D.I.R.E.C.T CONSULTING

CONDUCTING INVESTIGATIONS OF INTERPERSONAL AND SEXUAL VIOLENCE

Reframing violence as a form of trauma when conducting and concluding investigations

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Conducting Investigations of Interpersonal Violence

Purpose

D.I.R.E.C.T. will discuss a universal approach to conducting investigations of interpersonal and sexual violence. This approach is trauma informed, neutral and objective. This presentation is for those who conduct investigations, first responders and administrators. We will briefly review how trauma may impact the parties involved in the investigations. We will discuss strategies to strengthen your effectiveness is gathering information during the investigation.

Contents

SLIDE 1: Introduction and Title Slide

Hi everyone! My name is Jessica Krohn. I am very excited to be here today with you all. Today, I will discuss a universal approach to conducting investigations of interpersonal and sexual violence.

A little about me: I am from upstate NY, born and raised. For the past decade, I have worked in public service as a child protective services investigator and a Probation Officer where I responded and investigated allegations of violence throughout the lifespan, with a particular focus on adolescents and young adults.

For the past 4 years, I worked for my alma mater, Binghamton University, who I must thank for sponsoring my travel to this conference. While at Binghamton, I worked with university administrators and student leaders on enhancing their sexual and interpersonal violence prevention and response efforts. I continue to be actively involved community's coalitions for violence prevention. **(CLICK)**

SLIDE 2: D.I.R.E.C.T. Consulting

In July of this year, I established D.I.R.E.C.T. Consulting. I found that I could have a greater impact and be more effective by serving as a neutral, third party resource for businesses and educational settings. The goals of D.I.R.E.C.T. are to improve identification and response of interpersonal and workplace violence while promoting positive outcomes and enhancing safety in workplace and educational settings.

D.I.R.E.C.T. uses a trauma centered approach, with a focus on intersectionality of addressing prevention, policy and procedural analysis, curriculum and professional development. **(CLICK)**

SLIDE 3: Today's Objectives:

Today's objectives are listed on the slide above. We will briefly review how trauma strategies to strengthen your effectiveness to gathering information and reducing the traumatic impact of the process on those involved. **(CLICK)**

Presenter notes:

I. Review of trauma
II. Purpose of investigations
III. Investigation protocol
IV. Investigation steps
V. Gathering information
VI. Considerations
VII. Conclusion

SLIDE 4: ACE Study

Trauma-informed approach stems from the Adverse Childhood Experiences (ACE) study conducted in the late 90s. I imagine there are some folks in the room who are familiar with the ACE study. **(pause for audience response)** *Would anyone like to provide a brief summary for the room?* ***(time for answers).***

Presenter Notes:

In the late 90s, a study called the Adverse Childhood Experiences (ACE) Study had over 17,000 participants. The initial phase was conducted by Kaiser Permanente, the country's largest managed care organization, at the time (from 1995 to 1997). Each had a standardized physical examination and completed a confidential survey that contained questions about childhood maltreatment and family dysfunction, as well as items detailing their current health status and behaviors.

It looked at:

1. *verbal abuse,*
2. *physical abuse,*
3. *sexual abuse,*
4. *emotional neglect,*
5. *physical neglect, and*
6. *household substance use,*
7. *mental illness in the household,*
8. *parental separation or divorce, and*
9. *incarcerated household members.*
10. *Death or abandonment*

The ACE Study takes a whole life perspective. They found that 2/3 of the participants had an ACE score of at least one and 87% of those had experienced more than one form of trauma**.** They also found that adverse childhood experiences have profound effects on individuals psychological and neurological developmental. There was a direct link between childhood trauma and adult onset of chronic diseases, as well as depression, suicide, being violent and being a victim of violence later in life. Experiencing more than one type of led to increased risks for health, social and emotional problems.

Contrary to stereotypes, they also found that childhood trauma was very common, even in employed white middle-class, college-educated people with great health insurance. The longitudinal phase of the ACE Study is currently underway. **(CLICK)**

Resources:

- http://acestoohigh.com/
- http://www.cdc.gov/violenceprevention/acestudy/index.html

SLIDE 5: Trauma Informed Approach

A trauma informed approach applies the understanding that all behavior is purposeful and intended to meet a goal or need. Iin social work, it's referred to as the PIE perspective, or person in environment. It looks at the fit between a person and their environment, in relation or influenced by their experiences, noting that their experiences and environment influence the coping behaviors used and choices made. Rather than "what is wrong with you" it is reframing our language to say "what happened to you?" **(CLICK)**

