGATIONS



- Assume nothing and allow for self-identification.
- Provide a safe, non-judgmental and respectful environment.
- A visible reaction may negatively impact rapport.
- Use inclusive language; reflect language used by the parties during interviews and in all communication.
- Be mindful of how power dynamics and targeting can come into play.
- Don't expect parties to "educate you." Stick to the facts.
- Anticipate heightened confidentiality concerns.
- Use your campus or community-based experts.
- Ask for additional education or training if needed.
- Be aware of your biases.

CASE EXAMPLE



- Joe is a student who is gay and a member of the school cheer team. A group of football players repeatedly ridicules Joe about his effeminate mannerisms and clothing, and threatens to harm him if they run into him off campus. Joe starts skipping cheer practice and eventually resigns from the team rather than face the continued harassment.
- WHAT ARE SOME ISSUES HERE?

CASE EXAMPLE



- Ty, a student and RA who is biologically female but dresses and lives as a male, repeatedly catches a group of three students writing comments on the whiteboard on his door referring to him as “it.” The same group of students drunkenly confronts Ty in the hallway one night and starts pulling at his pajamas to “see what’s under there.” Ty moves off campus and gives up his job as an RA as a result.
- LET’S DISCUSS THE ISSUES PRESENTED

CREDIBILITY UNDERSTANDING & ANALYZING EVIDENCE



CREDIBILITY



- “To assess credibility is to assess the extent to which you can rely on a witnesses’ testimony to be accurate and helpful in your understanding of the case”
 - Credible is not synonymous with truthful – but may involve lack of truthfulness
 - Memory errors do not necessarily destroy a witness’ credibility
 - Refrain from focusing on irrelevant inaccuracies and inconsistencies
- Pay attention to the following factors...

FACTORS TO CONSIDER FOR CREDIBILITY



- Is the description of the incident plausible?
 - Logic/Consistency/Reasons to Avoid Specific Response
 - Ask “Does this make sense?”
- Is the description corroborated? Corroborating evidence is important
- Did the witness report his/her account to anyone close to the time of the events?
- Does the witness have a reason or motive to lie or falsify information about the account?
- Does the witness have a past record of behavior that would either substantiate or refute his/her account?

MAKING CREDIBILITY DETERMINATIONS



- Look at consistency of story – substance and chronology of statements also if there are other exact stories
- Consider inherent plausibility of all information given
- Look for the amount of detail (facts) provided, factual detail should be assessed against general allegations, accusations, excuses or denials that have no supporting detail
- Pay attention to non-verbal behavior (i.e., does the person seem to be telling the truth), but don't read too much into it

UNDERSTANDING EVIDENCE



- Formal rules of evidence do not apply. If the information is considered relevant to prove or disprove a fact at issue, it should be admitted. If credible, it should be considered
 - Evidence is any kind of information presented with the intent to prove what took place
 - Certain types of evidence may be relevant to the credibility of the witness, but not to the charges
- Consider if drugs or alcohol played a role
 - If so, do you know what you need to know about the role of alcohol on behavior? Timing? Incapacitation?
 - Look for evidence of prior planning

UNDERSTANDING EVIDENCE (CONT.)



- You may **assign weight** to evidence based on:
 - Direct or testimonial evidence (e.g., personal observation or experience).
 - Documentary evidence (e.g., supportive writings or documents).
 - Electronic evidence (e.g., photos, text messages, and videos).
 - Real evidence (i.e., physical object).
 - Circumstantial evidence (i.e., not eyewitness – but compelling)
 - Hearsay evidence (i.e., statement made outside the hearing but presented as important information).
 - Character evidence (generally not relevant or acceptable).
 - Impact statements (should only be reviewed after a finding).

ANALYSIS OF EVIDENCE



ANALYZING THE INFORMATION



Withhold judgment until all the evidence has been considered.

ANALYZING THE INFORMATION



- Use your Policies in play to begin your analysis.
- Examine only actions that have a direct relation to the situation under review or a pattern of incidents.
- Explore motivation, attitude, and behavior of reporting party, responding party, and witnesses.
- Apply relevant standards:
 - Force, incapacity, and consent.
 - Unwelcomeness, reasonable person, and discriminatory effect.
- Analyze the broadest violations first and make a determination of each and every violation alleged, element by element.

