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5 Tips

*for Working
with Closed Communities*

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INTRODUCTION

Campus staff members who serve as investigators on issues of violence, sexual assault, and civil rights discrimination may feel challenged when called to investigate incidents involving a member or members of a closed community. The accused individual(s)' membership in a closed community brings a level of complexity to investigations that can prove difficult to navigate.

A closed community is any group with a self-identity that others want to be a part of or have to somehow earn their way into. Closed communities include athletic teams and sports clubs, fraternities and sororities, student government, marching bands, academic departments, and academic cohorts that progress along a program in a lockstep manner. Following are five tips for conducting investigations into allegations involving members of closed communities on your campus.

1. UNDERSTAND THE GROUP PSYCHOLOGY

It's imperative to understand that individuals who belong to closed communities may behave differently during investigations than those who do not have such affiliations. In general, individuals are more likely to intervene to help a member of their own group than a stranger. For instance, if a member of a campus group is accused of sexual violence, does the group have a sense of solidarity that might result in other group members protecting the accused individual rather than telling the truth to help the alleged victim? Members of the group might act dishonestly or refuse to participate in an investigation, or they might provide you practiced statements, creating a wall of sorts to protect the accused. Their motivation is not only to protect the accused, who is one of them, but also to protect their group as a whole from fallout from the incident. Whatever the group is, it's likely that it is motivated to be the best of its kind, and that may mean shielding group members from a finding of responsibility for a campus policy violation or crime.

Hazing Motivation

- Sense of solidarity
- Loyalty/commitment to group and its members
- Desire for social dominance
- Instrumental education

One way in which institutions can help to avoid this situation is by using bystander education programs targeted to closed communities to reframe what protecting students' fellow group members, and group, means. In other words, stopping teammates from doing something that could get them accused of a policy violation or crime later is a better way of helping those teammates, and keeping the group out of potential trouble, than covering up for them later on. Regardless of whether such education is taking place on your campus, it's advisable to keep that group mentality in mind when conducting investigations, and ask yourself how group dynamics may be impeding — or assisting — your investigation.

In-Group Bystander Behavior

The relationship between bystanders and victims is well researched, and group members are much more likely to assist other group members than members of other groups or who otherwise have no affiliation to their organization.

- The relationship between bystanders and perpetrators, however, tends to be murky and unclear.
- Responses to violence perpetrated by in-group members depend partly on group norms around violence, as well as on the inter-group context.
- Witnesses to violence are either much more likely to intervene, or much less likely to intervene, depending on the intergroup context.
- In other words, two important questions must be asked related to in-group hazing practices:
 1. What is the campus culture like related to sexual assault/hazing?
 2. Do group members tend to view sexual conquest/hazing practices as being in some way beneficial to the group?

2. FOCUS ON RELATIONSHIP BUILDING

Work to build relationships with closed communities on your campus before you ever need to investigate them or one of their members. Which are the bigger, more popular groups on campus? Who is in charge? What education is available to them? Get to know their student-leaders and members. This will help them see you as someone who can be trusted, even if you do have a job to do.

While the recommendations that follow are specifically geared towards Greek life and athletics teams, most can be applied to any closed community. The underlying idea is to build trust early, so that when it comes time to conduct an investigation, you're more than just an outsider who can potentially harm the closed community involved in an alleged incident.

Greek Life and Athletics:

- Work with national fraternity/sorority headquarters.
- Understand that a triangulated approach is best; use your Title IX officer, campus fraternity/sorority advisor, and national organization representatives.
- Remember that the above-mentioned individuals are (almost always) on your team.
- Know that due process is still important.
- Investigate individuals first to determine the scope of a chapter's culpability.
- Provide an appeal process for interim action, and embrace the true meaning of the word "interim."
- Remember that communication is important, and consider who might be in the best position to communicate a message from the institution (e.g., a faculty advisor may be a good bet for reaching out to a student who lives in an off-campus fraternity house about an interim suspension).

Athletics Departments:

- Develop a relationship now, rather than trying to do so after an incident has occurred.
- Get to know the senior leadership, but also understand the coaches' and teams' cultures.
- Address residential and social culture.
- Understand that the message and messenger are both important.
- Participate when possible, and show up to games so that team members begin to see you as someone who cares and who can be trusted, not someone who can potentially ruin them.

