



2018 ATIXA CIVIL RIGHTS INVESTIGATOR  
PRACTICAL SKILLS LEVEL III  
TRAINING & CERTIFICATION COURSE

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University System of Georgia

April 23-24, 2018

Savannah, GA

# FACILITATOR



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# HOUSEKEEPING ITEMS



- Sign in both days of training for certification eligibility
- Access to certificates is delivered from [ccc@nchem.org](mailto: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](mailto:members@atixa.org) to learn about complimentary trial membership eligibility

**Remember: As an investigator, you  
have no “side” other than the  
integrity of the process!**

# TITLE IX

20 U.S.C. § 1681 & 34 C.F.R. PART 106 (1972)



*“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.”*



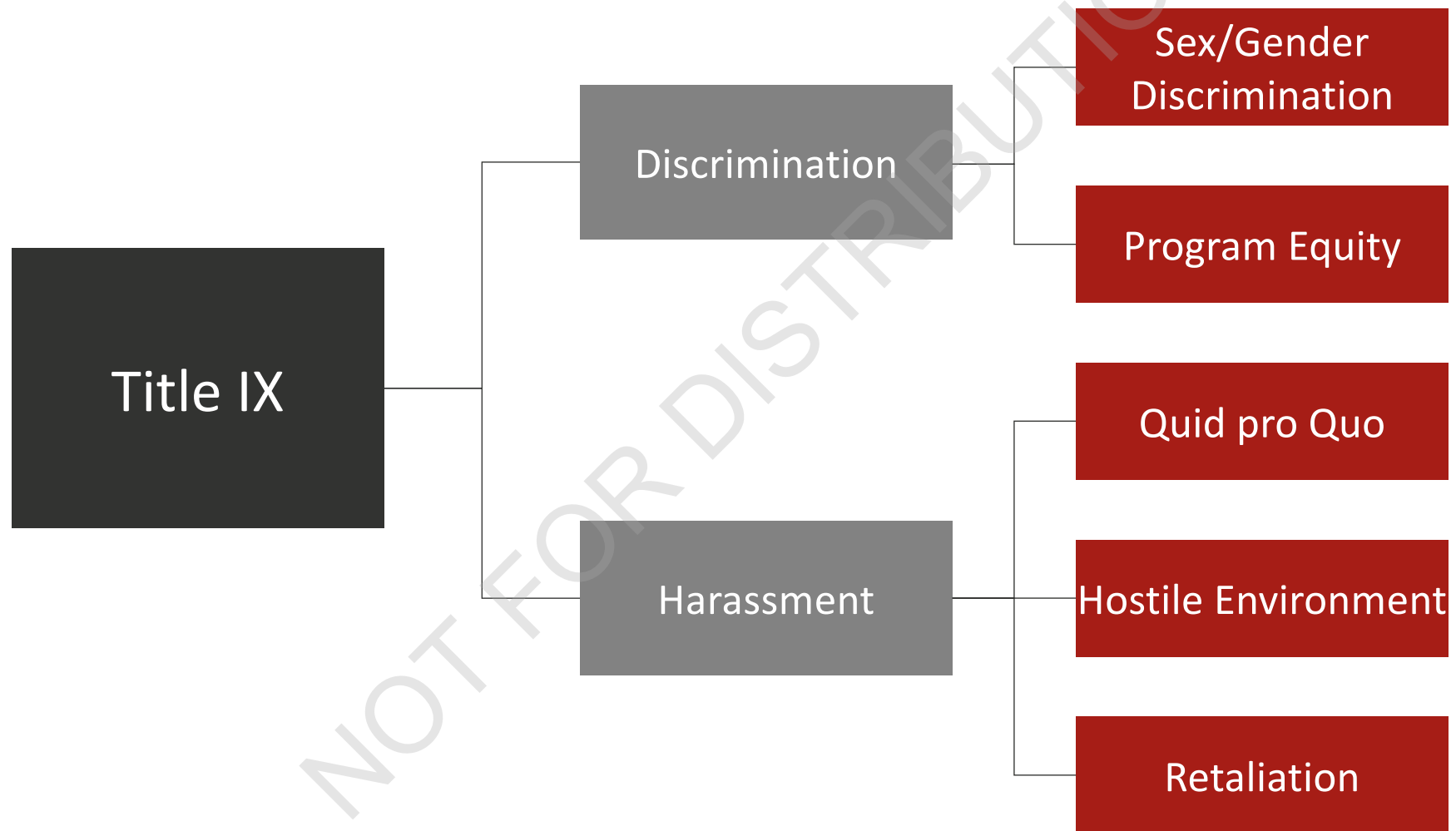


# THE IX COMMANDMENTS



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

# TITLE IX

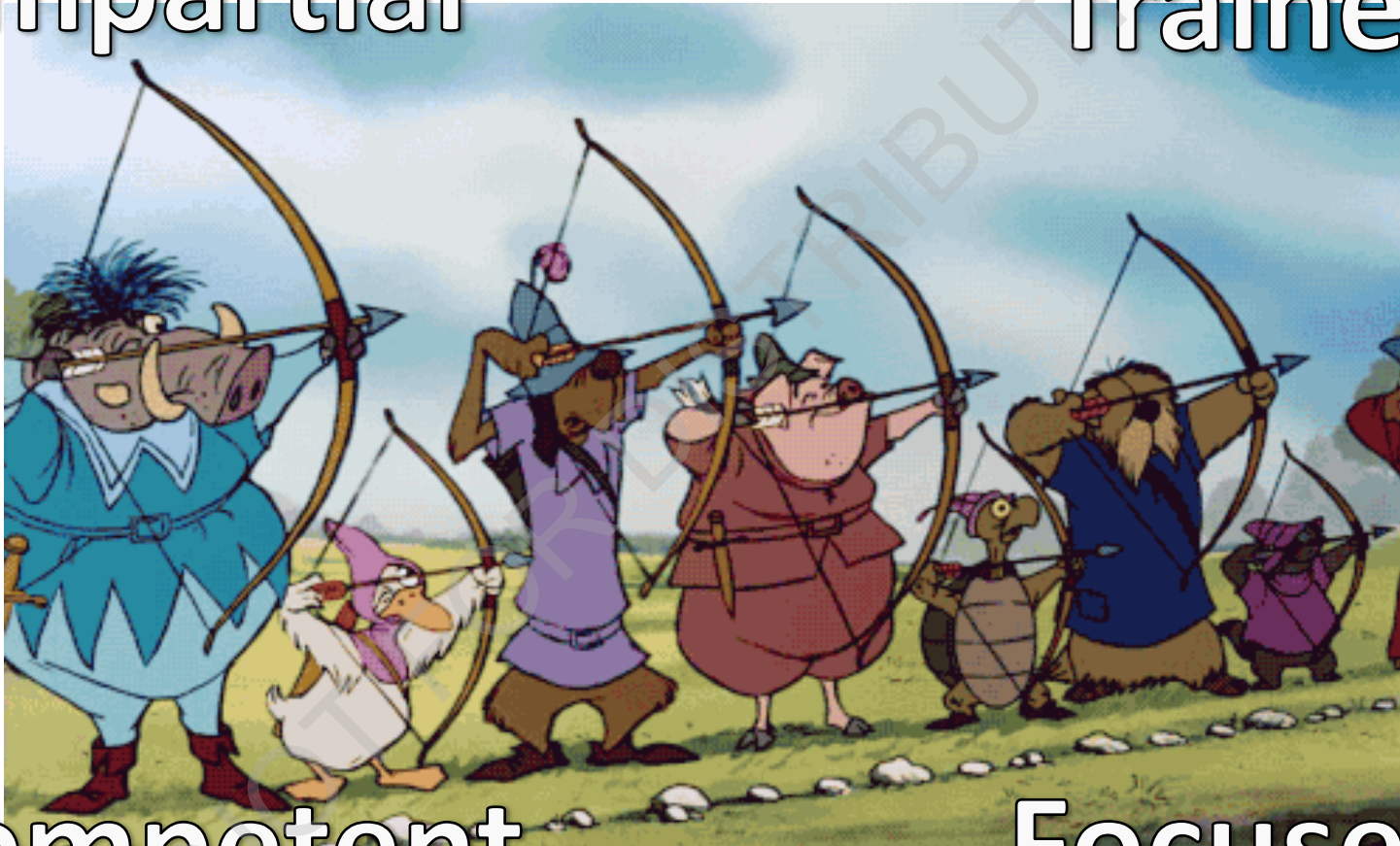


# THE GOAL



Impartial

Trained



Competent

Focused



# THE GOAL



**Making the appropriate decision**

# STAYING IN YOUR LANE





# THE CLERY ACT



## Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (1990)

- Crime reporting.
- Campus crime log.
- Campus Sexual Assault Victims Bill of Rights (1992)
- Primary crimes (7+3).
- Hate crimes (8 categories).
- Policy and procedure disclosures.
- Timely Warnings & Emergency Notifications.
- Sex offender information dissemination.
- Enforcement and fines.
- Violence Against Women Reauthorization Act of 2013 (VAWA) – Section 304.