DETAILS OF ANALYSIS PROCESS



1. Assess evidence carefully. For each piece of information you have as a result of your analysis and matching process you need to assess its evidentiary value:
 - a) What are the facts? They carry the most evidentiary weight.
 - b) What is the circumstantial evidence?
 - c) What are the opinions or hearsay information? They're less valuable than facts, but are probably the bulk of what you're being told. Potentially are valuable when witnesses share similar opinions. Not worthless, but only suggestive rather than probative (proving).
2. Put a + or – next to each element of evidence
3. How does the evidence add up?

IF MAKING A FINDING



- Review the institutional policies in play.
- Parse the policy.
 - Specific findings for each policy and each responding party.
- Pose key questions.
- Review the evidence and what it shows (relevance).
- Assess credibility of evidence and statements as factual, opinion-based, or circumstantial.
- Determine whether it is more likely than not policy has been violated.
- Cite concretely the reasons for your conclusions.

REPORT WRITING



FOCUS ON WHAT YOU DON'T KNOW, RATHER THAN WHAT YOU DO KNOW



- Find an opportunity to let your subconscious work on the gaps in information.
- If you are too busy analyzing what you know, you won't focus on the need to identify what is missing, what is yet to be obtained, or why certain witnesses have not told you things that it would have been logical or expected to hear from them.
- Look for evidence that should be there that is not, for some reason.

OVERVIEW OF THE INVESTIGATION REPORT



- The investigation report is the one comprehensive document summarizing the investigation. The investigator must work to create a 3-D picture of the full experience being reported
- Helpful to have a “skeleton” outline of what report will include.
- The report should:
 - Detail the allegations and how they were brought forward.
 - Explain the role of the parties and witnesses, and any relations between them.
 - Summarize information collected.
 - Address evidence collected (e.g., direct, circumstantial, documentary, and expert).

ELEMENTS OF THE INVESTIGATION REPORT



- Case identification information:
 - Case number, investigator(s), date of notice, date assigned to investigator, and date investigation closed.
- Source of initial complaint/allegation:
 - Source of complaint, name and contact information of alleged victim, and status; record same for responding party.
- Details from initial report/complaint:
 - Nature of incident.
 - How report was received (e.g., security incident report, hotline, face-to-face, Web form, etc.).

ALSO INCLUDE IN THE INVESTIGATION REPORT



- Results of interviews with parties and witnesses.
- Results of interviews with experts.
- Summary of other information collected (i.e., information from police reports including pretext calls, medical exams, video surveillance and photographs, copies of texts, emails, and social networking messages, etc.).

NOT FOR DISTRIBUTION

QUESTIONS?

Michael Henry, J.D.

The NCHERM Group, LLC

michael@ncherm.org



MORE ATIXA CASE STUDIES

- “IPHONE”
- “BLU RAY”
- TODD & AMY
- THE INTERESTED PROFESSOR

CASE STUDY: IPHONE



- Maris has been dating Greg for the past few months after the two of them began hanging out following their Psychology 101 class. Greg is swimmer on the university team. Maris is a first-year student and Greg is a junior.
- Maris has had a few sexual partners in the past and was immediately attracted to Greg, who was outgoing and gregarious, and well liked on the team and at the parties they frequented together. Maris and Greg enjoyed an adventurous sex life that often included having sex in public places (like the bathroom at a restaurant and even in the swimming pool afterhours).