SLIDE 6: Purpose of Investigation

The fundamental purpose or goal of conducting investigations are the same, regardless of whom is conducting it. We often hear that there should be unique way in which we interview victims. Today we will talk about applying the same frame of mind when interviewing the victim and the alleged. Regardless of their role, the process in itself can be scary, uncomfortable, and uncertain. Both victims and the alleged need support and to be treated with respect. **(CLICK for list)**

The purpose of investigations is to figure out what happened; To get as much information as possible to determine what happened, if anything. Whether the allegations question academic integrity or act of interpersonal violence, the best way to get all the necessary information is to focus on the Who, What, When, Where and How. To get solid facts, if only it was that easy. **(CLICK)**

SLIDE 7: Investigator and Researcher

The role of an investigator is much like that of an academic or a researcher. How do you think that may be similar? **(time for answers)** **(CLICK for list)**

They seek to:

1. Determine facts
2. Assess truth and credibility
3. Maintain clear boundaries while remaining supportive and approachable

4. Remain neutral, objective, and unemotional
5. Establish rapport and trust with parties involved
6. Compare facts within the established level of evidence criteria
7. Make a summary of finding **(CLICK)**

SLIDE 8: Investigation Protocol

Investigating cases of interpersonal and sexual violence, can be very complicated, for a lot of reasons. We often hear that these cases are handled on a case by case. Though, that may be true when determining interim measures, safety and supportive resources, outlining a universal protocol has many advantages.

Just like when conducting research, it is best to outline and simplify the process, or protocol, that is going to be used to determine the facts. Defining the methods of a research study, for example, not only helps other researchers conduct the same experiment, it promotes generalizability by having consistent variables and steps. The same holds true to conducting investigations. The protocol should outline the role of the parties, how and with whom information will be exchanged, maintained, and accessed. *Whether releases of information are necessary and whether key staff have access via an electronic database? Include, who can or will have access such information and at what detail*

What are some other benefits of having a transparent process? **(time for answers)**

By developing and maintaining a consistent approach to investigations, you are better able to minimize the impact on those involved, the victim and the accused. It supports efficient and objectivity, allows transparency, which helps develops trust. Developing a plan and using a protocol helps the parties anticipate what is going to happen, which helps to reduce anxiety and increase retention of witnesses. It also helps the staff involved too.

The protocol for all investigations should address the following:

1. Preparing (logistically and emotionally)
2. Planning
3. Gathering information and conducting the interview
4. Considerations
5. Rules of Evidence
6. Witness cooperation and credibility
7. Concluding the investigation

No matter how clear or formal the process, it is always best to document and provide a rationale for the various decisions made throughout the processes. It helps to promote objectivity and credibility of the investigation and investigator. Documentation shows your diligence should an appeal or other investigations follow. **(CLICK)**

SLIDE 9: Conducting the Interview

Like we talked about with the ACE study, it is helpful to be aware and recognize the various aspects that make up the individual and how their interaction to the environment contributes to the alleged behavior.

Imagine the person sitting in front of you, trying to recount their story of recent victimization or perpetration. As the ACE study noted, most people are likely to have had their early warning system compromised and more vulnerable to re-traumatization.

What we may not explicitly hear the back-story of what and they experienced a traumatic event, or if they had encountered more than one, or how long they have been holding the secret (which researchers of child sexual abuse have found the length of secrecy has a greater impact to healing than the relationship with the abuser or amount of physical violence). This may also apply to the alleged person as well. This helps us better understand what resources or services may be helpful, but also to mitigate risks. **(CLICK)**

SLIDE 10: Core Skills of the Investigator

When asked to randomly engage in a conversation with the person whom you don't know can be awkward and maybe even challenging, especially if it is about a topic that is personal or controversial (religion, politics, relationships, sex etc).

When conducting an interview, or an assessment, the conversation should be genuine and flow naturally. **(CLICK for list)** Giving the person your undivided attention and listening empathetically will make the person feel more comfortable sharing their story.

Demonstrating genuineness, character and respect will help to establish rapport. The more comfortable the environment that we provide, the better chance of helping those involved feeling comfortable and less likely to have their defenses up, possibly being more open to discussing private matters.

Presenter notes: Cores skills:

1. Decision making skills - What services or supports do the parties need?
2. Identify and understand the needs, underlying conditions, and contributing factors that create or sustain the problem
3. Ability to select and mobilize resources to address the needs, conditions and factors
4. Influencing strategies and skills and Support the 5 stages of change
5. Awareness
6. Engagement and Core interpersonal skills
7. Core conditions: empathy, genuineness and respect

Being trauma centered in practicing awareness and an understanding to various dynamics at play. Aspects of power and control drive interpersonal and sexual violence. It is important to be sensitive and aware of the power differentials that exist between the parties involved and their relation with the investigator (or other school personnel, service provider, police officer, etc). Consider the tone of the physical environment, is it welcoming, formal, informal? Can you offer them something to drink, maybe something warm like tea or hot cocoa?