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

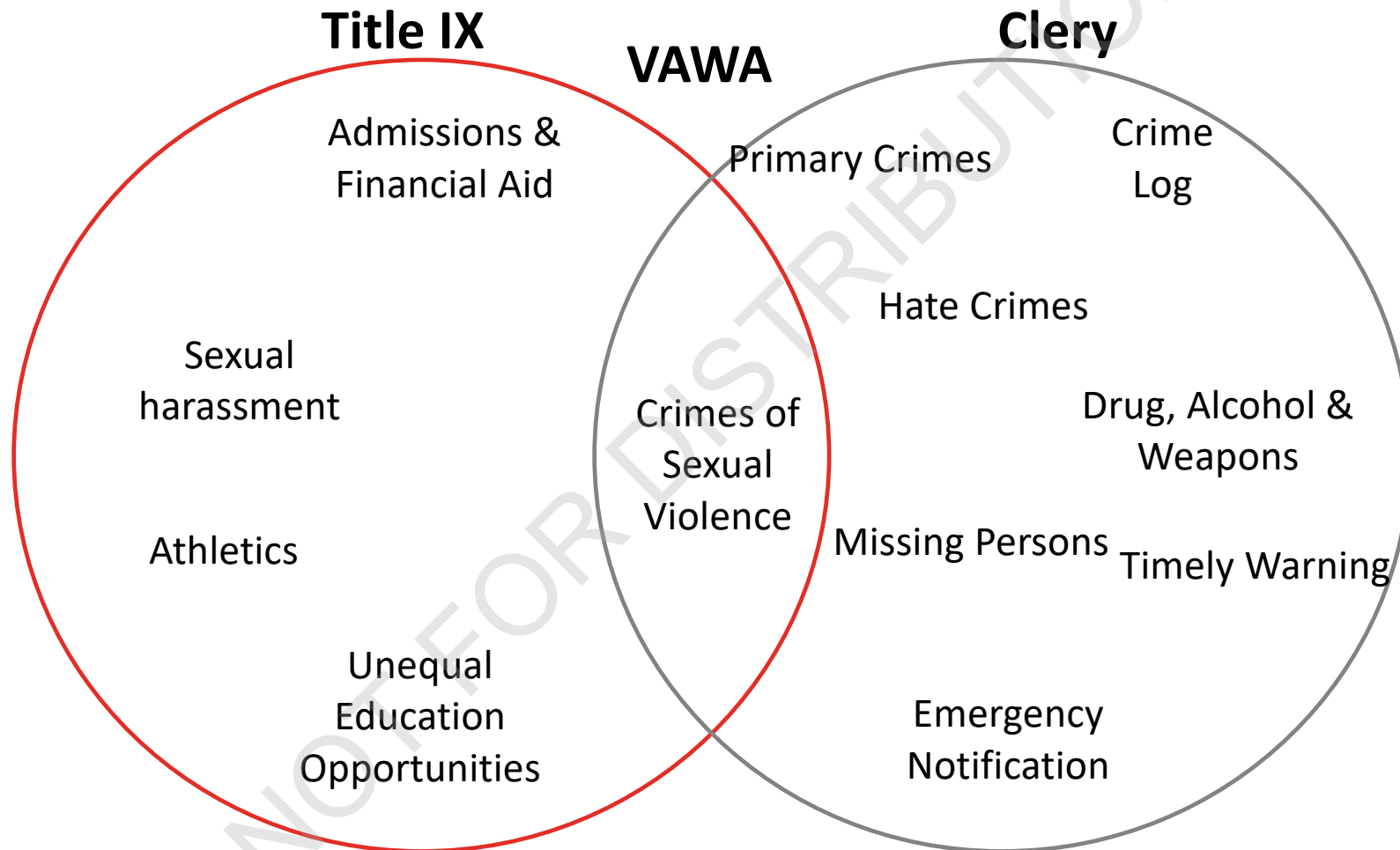


## Section 304

- **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:
  - sufficiently **severe**, or
  - **persistent or pervasive**, and
  - **objectively offensive** that it:
    - 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 reporting and responding party.
- 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



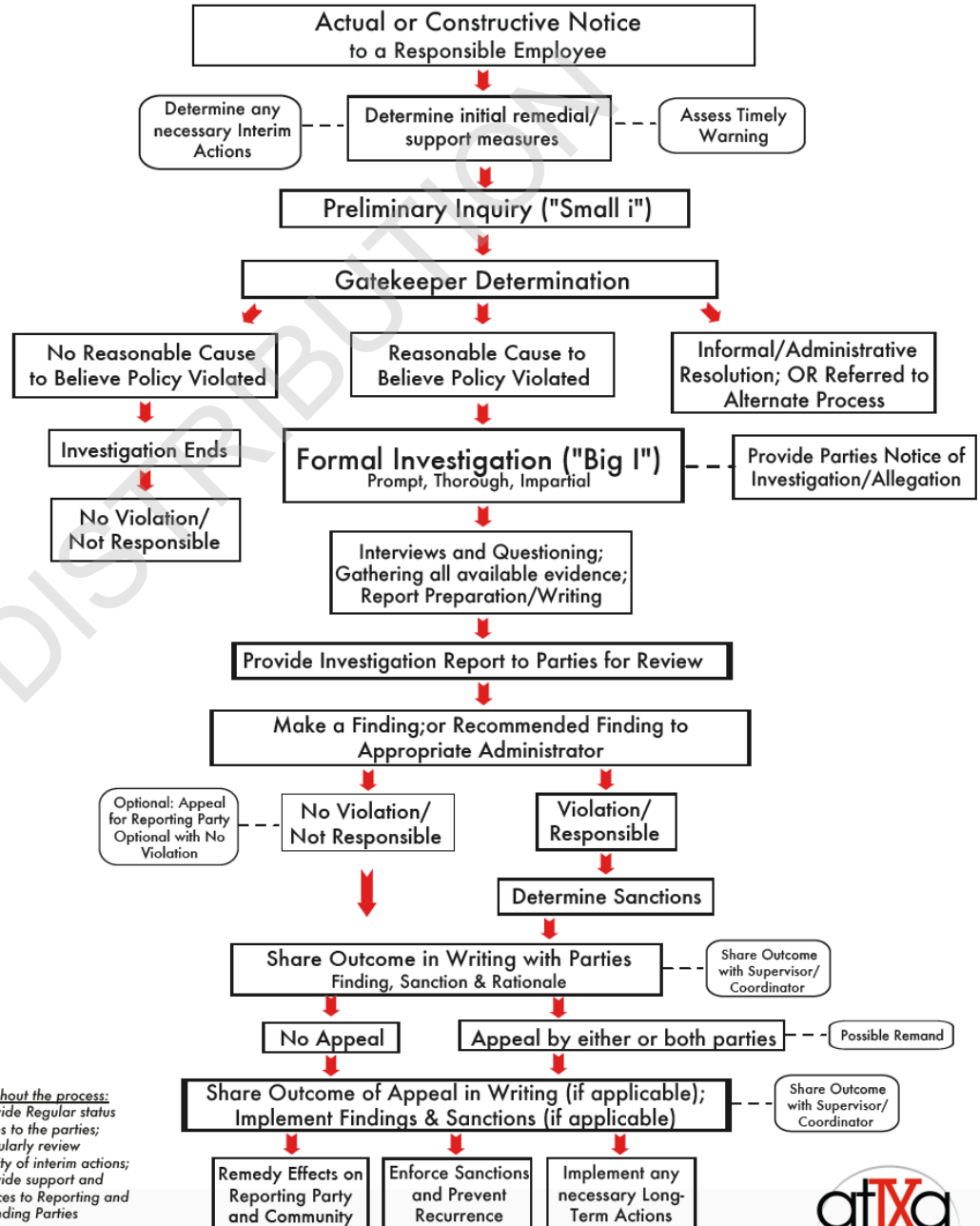
- *Quid Pro Quo* harassment is:
  - Unwelcome sexual advances, requests for sexual favours, and other verbal or physical conduct of a sexual nature,
  - By a person having power or authority over another constitutes sexual harassment when
  - Submission to such sexual conduct is made either explicitly 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



# CIVIL RIGHTS INVESTIGATION MODEL

## ATIXA CIVIL RIGHTS INVESTIGATION MODEL FLOWCHART





# 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 or recommendation

# APPLYING DUE PROCESS



# WHAT IS DUE PROCESS?



- The set of rights-based protections that accompany disciplinary action by a college or university.
- Dictated by system and campus policies and procedures.
- Evolution of Due Process in education
  - Dean Wormer; Principal Strickland (1950's)
  - *Dixon v. Alabama* (1961)
  - Constituency-based policies and procedures
  - Castles of Due Process & Student Judicial
  - Student Conduct Administration
  - Civil Rights Investigation Model

# DUE PROCESS IN PROCEDURE



- A school's process should include (at a minimum):
  - Notice of Allegation and/or Investigation.
  - Notice of Hearing.
  - Right to present witnesses.
  - Right to present evidence.
  - Opportunity to be heard and address the allegations and evidence.
  - Right to appeal. (recommended).