3. CONDUCT BROAD, NOT NARROW, INVESTIGATIONS

When an organization is involved in an investigation, start as broadly as possible, asking questions about what the culture and group is like. Does the group have a culture where certain kind of negative behavior is fostered or encouraged, subtly or not so subtly? Or is the culture of the group

The Drunk Sex Problem

“That’s right, my big and I had sex with two of the same guys. In the same night. In the same room. Isn’t that how everyone bonds with their big? No? Just us? After that, the rest is history. We wake up with no memory of what happened and I proceed to puke in front of an unsuspecting family. Pretty casual Thursday night if you ask me.”

— TSM Blogpost

Instead of saying, “drunk sex is rape,”

- » Help students understand the difference.
- » Explain that the issue is not always black and white.
- » Teach students to differentiate between presence of mind and intoxication.
- » Encourage students to consider whether their sexual partner knows:
 - What they are doing;
 - Who they are doing it with;
 - Where they are doing it; and
 - If they have the wherewithal to understand and appreciate the consequences of what they are doing.

This approach requires us to acknowledge that sometimes drunk sex is OK, which is a more realistic approach in line with students’ personal realities.

such that the individual or individuals being investigated are likely rogue agents? Look at the group’s social media, talk to its leadership, and ask other organizations about that group’s reputation to gain a clearer picture. Then narrow down your investigation from there. As you narrow your investigation’s focus, you might find a breach in solidarity or loyalty/commitment. When you do, pounce on that opportunity quickly to get to the truth.

4. FIGURE OUT YOUR PURPOSE

What’s the goal of your investigation? Is it educational? Are you aiming for a culture change? Or are you hoping to weed out rogue agents (e.g., players, members, coaches, or advisors)? Is your purpose to determine if an organization systemically violates rules or encourages their violation? Knowing your purpose up front is helpful to communicating with the closed community as your investigation progresses. For instance, you might deliver positive reinforcement for things it has done well, and work to ensure accountability rather than turning a blind eye to deficiencies.

5. HAVE THOUGHTFUL, EDUCATIONAL CONVERSATIONS

Some individuals and groups fail to view incapacitated sex as sexual assault. Research has found that 36 percent of students who said they had sex but were too drunk to remember it don’t view the act as having been nonconsensual. Understanding where in that two-thirds/one-third dichotomy a closed community lies can bring important context to your investigations and help you tailor your messaging.

Listen for a responsibility shift, from “I’ll keep going until the other person stops me or convinces me to stop,” versus, “It is my responsibility to make sure I’m doing something the other person wants me doing to them at that time.” Does the individual, or does the entire group, think in one way or another? It’s easy to see how the former line of thought can create a culture in which sexual assault is likely to occur.

CONCLUSION

Conducting a successful investigation involving a closed community on your campus requires putting in some legwork before an incident is ever alleged, and an investigation must be launched. Those on campus charged with conducting such investigations should make an effort to understand the group psychology of their campus organizations and focus on relationship building early on to gain trust from those whose cooperation they may need at some future point. When an allegation is made, investigations should start out broadly, have a defined purpose from the onset, and include thoughtful, educational conversations.

Gentry McCreary and W. Scott Lewis provide campuses with training and consulting on how to conduct effective investigations when closed communities are involved in allegations. McCreary can be reached at gentry@nchem.org or via Twitter at [@doctorgentry.com](https://twitter.com/doctorgentry.com), and Lewis can be reached at scott@nchem.org or via Twitter at [@wscottlewis](https://twitter.com/wscottlewis).

The logo banner features a background of a pair of scales of justice, rendered in a painterly style with green, blue, and orange tones. The text is overlaid on this background.

The NCHERM Group, LLC

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The NCHERM Group is the umbrella for six linked organizations that serve to advance holistic, proactive prevention and risk management within K–12 schools and on college and university campuses. The NCHERM Group is both a law and consulting practice that has served the education field for more than 15 years. As a law firm, The NCHERM Group represents more than 70 colleges and universities as outside counsel, making it one of the largest higher education-specific law practices in the country. As a consulting group, The NCHERM Group’s consultants have provided services to more than 3,000 clients, giving it unparalleled reach and impact on the field. For more information, visit www.ncherm.org.