Investigators, advocates and administrators have a difficult job, and this shouldn't be overlooked. Discussing traumatic incidences can be emotional for those hearing about them too. Well tained professionals can experience vicarious/secondary trauma, burn out or display acts of unconscious bias. It is important that you are self-aware, practice self-care and have a strong support network and/or supervision. **(CLICK)**

SLIDE 11: Supportive Communication

Unless assigned to specifically serve a particular party, like a victim's advocate, then everyone needs to remain objective and neutral through the process of investigating and concluding acts of violence. Simultaneously, the student/participants needs to feel they are not being judged and that they are being supported, regardless of their role in the process.

Basic interpersonal skills and communication are important. As silly as it may sound, the use of simple greetings (handshakes, hello, eye contact) really help to develop trust and help the person feel more comfortable.

Consider giving example of when I met the last counselor I tried and/or about Paul's approach during the initial meeting with a student, victim.

Activity

Take a look at this picture. What are they doing that is promoting compassionate and effective communication? **(time for answers)** **(CLICK for list)**

Presenter notes:

1. Giving 100% of attention and being in the present with them helps them to become at ease. Avoid distractions. Be interested in what they are telling you (I.e. don't be checking your phone, email or looking out of the office).
2. They have eye contact and are facing each other.
3. Be aware of your body language and that of those in the room.
4. Repeat and clarify that you understand what the person is telling you; be as comfortable as possible. Admit what you don't know; and keep in mind, that each case is different.
5. Also take one step at a time. Remember what the person encountered was traumatic and that they may have an array of emotions, including shock, denial, anger and sadness (to name a few).

6. Be supportive and comforting **(CLICK)**

SLIDE 12: Questioning and Gathering Information

Regardless of who is being interviewed, we are seeking to gather the same level and kind of information. We are looking to determine facts, identify inconsistencies and get an idea, as clear as we can, about what happened.

No matter the topic, or severity, all questions should be developmentally appropriate. Researchers have found that the prefrontal cortex, the area responsible or rationale thinking is still developing in young adults until the age 25. So when asked, “What were you thinking?,” it is completely possible that the young adult was not thinking rationally. Rather was using their more primitive brain, responsible for our senses. ***(Gesture: thumb as the amygdala and the hand has the brain, index finger as prefrontal cortex).*** **(CLICK for list)**

Here is a list on the slide above of information you should consider gathering when interviewing. The more information we gather about the person or the situation, the better we are able to access risks, intent, impact and credibility. By asking about their personal and family history (mental, criminal, substance use, violence, poverty), the investigator is able to identify protective factors, the person’s strengths - aspects that prevent, reduce or stop the behavior.

Try to be unstructured, but guided, and natural with your approach of questioning. It allows individuals to tell their story as they remember it. Seek clarification and address inconsistencies in an inquisitive non-accusatory way. Use paraphrasing and summarizing techniques. It is okay to ask for clarification and to admit what you don’t understand. As the story changes, whether it is the victims or the alleged party, remain neutral and listen for common threads. Be mindful of the language you are using to avoid supporting common rape myths and blaming.

Some common 7 skills of engagement and rapport are:

Communication skills

1. Reflections
2. Questioning
3. Listening
4. Summarizing
5. Concreteness
6. Self-Disclosure
7. Attending behaviors

(CLICK)

SLIDE 13: Stages of the Interview Process

Remember, we are looking for the facts, we need to determine if and what happened. In order to do so, ample evidence is needed, which is often helped by corroboration among the witness’ accounts or an admission, since physical evidence is rarely available in these types of cases.

In an effort to keep the process consistent and as smooth as possible, let us look at the process as having 10 stages (whether it is the victim or the accused being interviewed).

1. Start with an Introduction.

Start with an introduction. I know it sounds very basic, but it is the opportunity to make first impressions. Let the person know why they are meeting with you. Treat the person with respect and dignity, regardless of the allegations to help put them at ease. To help establish and maintain a safe environment for the conversation, use empathetic listening and responses. It helps the person feel as though they are being heard and understood.

You do not have to agree with what is being said, but be non-judgmental so you can better understand where the individual may be coming from. After all, the victim or the accused may feel comfortable enough to disclose or admit to other violations unknown to the investigator. Give the person your full attention, be patient and don't rush them. **(CLICK)**

2. Establish trust and expand rapport by talking about non-related non-personal matters.

Having a good rapport and possessing the core skills we talked about earlier, will help the person feel more comfortable talking.