CASE STUDY: IPHONE

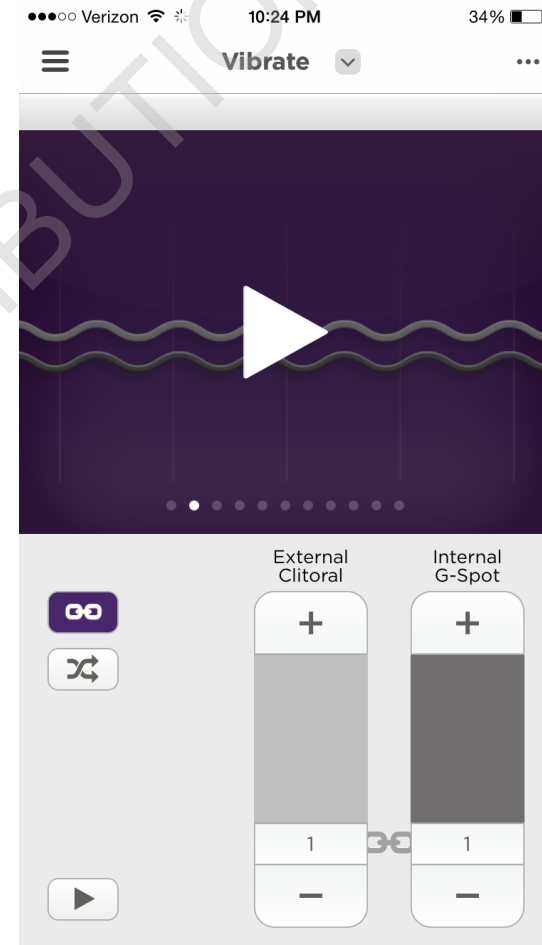


- Maris purchases a product called the we-vibe (<http://we-vibe.com>) that allows Maris to insert the vibrator and have the speed, duration, and vibration intensity controlled by an app on both her and Greg's phone.
- Their sex life includes the use of vibrators and toys and some light BDSM play. Both Greg and Maris have very high sex drives (having sex four to five times a day,) and this new toy is very much appreciated when they are apart.

CASE STUDY: IPHONE



- While Greg was at a party and Maris was in her dorm room, Greg received a text message from Maris, saying that she had turned on and inserted the vibrator and wanted Greg to help “get her off.”
- Greg agreed and opened the app on his phone. Maris continued to text him while Greg adjusted the controls of the vibrator inside Maris.



CASE STUDY: IPHONE



- Jeff, a swimming teammate, saw Greg on his phone and asked what he was doing. Greg initially tried to avoid the conversation, but had consumed several drinks and eventually showed Jeff his phone.
- Greg showed him how the controls work on the phone — toggle slides for intensity — and how the top controls the pattern.
- A text notification from Maris popped up saying, “Want more. Harder.” Jeff asked to set the controls and Gregg shrugged and handed him the phone.



CASE STUDY: IPHONE



- Four other teammates saw Jeff and Greg talking and came over to investigate. The phone was passed around the team and everyone took a turn adjusting the controls and reading the texts from Maris. She wrote, “I love this!” and “You are going to make me cum!”
- The group of six laughed at this and Greg pulled up some naked pictures of Maris for them to look at. They talked about how hot she was and soon all six of them were sharing pictures of their girlfriends and people they have slept in a competition to see who had the “dirtiest” and “hottest” images.

CASE STUDY: IPHONE



- Maris and Greg signed off the app and agreed to see each other after the party. Greg was pretty intoxicated and made a joke about how his teammates helped out with the app. Maris became very upset about this and they had a big argument before she broke up with him and told him to get out of her room.
- In the morning, Maris shared this story with her RA and asked to make a compliant.

CASE STUDY: BLU-RAY



- The complainant in a sexual misconduct allegation stated that after the assault, respondent went to the bathroom to take a shower. She turned on the lights in his room, and took a look around for the first time. She observed stacks of pornographic magazines, centerfold posters on the walls, and commercial and home-made pornographic videotapes on the bookshelf and around the Blu-Ray player.
- While respondent was in the bathroom, complainant played the Blu-Ray disk that was in the player. She contends that the way respondent raped her is identical to a rape depicted on the Blu-Ray disk, and that she took it and has the Blu-Ray disk to prove it. Question him about this as a group.