# 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



# CASE STUDY



- For the last two years, Shawn, a member of the men's baseball team, has been dating Courtney, a member of the women's soccer team.
- Last Friday, Courtney and Shawn got into a very loud and public argument at breakfast in the athletes' dining hall. At the end of the argument, Courtney told Shawn she was cancelling their plans for that night and that they both needed some time to calm down; Shawn agreed.
- That night, Shawn and some of his teammates played X-box at Shawn's apartment and began drinking a few beers. Shawn made himself a very strong whiskey and coke.

# CASE STUDY



- His friends left for a party and Shawn, who told his friends he was just going to bed, continued drinking. As he became very drunk, he began to get worried, frustrated and angry about the state of his relationship with Courtney. He felt he really needed to talk to her.
- At about 1:00am, Shawn made his way over to the off-campus apartment Courtney and her roommate were renting nearby, banged on the living room window and yelled that he wanted to talk to Courtney.
- Courtney refused to let him in because he was both drunk and angry. Shawn threatened to break down the door if she did not let him in.

# CASE STUDY



- Courtney told him to go home, go to bed and they could talk in the morning. Shawn yelled and cursed, then started to cry saying he couldn't live without Courtney and he just needed to talk.
- Courtney still refused to let him into the house and Shawn became very angry, punching a window near the door and breaking it. Courtney told Shawn he was out of control and she was going to call the police.
- She pulled out her phone, but before she could dial, Shawn broke the rest of the window near the front door, reached in, unlocked the door, threw it open and charged at Courtney screaming at her to “put the f-ing phone down!”

# CASE STUDY



- Courtney screamed and ran to her bedroom with Shawn chasing her. Courtney tried to close the door, but Shawn managed to wedge himself between the door and the jam and forced the door back open, calling her a “crazy bitch.”
- Courtney backed away and Shawn charged at her, reaching for the phone, but Courtney kept her arm extended and away from him. The two wrestled a bit as Shawn tried to reach the phone and when he couldn't, Shawn reached for Courtney's neck, and put his hand around the front of it, still trying to get to the phone.



# CASE STUDY



- The two hit and toppled onto the bed, with Shawn on top, his hand still on her neck, reaching for the phone with his other hand. Shawn tightened his grip and Courtney could not breathe well. Courtney slapped/punched Shawn's face and kicked him with her legs, which seemed to bring Shawn back to his senses.
- He quickly released Courtney, got off the bed and said he was so sorry, that he did not know what came over him. He told her that a phone call to the police would end his baseball career and his time at the school. Courtney, sobbing, screamed at Shawn that he needed help and he could not keep doing this. Shawn, also sobbing, apologized again and left.

# CASE STUDY



- Courtney's roommate, Jenna, who had barricaded herself into her own bedroom when Shawn burst through the door told Courtney to call the police. Courtney, however, called the person she trusted the most – her soccer coach.
- Her coach rushed over to the apartment and convinced Courtney that Shawn needed help and Courtney gave the coach permission to call the police.
- The police arrived, took statements, photos of the damage to the house, the bruising and marks on Courtney's body and arrested Shawn.

# CASE STUDY



- The next day in conversation with the school's Deputy Title IX Coordinator/Investigator, the soccer coach indicated, to the obvious surprise of the Deputy Coordinator, that this was the third time Shawn has done something like this; the previous two times the coach said she simply “worked the situation out” with an Assistant Coach on the baseball team.

# CASE STUDY



- What are the Title IX Issues?
- What are the possible policy violations?

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# 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:



# CASE STUDY: MARIA & CHRIS



- Maria is a 25-year-old second-year student at the College. She is a single mother of a three-year old. She filed a complaint against Chris last month for sexual harassment, stalking and sexual misconduct.
- Chris is a tenured nursing professor at EJC, who is well-liked by his students and serves as a member of the faculty council.
- Two months ago, Chris invited his class to happy hour on a Friday night at a nearby bar. Maria and about 10 other students attended.
- Maria alleges that Chris became excessively intoxicated on multiple occasions at the conference and was “creepy” and “touchy-feely” with several women at the bar, including a few students.

# CASE STUDY: MARIA & CHRIS



- Maria alleges that in front of a number of other students from the College, Chris, placed his hands on her hips, pulled her close against him and said, “I am so turned on by you right now. What will it take for me to get you back to my place?” He then moved his hands down cupped her buttocks in both hands and pulled her into him; Maria said she could feel his erect penis push against her. He then looked at her, winked and smiled said, “see, told you...I am ready when you are” while giving a small thrust.

# CASE STUDY: MARIA & CHRIS



- Maria said that if she were out at a bar downtown and another man did that to her she “would have kneed him in the balls and slapped him in the face.” She alleges she did not know what to do so she got the bartender’s attention and ordered a drink, after which Chris let her go.
- Maria said that she was paralyzed by the incident and felt unable to address Chris’ behavior because she asked him to write a letter of recommendation for her. She hopes to complete her degree and begin working as a nurse’s assistant in the area and “she did not want to ruin her career before it even starts.”

# CASE STUDY: MARIA & CHRIS



- Maria said that later that night, she was approached by two other women who witnessed the incident and relayed incidents where Chris had touched them in a way that also made them uncomfortable. One of the women is from the same program as Maria, but the other is not a student at the College.
- Maria alleges that since that night, Chris seemed more distant and she received a bad grade (C-) on her last assignment, even though she felt her work was on-par with her other A-level work. There was a note at the bottom of her assignment from Chris saying, “let’s talk about how you can improve your grade. I know how you can earn extra credit...” Maria did not feel comfortable meeting with him, so she just let it go at the time.