1. Discuss likes and dislikes about things (trivial) and about the relationship with accused/defendant
2. Ask about the relationship with the accused or victim, and with the other's friends?
3. Be neutral; Present solely as if your goal is to get the truth. Not to hold anyone accountable.

Take note of the person's present emotional state, during the various stages of questioning, particularly in terms of the possibility of future harm to future victims. **(CLICK)**

3. Promote transparency by going over the Interview rules.

Describe what the person should expect from the process. This helps ease anxiety and discomfort for participants. Helps build trust and rapport with the parties involved.

Why do you think discussing the rules are important? **(time for answers)**

When reviewing the rules,

1. Explain your role, purpose and requirements.
2. Explain your expectations of the person being interviewed.
3. Address whether or not interruptions are permissible.
4. Establish the need to tell the truth. Practice role modeling honesty and promote the need for honest. Be patient, don't rush.

   a. Only tell me what you really remember. Take your time. If you remember anything else, contact me and we can talk more about it.
   b. Assure the person that you will not get angry or upset with any of the information that is shared with you. That you will do your best to sort it out and get the appropriate supports in place.
5. Avoid assuming anyone already knows. Encourage the dialogue. It is OK to ask clarifying questions; the investigator and parties being interviewed.
6. Encourage them to know they can ask to clarify if they do not understand a question you have asked.
7. If you can, it is always a great gesture to encourage them to let you know when they are feeling uncomfortable or need a break.

Consider addressing your note taking practices. It is an easy way to show that you are genuine and honest.

> *For instance, I was one who often had to take a lot of notes when conducting interviews. Mostly because I had tendency to gather a lot of information. So, in fear I would jumble the information, I took notes during the interview. I would tell the person that they are welcome to look at my notes any time during the interview. Sometimes, especially for confusing or integrate details, I would read my note and ask if I had the information correct.* (CLICK for next slide)

SLIDE 14: Stages of the Interview Continue

4. Introducing the topic of concern

It should feel like you are having a conversation with the person now. This eases the transition to start gathering information and bringing up the topic of concern. **(CLICK)**

Normalizing how it is common for you to have these conversations in your role is a way you can help the person feel comfortable and at ease. Be attentive to how they are feeling by watching verbal and non-verbal cues.

In many cases, they are likely to have an idea why they are meeting with you. So you can start, by asking "do you know why you are here?" Use sympathetic approach is more effective than a threatening approach. If the person doesn't seem to know, you may want to read the allegations in the report. Be sensitive and cautious on sharing identifiable information unnecessarily. **(CLICK)**

5. Use Open-ended questioning

You can continue the narrative by using open ended questions; this allows the person being interviewed to develop the answers. The interviewee should be doing the majority of the talking. Try to avoid leading questions and closed ended questions because they can increase subjectivity and reduce the credibility of the witness's statement or the process itself. Gently probe inconsistencies, including those identified when talking about personal history or case record. If the person is having a hard time remembering, you can ask them sensory questions about what they remember - tasted, smelled, felt or heard.

To better understand impact and assess risks learn what, if any, changes have occurred among the parties involved (victim or the accused).

- Sleep habits – excessive sleeping, insomnia, nightmares, bed-wetting, etc.
- School performance
- Work performance
- Complains of physical pain in or around the gentile area and/or the presence of an STI
- Mood swings
- Displayed fearful behaviors – afraid to be alone, clingy
- Acting out of character or acting out – drug use, running away, SIB, physically aggressive, criminal behaviors, change of social crowd, change of interests, etc Less involved history when talking with third party witnesses

To keep you on track, consider having Who, What, When, Where and How on your investigative letterhead.

6. Try to develop a free narrative.

(CLICK) You can do this by being as non-judgmental as possible and avoiding inflammatory words like "rape," "pornography," "abuse," and "confess your crime." Encourage the person to tell you more. Keep in mind for some, they may not see their activities as wrong or a violation and may gloat or brag about the situation/incident. **(CLICK)**

7. Concluding the interview

Closing the interview is as equally important to how you started the relationship with the interviewee/student. You don't want to end the interview prematurely. You can ask "is anything that you forgot to ask or address?" or "was anything you were not able to tell me?" This is a good time to see if there are others that you should interview. You can ask "who else have you told?"

Thank the person for their time and cooperation. Avoid making any promises about what could happen; this is where protocols can are helpful. Let them know the next steps, and assure them they can contact you if they remember anything else or have any other concerns. **(CLICK)**

SLIDE 15: David Lisack VIDEO

Let's look at a video, about 7 minutes long, of a reenactment of an interview Dr. David Lisack has with a graduate student accounting a sexual assault. For those of you who are familiar with David

Lisak's work, I apologize if you have already have seen this. For those of you who have not, it may be triggering as it uses strong language to describe a sexual assault.