CASE STUDY: TODD & AMY



Reporting Party's Statement: Amy Craft

- What follows is the account Amy provided to the police
 - On Friday, April 23rd, I went to an apartment near mine, over by Target. I was doing a lot of drinking and dancing and getting to know people. I had at least four drinks in the first few hours I was there. Then, I met Todd, a guy I recognized from my Human Services class. I remember that he came up to me on the dance floor, and started to dance with me. He was really good looking, and so was the other guy he was with, Jeff, whom I had met at a different party the week before.

CASE STUDY: TODD & AMY



Reporting Party's Statement: Amy Craft (cont.)

- We danced and had a lot of fun, and I remember drinking some more and Todd getting me some Jell-O shots, which were really strong and nasty. I wasn't feeling well and went into the bathroom, feeling like I might throw up. The bathroom was really crowded, and I went outside for some fresh air instead. I sat on the stoop, feeling nauseated. I went over to the bushes and got sick. Todd came over and helped me out. I remember walking home with him and throwing up some more in my bathroom, but nothing else.

CASE STUDY: TODD & AMY



Reporting Party's Statement: Amy Craft (cont.)

- When I woke up the next day, his name and number were scrawled on a pad by my sofa, and there was a condom wrapper and a used condom in the trash. I got scared, and called him to find out what had happened. I remembered most of what he said about the party, but when he told me that we came back to my room and had sex, I started to cry. I didn't remember any of it, and was afraid I might be pregnant. Todd assured me he wore a condom, and asked me out again. I hung up and cried. I told everything to my roommate Sarah, who was sitting on the sofa when I called Todd. She suggested I call the police, so I did.

CASE STUDY: TODD & AMY



Responding Party's Statement: Todd Martin

- On the night of Friday, April 23rd, I went to a party at a friend's apartment. There was a band, and a lot of alcohol. I got to the party at about 11:00 pm, and slammed about three beers in the first hour I was there. It was very crowded, and people were dancing. A lot of people already seemed to be drunk. I hung out around the dance floor with my friend Jeff Kwik for a while, until I noticed Amy Craft dancing. She was really cute, and I had noticed her in one of my classes a few times. I went up to her and we started talking. She seemed a little tipsy and in a pretty loose mood. We talked for a while, and I think I got her about two or three beers over the next hour. I didn't have anything more to drink because the three beers I slammed were doing the trick just fine.

CASE STUDY: TODD & AMY



Responding Party's Statement: Todd Martin (cont.)

- Around 1:00 am, somebody started passing out Jell-O shots spiked with grain alcohol. I didn't want to mix beer and liquor, but Amy had a few shots. We danced a lot, and then I got her a few more Jell-O shots. She went off to the bathroom, and after that I couldn't find her, and that really bummed me out. I waited around to see if she would show up again, but she didn't. I took off and started to walk back to my apartment. As I left the party, I heard someone vomiting. I looked over and saw Amy in the bushes, throwing up. I went over to help her, and she seemed to be in pretty bad shape. I offered to take her home, and she told me where she lived and leaned on my arm.

CASE STUDY: TODD & AMY



Responding Party's Statement: Todd Martin (cont.)

- When we got to her apartment building, I helped her up the stairs, and was about to leave, but she asked me to help her into her apartment. I opened the door for her, and let her in. She asked me to get her a glass of water, and I did. I started to take off again, but she asked me not to go. When I turned around, she kissed me, hard. We kissed for a while, but she wasn't feeling well, and went into the bathroom again. When she came out, she said she felt better, but tired. She lay down and we kissed some more. I started to massage her back, and she passed out. She came to about 20 minutes later, and started to kiss me, and fondle me. She took off her shirt, and all of my clothes. I started to kiss her all over, and she said she wanted to lay down again. I asked her if she was okay, and she said she was. I asked her if she had a condom, and she said she had one in her purse. I went to get it, and when I got back to the couch, she was out again.

CASE STUDY: TODD & AMY



Responding Party's Statement: Todd Martin (cont.)

- She woke up after about 20 minutes, and I suggested that she just go to sleep. But, she said she felt much better, and started to give me oral sex. After a while, she put the condom on me and we had sex. It was great. She was really wild, and liked to be on top. Afterward, we talked until the early morning, and I gave her my number and left. The next day, she called me to ask me why my name was on the pad by her sofa. I told her about meeting her at the party, and about our evening together. She seemed to get upset, and said she remembered meeting me at the party, but nothing else. I asked if she ever wanted to get together again, and she hung up on me.