# CASE STUDY: MARIA & CHRIS



- Last week, Maria alleges that Chris sent nude pictures of himself with an erection along with text stating, “See what you are missing?” Still, she tells the Deputy Coordinator that she remains uncertain if she wants an investigation to ensue.
- Maria says she is finding it difficult to study, attend her lab and is having trouble focusing on anything.
- She says she does not feel safe on campus and is having anxiety attacks that are impacting her ability to focus
- She wants Chris removed immediately as the teacher in her course, but she does not want to ruin Chris’ life
- Her mother, who is also a lawyer, is present with her

# CASE STUDY: MARIA & CHRIS



- 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?

# CASE STUDY: MARIA & CHRIS



You speak with Chris and he states:

- The system is rigged against him and he is going to sue the school for defamation.
- He alleges Maria sent him a text the previous week a picture of her in her bra and panties with text from Rihanna's "Birthday Cake" song,
  - "I know you wanna bite this. It's so enticing. Nothing else like this. I'mma make you my bitch."
- He tells you he did come on to Maria at the bar, and she kissed his neck, then pushed him away playfully saying "you can't handle this."
- Chris says he gave her the grades she earned.
- He says he and Maria hooked up that night after leaving the bar.
- He says Maria is mad because he hooked up with Maria's friend.



# 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.

# 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.

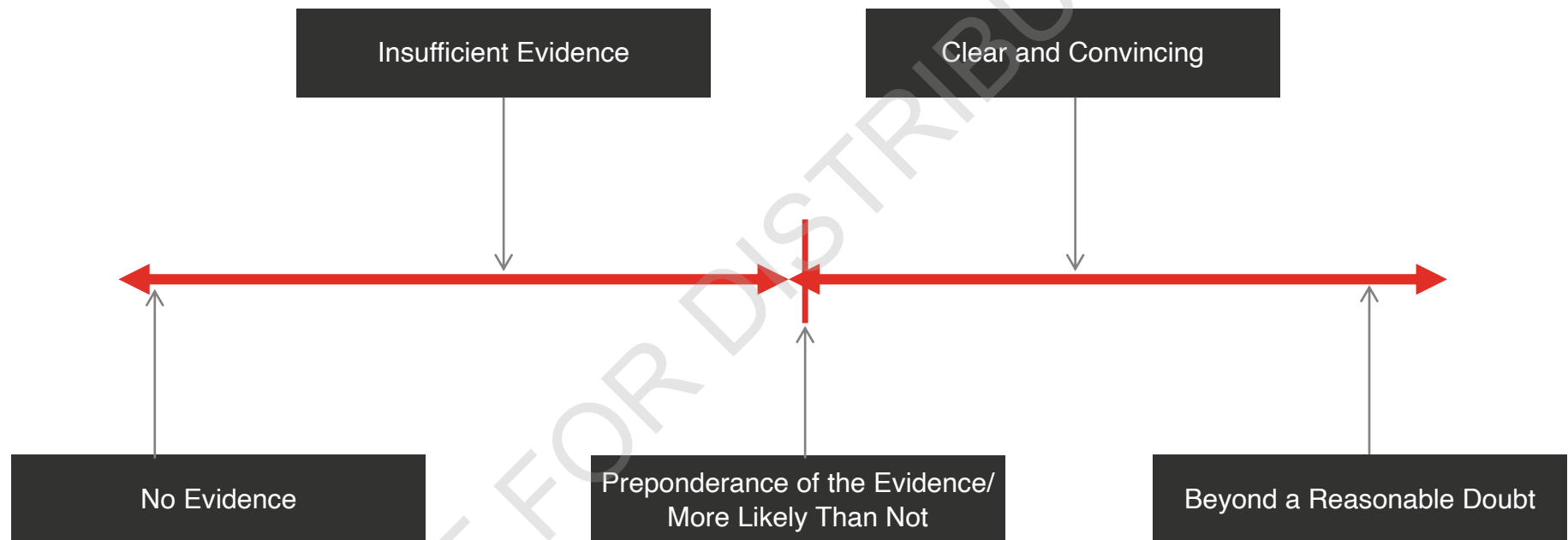


- If there is a Hearing:
  - What it looks like.
  - Who will be there.
  - The process/procedures.
  - Possible sanctions and other outcomes.
- The Appeal:
  - Grounds.
  - Requests.
  - Timelines.
- Explanation of the standard of proof.

# UNDERSTANDING EVIDENCE THRESHOLDS



## EVIDENTIARY STANDARDS





# 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

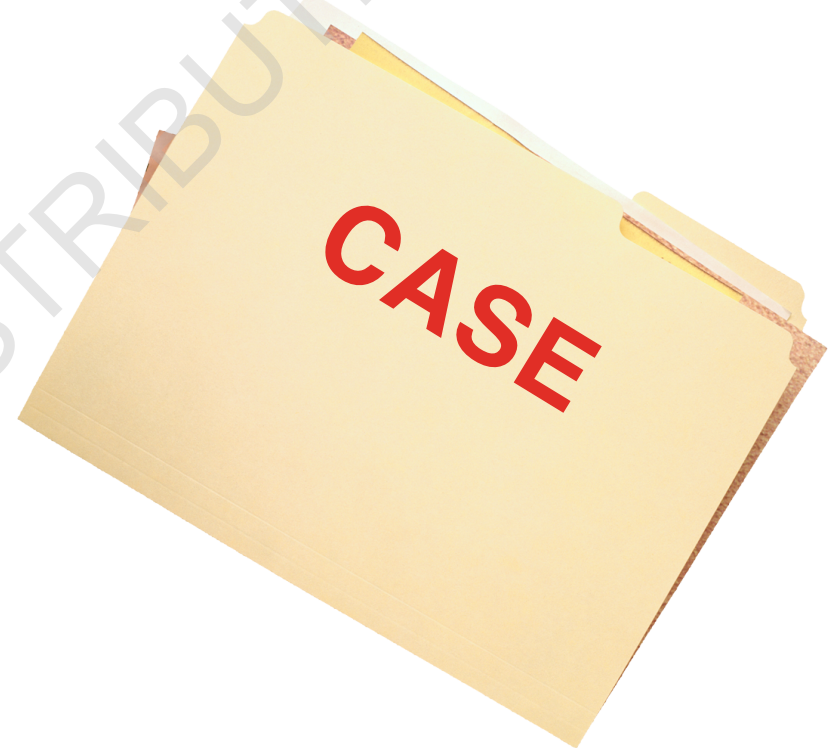


- No one is happy at the end of these cases; you are helping manage their frustration.
- People who conduct investigations with skill rest secure in the knowledge that all involved, including witnesses, are treated objectively and fairly.
- Be sure the reporting party and the responding party understand 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 reporting party and the responding party) 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.