When watching the video, please look at these skills being used. **(CLICK to play) (CLICK)**

SLIDE 16: Effective Techniques and Strategies

What are your reactions to the video? **(time for answers)**

While strategies and techniques did he use during the interview to make the person comfortable? **(time for answers)**

- *Help place the subject at the scene or in contact with the other party (figuratively)*
- *Normalize the allegations. Reduce the subject's guilt feelings by minimizing the seriousness of the offense.*
- *Assure the subject that the investigator has talked with others about sexual violence cases that were more serious than the one being addressed.*
- *Displaying understanding and sympathy will help get the subject to tell the truth.* **(CLICK for examples)**

What are some other techniques that can be used? **(time for answers)**

- *Displayed an attitude of confidence and belief in the allegations.*
- *Point out some, but by no mean all, of the circumstantial evidence indicative of the subject's guilt.*
- *Reassure them that telling the truth is the honorable thing to do*.

How do you think these strategies are useful when interviewing victims? **(time for answers) (CLICK)**

SLIDE 17: Planning the Investigation

Derived from Jon Yuille's Step Wisse Balanced Investigative Protocol, used during CPS training in NYS

We need to know: Who, What, When, Where and How. Conducting the interview involves various Steps, Stages and Sequence. **(CLICK)**

SLIDE 18: Steps for Conducting Investigations

During my training with law enforcement on investigating sexual abuse cases, our process was first, we receive a report, then would develop multiple hypothesis, plan the investigation, get some facts, develop a narrative to see what we understand happened and make a conclusion. If we were to have more time, I would have us go present a case scenario and discuss each steps. Due to concern for time, we are just going to highlight some considerations that should enhance your effectiveness and information gathering. **(CLICK)**

Facilitate discussion **(CLICK)**

SLIDE 19: Multidisciplinary Teams

When planning the investigation, it helps to know who will and should be involved. Working within a team approach, bringing together minds and perspectives, helps reduce the impact on those involved through case coordination. Working within multidisciplinary teams can also enhance the quality of the investigation and promote objectivity, with a natural form of checks and balances.

What are some other benefits of having a team approach for responding to interpersonal and sexual violence allegations/violations? **(time for answers)**

- *Help reduce the number of times a victim will be interviewed and by whom.*
- *Decrease system-imposed trauma on the victim and family*
- *Victim is less likely to recant*
- *Increase opportunity to maintain the safety of the victim*
- *Those that are responsible for victim protection are in a better position to support the victim*
- *Increase confession from the alleged perpetrator*
- *Result in increase of successful prosecution of sexual violence cases.*

Presenter notes:

Case Coordination

I have worked within multidisciplinary teams when working on challenging cases where I needed help developing strategies to improve case coordination or to promote achieving case goals and positive outcomes and student support.

By bringing members of the investigative or support team, creates an additional opportunity for the offices and professionals involved in the case to have the appropriate information to provide safety for the victim and determine what supports and resources are needed to best serve those involved.

Working with teams also provides opportunities for professional support of the staff and personnel working on the case. It allows an opportunity for team members to process the challenges together, and hopefully developing trust among each other.

The use of multidisciplinary teams can vary depending on the needs and culture of the institution. Some use multidisciplinary teams to determine if they report is even acceptable. Weighing the information of the institutions requirement to address and respond, why balancing the needs and wishes of the victim. This can be particularly helpful when the victim does not want to move forward on holding the alleged accountable; remember, there can be a lot of reasons for a victim not wanting to participate.

Information sharing

Often times, there are written agreements or Memorandums of understanding that enable coordination of a case. This level of collaboration helps to ensure that involved parties have the necessary information and are on the same page. This helps produce a more thorough and coordinated investigation.

When working within multidisciplinary teams or with other departments, it is highly recommended to outline a communication protocol addressing if, what and how information will be shared among the different offices involved (reslife, family members, parties involved, advocate, advisor, medical personnel, law enforcement, faculty, etc). Outlining this information helps the victim and other parties involved have a better understanding of what it means to participate and move forward. *This is particularly true when addressing what information is deemed confidential.*

Address in the MOU:

What information is needed from each agency, department or party involved? How will it be exchanged (in person, phone, email, during case conferences)? How will it be maintained (case file, electronic case record)? Who will have access to the information and when? *How much information can be exchanged? How does the level of information change based on the role of the party?*

Is your process or protocol for sharing information formal or informal? Are releases of information be necessary? Or is it based on a need to know status or professional role? Again, are there variances in the level of information that is likely to be shared with the different parties? **(CLICK)**

SLIDE 20: Step 1 – Receive a report

Going back to our steps: Generally the first step is that a report comes in.