CASE STUDY: TODD & AMY



Additional Information

- Todd knew that Amy was pretty drunk, though Todd was unsure of how much Amy had.
- Todd remembered that when Amy went into the bathroom in her room, she came back smelling like she had just brushed her teeth.
- Todd believes Amy was fully alert and conscious during the sex. He had been feeling bad, but Todd thought Amy threw up a lot of the alcohol. Amy kind of passed out/went to sleep twice when they were fooling around, but after the second time, Amy seemed to be feeling much better.
- Amy initiated all the sexual contact with Todd, put the condom on him with no difficulty and was an active participant in the sex, both physically and verbally.
- Todd drinks frequently and copiously. He has a high tolerance for alcohol.
- It takes at least eight beers to get him really drunk.

CASE STUDY: TODD & AMY



Additional Information (cont.)

- Todd did not drug Amy.
- Todd served Amy at least two beers and four Jell-O shots over three hours. Amy believes she consumed four or five beers, and at least two Jell-O shots.
- Todd did not bring his own condom. He used Amy's, which was in her dresser. She told Todd it was there.
- In Todd's opinion, Amy was not incapacitated.
- Todd left Amy's room at 6:00am.
- Physical evidence in the form of SANE kit results proved sex with Todd.
- There were no signs of any illegal drugs in Amy's system.
- Amy had a condom in her dresser and now it is gone. She does not recall telling Todd that it was there.
- Amy recalls throwing up in the bathroom, but does not recall brushing her teeth.

CASE STUDY: TODD & AMY



Additional Information (cont.)

- Amy does not recall putting the condom on Todd, or any sexual activity with Todd, or talking with him afterward.
- Amy has been drunk before, but nothing like this has ever happened.
- Amy called the police station at 1:30pm. Her call was referred to Lt. Discov.
- Lt. Discov noted that Amy is experiencing bad dreams and eating disturbances that he believes are consistent with those of others who have experienced significant trauma.
- Lt. Discov refers to Amy's condition as "black time." He asserts that it is possible for students to consume enough alcohol that they black out, mentally, but not physically. It would explain why Amy recalls nothing, but Todd says she was an active participant.
- Neither party has a criminal or disciplinary record.

CASE STUDY: THE INTERESTED PROFESSOR



- The complainant, Jeremy Jones, alleges that a professor, Dee Underhill, engaged in an inappropriate sexual relationship with him. Relevant parts of his initial statement include:
 - That Dee had him over to her house last fall, served him alcohol, and told him that she could help him further his education and help him “do better” if they “got to know each other better.”
 - That they subsequently engaged in a intimate relationship over the fall that became a sexual relationship in the spring and summer. This included having sexual intercourse numerous times at her house and a few times in her office. He provides graphic detail about the sex, including preferences, etc.
 - That, over the course of the last year, he was in two more of her classes and felt that, if he would have ended the relationship, she would have given him a bad grade or otherwise poorly impacted his academic future.

CASE STUDY: THE INTERESTED PROFESSOR



- That he learned the professor has engaged in sexual relationships with other students in the past. This is why he is coming forward.
- He ended the relationship one month ago, and believes she is seeing another student.
- He has shown you some texts he has sent her, but says she uses Burn Note to reply, so he has no texts from her. He indicates the texts are always sexual in nature. The texts he shows you are flirty and sexual.
- He also says she sent him nude pictures of herself, but she uses Snap Chat to do so. He has no copies of them. He does show you a screen shot he took showing a woman's bare chest, but the face is not in the picture and it is not clear where it was sent from. He indicates that she learned he screen shot it and was "furious" with him. He thinks this impacted his Summer II grade as well.

QUESTIONS?

—

NOT FOR DISTRIBUTION

CONTACT INFORMATION

DANIEL C. SWINTON, J.D., Ed.D.

daniel@nchem.org