# 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

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# 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 resource and support guide.
- 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?

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# 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





# NEUROBIOLOGY OF TRAUMA

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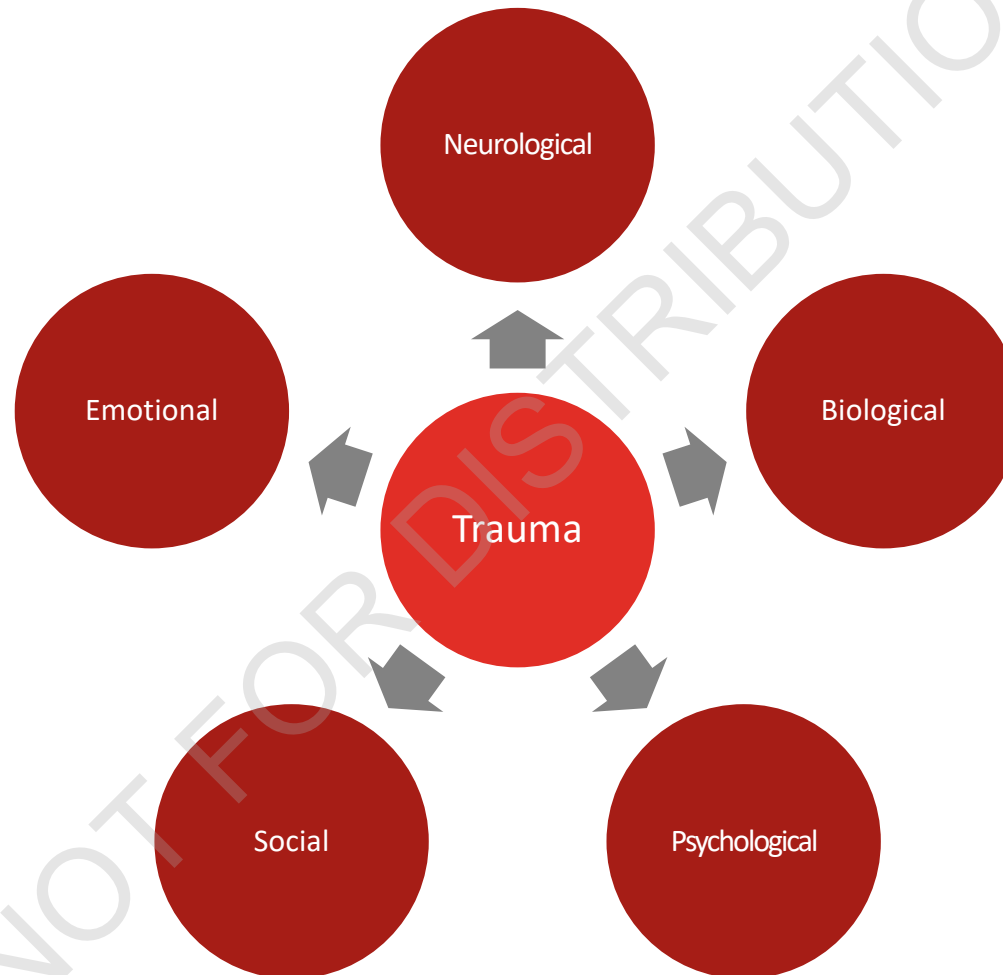
- Introduction to Trauma
- Neurobiological Impact of Trauma
- Considerations for Interviewing

# WHAT IS TRAUMA?

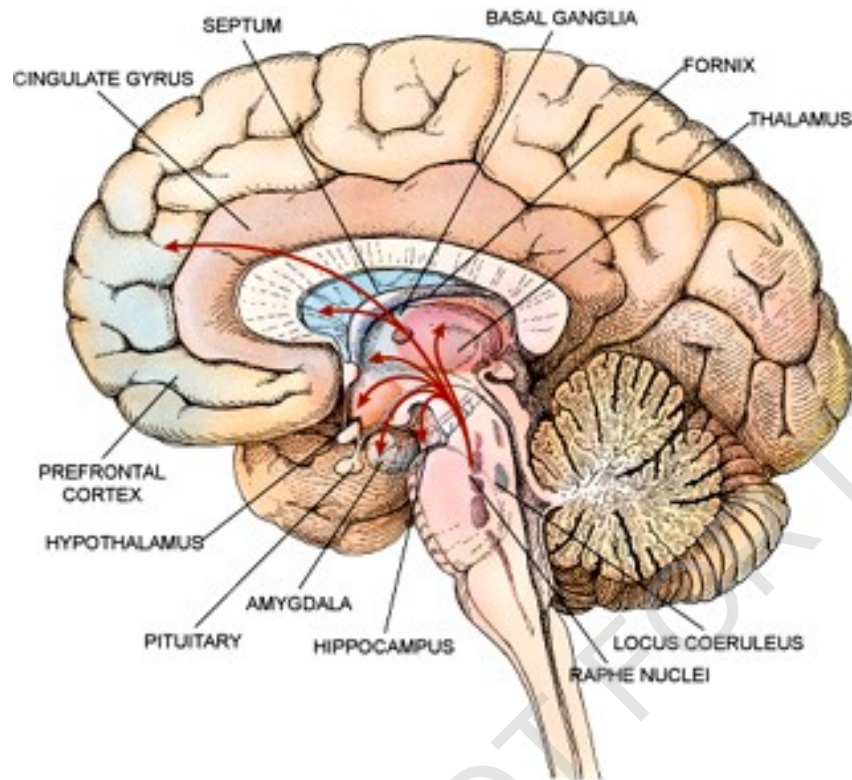


- Exposure to an event or events that creates a real or perceived threat to life, safety, or sense of well being and bodily integrity.
- May result from:
  - War
  - Natural disasters
  - Severely distressing events
  - Violence
    - Including Intimate Partner Violence, Sexual Violence, Stalking, etc.