1. Are there standards or elements that are required in order to accept a report?
2. Who is allowed to make a report?
3. Where do the reports go?
    a. Are there multiple locations where someone can make a report?
    b. Do they get handled by department or do you have a clearing house where they go and then get assigned?
4. Is there a specific level of information or detail required? **(CLICK)**

SLIDE 21: Step 2 – Develop multiple hypothesis

Just like in research, when you want to figure something out, like investigations, developing multiple hypothesis helps to promotes objectivity, adds credibility, and promotes fairness.

At a minimum it is best to have a minimum of 3 hypotheses:

1. H0: It didn't happen
2. H1: It did happen
3. H2: Some version of it happened.

Of course, there more you are able to develop, you will better be able to target the information you seek. **(CLICK)**

SLIDE 22: Step 3 – Planning the investigation

We need to gather information about what happened. This is where the protocol comes in handy. It can guide how the investigation will be conducted and by whom. (*Like, who from the university and the community that is responsible for making the determination on the case*.) *?*

Then, a decision needs to be made on who will be interviewed and what witnesses may be involved? Determine **When** to conduct the interview and **Where**. *Do investigations occur after traditional business hours? Will campus safety or police meet the student where they are more comfortable or would the student need to go to a particular office?* **(CLICK)**

SLIDE 23: Considerations

What other aspects need to be considered when planning the investigation? **(time for answers – facilitate discussion) (CLICK for list)**

1. <u>Where</u> will it occur? Unless, unless there are safety concerns, try to enable the location to be as comfortable and soft as possible.

Consider concerns for privacy, retraumatization and the participant's needs when determining the physical setting, and location, for conducting the interview. By identifying and trying your best to mitigate their concerns, you will help minimize the traumatic experience and ultimately help the student heal, and feel heard. It is always good to document the rationale for who and where, when possible.

2. <u>Who</u> are the Participants at the time of the interview? Are support people allowed?
    a. What is the level of Cooperation and the Competency of the witnesses?
3. Are special <u>resources</u> or <u>accommodations</u> are needed? Are there language or cultural differences where an interpreter should be made available? Are there time delays to anticipate when coordinating interpreter services?

4. Is there enough <u>time</u> to conduct the interview? Are the students approaching break approaching or exams? Do you have a jam packed schedule?
5. What <u>legal and compliance</u> concerns exist?
6. Are there Geographic or Timeframe restrictions (holidays, breaks, exams)?
7. What are the Individual and Community risks?
8. Record keeping practices and how the investigator maintain notes?
9. Evidentiary?
    a. Rules of evidence
    b. Standards of evidence

Presenter Notes:

Legal	Evidentiary	Rules of Evidence / Admissible evidence
☐ Medical exam problem ☐ Advising the non-offending parent ☐ Coordination by not coopting by law enforcement ☐ Sequence and location of interviews ☐ Consistency within the factual details ☐ Impact ☐ Access ☐ Congruency ☐ Witness retention ☐ Role of validator	☐ Age of consent in NY is 17 ☐ Were there aggravated circumstances? ☐ Severe or repeated abused ☐ Reckless or intentional acts ☐ Serious physical injury ☐ Related criminal convictions ☐ Prior adjudication of sexual violence	☐ As an exhibit ☐ Of a business record ☐ Record maintained during normal course of business ☐ A part of the job responsibility and or job description of the employee. ☐ Record kept and maintained as an ordinary course of business ☐ Of a photograph or video ☐ Update to include other electronic media

Victims are more likely to participate if they are understand what to expect from the process and what will happen. We talked about the many reasons victims may not want to report, fear, shame, etc. Outlining what evidence will be acceptable and who is responsible for identifying the evidence, is another way of having a trauma informed approach.

Example

I am aware of situations in which institutions have requested that the victim identify, locate and deliver the evidence. As you can imagine, this can cause undue stress on the student. The student was left to reread texts, put them in chronological order. Then ultimately finding out that some of what was submitted was not included in the initial hearing. **(CLICK)**

SLIDE 24: Step 3 Cont. – Determine the Interview Sequence

Determining the interview sequence requires the same degree of thoughtful planning as the investigation. Timing is critical and must be strategic. **"Many sexual abuse cases have been lost or jeopardized because investigators moved too rapidly to interview the offender before they were fully [aware] conversant with the facts of the case,"** especially in cases where there are multiple victims.

Conducting an internal background check beforehand can help guide who and where you interview. It gives you a greater understanding of risk and safety needs, (have there been other similar incidents or concerns, anticipated challenges?) **(CLICK for animation)**

1. Contact reporting source
2. Identify and interview victim(s)
3. Interview housemates and or close friends of the victim, with the victim's consent
4. Interview witnesses, alibis and collateral contacts
5. Interview alleged offender
6. Repeat above sequences as needed

Source of the report

When possible, it is best to start with the source of the report so you can get the information first hand and address any presenting safety concerns.

However, if the victim or a third party made the report first to a professional within your reporting procedures, you should start with talking with the person who took the initial report. Why do you think this can be helpful? **(time for answers)**

Start with asking, the initial person

1. what information was shared,
2. was there anyone else who was there or aware of what happened
3. the physical and emotional status of the parties involved
4. whether or not the parties are aware the report has been made,
5. how the victim would like to proceed, if at all.
6. what resources were suggested and accepted,

What else might you want to know from the source? **(time for answers)**

Ideally, this will be included within your university's first responder protocol and training, for personnel and student leaders who are likely to be a resource to a reporting student.

Gathering this information before conducting the interview helps provide a rationale for determining the university's next steps; whether or not and to what extent the investigation will move forward.

Some victims may not want to go forward at all, but due to the safety concerns or severity of the incident, level of information available and available witnesses, the school may decide to move forward, in effort to remain complaint with Title IX. *This is where having confidential advocates as the first point of contact or automatically contacted when a report is made, it helps mitigate the university's responsibilities.*

What are some other benefits of gathering this information before interviewing the victim or the alleged? **(time for answers)**

Retelling the story can be retraumatizing. This information helps to reduce the number of times a victim has to share their story by guiding the investigator to what elements are necessary to get from the victim, specifically, compared with being able to retrieve the evidence or information from other sources or at a later time.

Interview the victim

The next best person to interview is the victim. The victim is likely to want to talk about it, and get help, if not for him/herself, than for their partner or friend. Yet, many are too fearful. By interviewing the victim next, you are also able to give them the support and resources they need to heal/recover. There are also advantages in promote victim safety and address necessary interim measures before the alleged is notified of the report. *Sadly, leaving an abusive partner is the most dangerous time to those in abusive relationships.*

Sometimes the alleged should be interviewed early, when the element of surprise is advantageous. Why do you think the element of surprise is useful? **(time for answers)** They are less likely to:

- have prepared an alibi,
- retained an attorney or spoken with his/her familial supports,
- or destroy physical evidence
- or the accused may be uncooperative.

What are some reasons the alleged may be uncooperative? **(time for answers)**

- Fear of conviction
- Fear of criminal charges
- Fear of removal
- Fear of humiliation
- Fear of punishment
- Fear of familial disappointment

Depending on their role or the impact the outcome and its process can have, is likely to influence how and what each party responds and to which degree.**(CLICK)**

SLIDE 25: Step by Step 4 – Fact gathering

Once the investigation is planned, next we can work on gathering information to learn what, if anything had happened.

What are some ways that you gather information? **(Time for answers) (CLICK for list)**

Through:

- Material
    - Physical and medical evidence
    - Video
    - Student record
    - Case documentation
- Observations
- Collaborative reports and accounts
- Conducting Interview **(CLICK)**

SLIDE 26: Sources of Evidence

There are all sorts of different kinds of facts and evidence that can be found during an investigation. Above are samples of sources of credible evidence. They are not in any order of importance.

Is anything missing from the list? **(time for answers)** Are these types of evidence available to you? **(time for answers)**

Presenter notes:

1. Physical layout of facility, home or environment
2. Verbal explanation by the victim and/or witnesses
3. Observations of physical and emotional reactions
4. Photographs of victim's injuries
5. Physical evidence (hair, blood, clothing)
6. Medical proof (evidence) and/or Rape kit
7. Sexual aids or devices
8. Expert validation
9. Computer files, emails, electronic records
10. Unique distinctive items described by the victim
11. Photos, negatives, cameras, videos of victim

1. Rules of Evidence

It is important to include standards and rules of evidence to guide what is acceptable, how it will be stored, and how and who will the collect evidence, etc. in your protocol.

- Conduct record, Police record? Student case record?
- What types of electronic evidence will be permissible and retrieved?
- Will the institution uncover video and recordings?
- Will those provided by the involved parties be admissible?
    - Will the concerns be greater if the electronic files were shared or made public?
    - *Prevention strategy:* Can or should the institutions have barriers or filters on online access and usage with .edu acct?

Would evidence gathered by other members of the investigative team, such as law enforcement and medical records, be permissible? Would they have a different level of credibility?

- For instance, if information was shared with an outside member of the investigative team (off campus related service); would that information be included as part of the evidence or testimony, if not shared specifically with the university personnel? It is unlikely that a college will use a lie detector test, but would it accept its findings if shared by local law enforcement investigation?