# 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
- The amygdala does not distinguish between “types” of sexual assault
  - E.g., stranger or acquaintance, but interprets them equally as threats to survival
- The amygdala also does not typically differentiate between an actual threat and a perceived or subjective threat
  - Sometimes also a function of prior experiences, rather than the immediate situation

# HORMONAL FLOOD



- A release of a number hormones into the body to prompt survival and coping – can occur during an event perceived as traumatic
  - Catecholamine (adrenaline): responsible for fight or flight; creates mobilization, but impairs rational thought and decision-making
  - Opioids: to deal with pain; creates flattening affect
  - Cortisol: increases energy production during stressful situations; impairs blood sugar levels, immune system, and other bodily systems
  - Oxytocin: promotes good feelings to counterbalance sensation of pain

# HORMONAL FLOOD



- The hormonal flood may last for 96 hours (four days) and may be reactivated by a triggering event
  - Physical toll on body: headaches, body ache, and GI issues
  - Compromised decision-making
  - Emotional swings
  - Self-medicating behaviors
- Yet we sometimes expect reporting parties to make major decisions and recount the incident during this time

# EFFECTS OF FLOODING



Hormones are released in varying amounts and may result in behavioral differences among reporting parties:

- Fight, Flight, Freeze – not a choice
- Also impacted by chemical surge into prefrontal cortex, impairing ability to think rationally
- May present to you as confused, laughing, crying, flat, angry, irritable, or variable



# TONIC IMMOBILITY



*Some reporting parties may 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

# MEMORY AND TRAUMA



- Memory is formed in two steps:
  - Encoding: organizing sensory information coming into brain
  - Consolidation: grouping into memories and storing the stimulus
- Trauma can interfere with the encoding and/or the consolidation of memory
- May create fragmented memories
- Recall can be slow and difficult
- Alcohol may interfere further with memory
- However, sensory information (smell, sound, etc.), may still function properly

# MEMORY AND TRAUMA



- Responses 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

# TRAUMA & INTERVIEWING



- Expecting a reporting party to give a linear account in the days after an incident, or after having been triggered, is not always realistic
- Memory fragmentation can occur
- Having “inconsistent” memory, pausing, and stumbling to provide an account are not outside the bounds of what one could expect from a person who has experienced trauma
- Considerations for credibility assessment?

# INTERVIEWING CONSIDERATIONS



- A non-linear account, with jumping around and scattered memories is not uncommon
- If alcohol is an additional factor, narrow and detailed questions will be difficult for reporting parties to access and may create additional stress
- Use open-ended questions where possible
- Don't interrupt or barrage with questions
- Be patient

# QUESTIONING AND TRAUMA



- Empathy is critical.
  - However, remember to remain impartial.
- Tell me more about...
- Help me understand your thoughts when...
- What was going through your mind when...
- What are you able to remember about...?
  - 5 senses
- What were your reactions to this experience?
  - Physically
  - Emotionally
- What, if anything, can't you forget about this experience?

Source: Partially drawn from Russell Strand, Forensic Experiential Trauma Interview: A Trauma Informed Experience.

# TRAUMA & CREDIBILITY



- Trauma can negatively impact a reporting party's credibility
- Trauma may help explain:
  - Inconsistencies in a reporting party's statement
  - Lack of linearity in a reporting party's account or statement
  - Reporting party's lack of memory about an incident
  - Memory errors by the reporting party
  - Reporting party's demeanor or affect
  - Reporting party's brief answers, or answers lacking in detail

# TRAUMA & CREDIBILITY



- However, while trauma may help explain issues that impact credibility, it typically does NOT excuse them
  - An assessment of credibility must focus on issues such as the reliability, consistency and believability of the parties
  - If, for example, a reporting party's account is inconsistent or variable, lacking in detail, or has material memory gaps, it typically lacks credibility
  - An understanding of trauma and its impact will provide insight as to why some credibility deficits exist, but a trauma-informed understanding should not materially impact a credibility assessment
- Use caution because actual or perceived trauma may have little or nothing to do with consent



# INTERVIEWING THE RESPONDING PARTY



- 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 responding party.
  - 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:
  - 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 IMPARTIALITY



- **Own experiences...**
- Student Development Approach
- Student-Athletes
- Fraternity/Sorority Life
- International Students
- Sex/Gender
- Undergraduate vs. graduate students
- Race
- Ethnicity
- Nature of the Violation
- Religion or religious beliefs
- Academic Field of Study/Major
- Mental Health
- Disability
- Politics
- Attitude
- Others?



# 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)

# CONSIDERATIONS FOR INVESTIGATIONS



- 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.