2. Evidentiary Strengths

In addition to outlining what evidence is accepted and how, your process should clarifying the significance or the strength of the evidence. This form of transparency is in align with what clinicians refer to as informed consent. It helps them have control over their story and how much they share by knowing how the information will be used and when. The same applies to the alleged.

Is hearsay (hearing statements of one co-respondent as to the other's actions) admissible (in the investigation or only during the hearing)? It is not accepted in criminal court, but it allowed in family court. Would those statements have greater credibility if the corroboration was among witnesses rather than involved parties? Would it matter if the witness was an expert that can "validate" the evidence?

I bring these questions up as a way of bringing attention to the many ways we can limit the number of times a victim has to tell their story. Allowing the victim to tell the story at their pace, as they recall things and with whom they are most comfortable, is a powerful way to reduce retraumatizing the victim during the process. **(CLICK)**

SLIDE 27: Witness Checklist

Regardless of who is being interviewed, we need to remain as objective as possible. A witness's credibility and competency should be always be considered.

For instance, what were the general characteristics of the statement? Was the person coherent at the time of the interview or incident? Look at the contents within the statements. Is there sufficient detail? Are there peculiarities of the case shared that only those directly involved would know?

Consider the motivation behind sharing the information that was shared with you? It is natural, especially within cases of dating and sexual violence, for the victim to raise doubts in their own statement and excuse the accused for what happened, maybe even blaming him/herself.

Considering how much personal information is shared or revealed, the amount of time spent and the emotional rollercoaster people are likely to experience by reporting these violations; they are not going to file false reports. Plus, IF they did, filing false police reports is a criminal offense in NYS and is a misdemeanor. Those people should be held accountable too, if that is the case. **(CLICK)**

SLIDE 28: Repeat Steps 2-4

Repeat steps 2-4, reviewing your hypotheses, update the investigation plans to help gather the remaining facts you need to make a conclusion as to whether not a violation occurred, based on a preponderance of the evidence, more likely than not.

How do you know when you have enough information? **(time for answers) (CLICK)**

SLIDE 29: Step 5 – Narrative development

To better understand what occurred, try developing a narrative based on all of the facts that you have gathered. Organize the information in chronological order. Take into account the different witness statements and other available evidence. Identify the inconsistencies and highlight the facts that address them.

Then, refer back to the multiple hypotheses. Evaluate whether or not the information you have supports any of the hypotheses; find the one that is supported by the facts. Document why the hypothesis is accepted, including relevant facts and rationale, just like in research **(CLICK)**.

SLIDE 29: Step 6 – Attempt to disprove

Before concluding the investigation, it is good to review the evidence to identify if and where the allegations can be disproven. This helps to ensure you have a thorough investigation as well as prevent errors and liabilities.

I understand that access to some of the factors may be dependent upon organizational structure and lines of communication and power. All parties have rights. Depending on their role or the impact of the outcome and its process is likely to influence how and what each party responds and to which degree. And again, look at inconsistencies and patterns of behavior. Look at the reporting perspective of the accused, victim and other witnesses, including collateral contacts. Evaluate the risks identified and protective factors. **(CLICK)**

SLIDE 30: Step 7 – Conclusion

Making an conclusion incudes reviewing all of the facts, make a decision and carry out a plan of action, which may mean to close the case or to take further action. Often times the role of the investigator may also include concluding recommendations for outcomes, (educational, accountability, etc.), weighing risks and protective factors.

Assessing and determining findings and outcomes is not an easy task. The majority of us do not have a crystal ball and like to believe the best in people. It is against our nature to think that others, especially people we know or believe in, could harm another. This is where working in multidisciplinary teams can be helpful. **(CLICK)**

SLIDE 31: Trauma informed and non-trauma informed practices

Non-trauma informed	**Trauma informed**
1. Insufficient training on trauma and the practice of "universal" precautions 2. Tradition of toughness 3. Formal uniforms and settings 4. Closed system – advocates are discouraged 5. Little of no trauma assessment 6. Victim behavior is viewed as intentional, provocative, attention seeking, manipulative or annoying 7. Policy written to protect the institution from liability.	1. Understanding that many have experienced trauma 2. Recognition that practices within our system can be re-traumatizing 3. Power/control dynamics are reduced or mitigated 4. Transparent system open to third parties 5. Assess histories of traumatic experiences 6. Professional staff understand the purpose of the behavior 7. Policy is victim centered

SLIDE 32: CLOSING

Remember that all parties involved in an incident are dealing with a scary time and may have many questions and emotions. Support is key for everyone involved, including you. Thank you so much for your time. Any questions? **(time for answers).** I hope you enjoyed today's presentation. If you would like a copy of the presentation, please leave your business card. Please take a few minutes and complete the evaluation form. Thank you and have a great day!