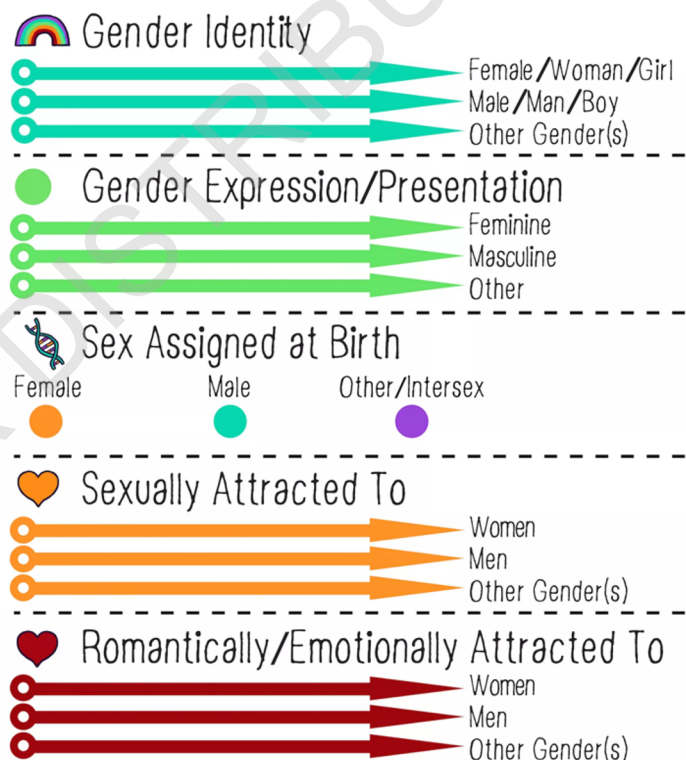
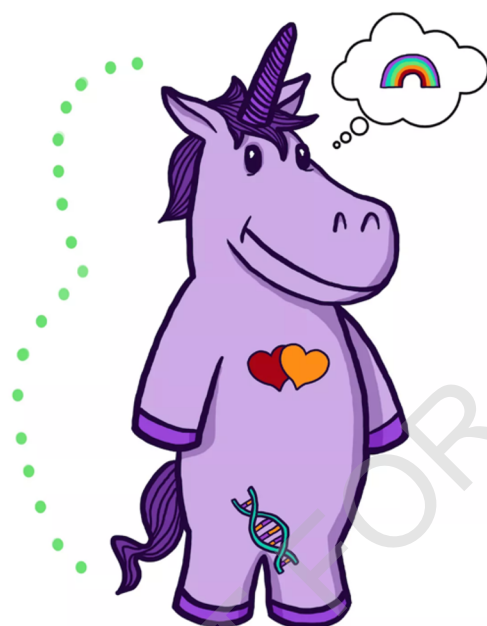
# INCLUSIVE INVESTIGATIONS

- 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](http://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 actual 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.



# RELUCTANCE TO REPORT: LGBTQI



- 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.

# RELUCTANCE TO REPORT: LGBTQI



- 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.”
- Assume nothing and allow for self-identification.
- Provide a safe, non-judgmental and respectful environment.
- A visible reaction may negatively impact rapport.

## 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



- “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



- Demeanor
  - Nonverbal language
  - Demeanor issues should be cue to ask more questions
- Non-cooperation
  - Look for short, abrupt answers or refusal to answer
  - OK to ask, “You seem reluctant to answer these questions – can you tell me why?”
- Logic/consistency
  - Ask yourself, “Does this make sense?”
- Corroborating evidence
- Inherent plausibility – is the evidence more likely than the alternative?

# 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

# SAMPLE CREDIBILITY CONTEXT LANGUAGE



- Credibility is critical in an investigation where, as here, the parties are the only witnesses to the actual incidents. Credibility and honesty are not synonymous, as credibility reflects the ability to believe or have trust in the statements and information provided by parties and the witnesses.
- The lack of detailed or specific evidence from either or both parties or the witnesses negatively impacts the credibility of the information they provided. Credibility in word-against-word cases is often the most critical issue that tips the evidentiary scales to one party or another, thereby determining a finding.

# SAMPLE CREDIBILITY CONTEXT LANGUAGE



- This is particularly true on the key or material issues such as consent, capacity to consent, or comments or behaviors during an alleged incident.
- In this situation, there were no direct witnesses to the alleged incident other than the parties. However, reasonably contemporaneous evidence, such as disclosures to others about the alleged incident, text messages, as well as material shifts in a person's behavior, etc. are helpful in determining the credibility of the parties.

# SAMPLE CREDIBILITY CONTEXT LANGUAGE



- Because the parties are the only ones present for the alleged incident, witness statements and interviews serve as corroborating information and are primarily employed to render credibility-based determinations, not necessarily conclusions as to the incidents themselves.
- If the accounts provided to various people at different times are largely similar, particularly over time, that enhances credibility. Minor inconsistencies in accounts or memory errors on the part of the parties or witnesses are expected, but significant

# 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

---



! 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



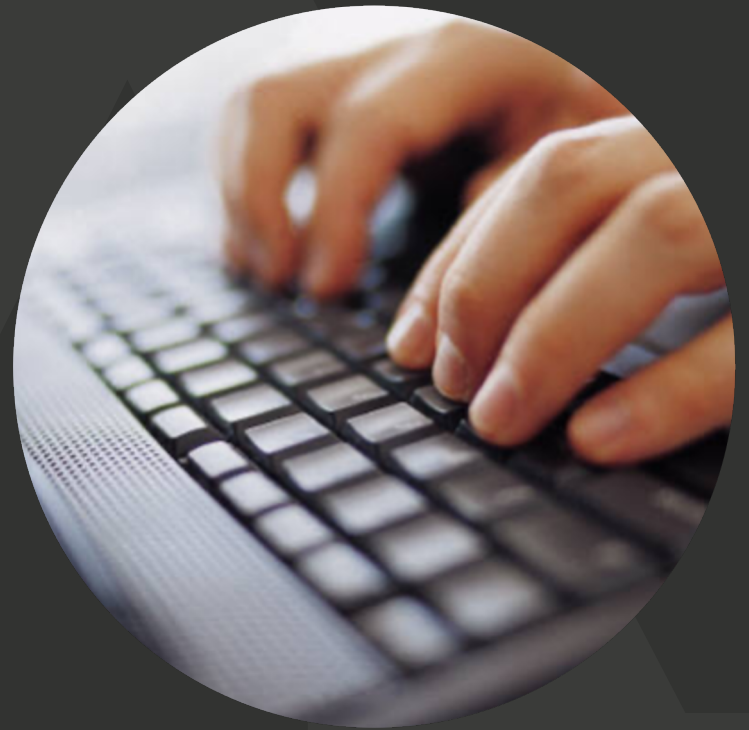
1. Assess evidence carefully. For each piece of information you have as a result of your analysis and matching process you need to assess its evidentiary value:
  - a) What are the facts? They carry the most evidentiary weight.
  - b) What is the circumstantial evidence?
  - c) What are the opinions 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

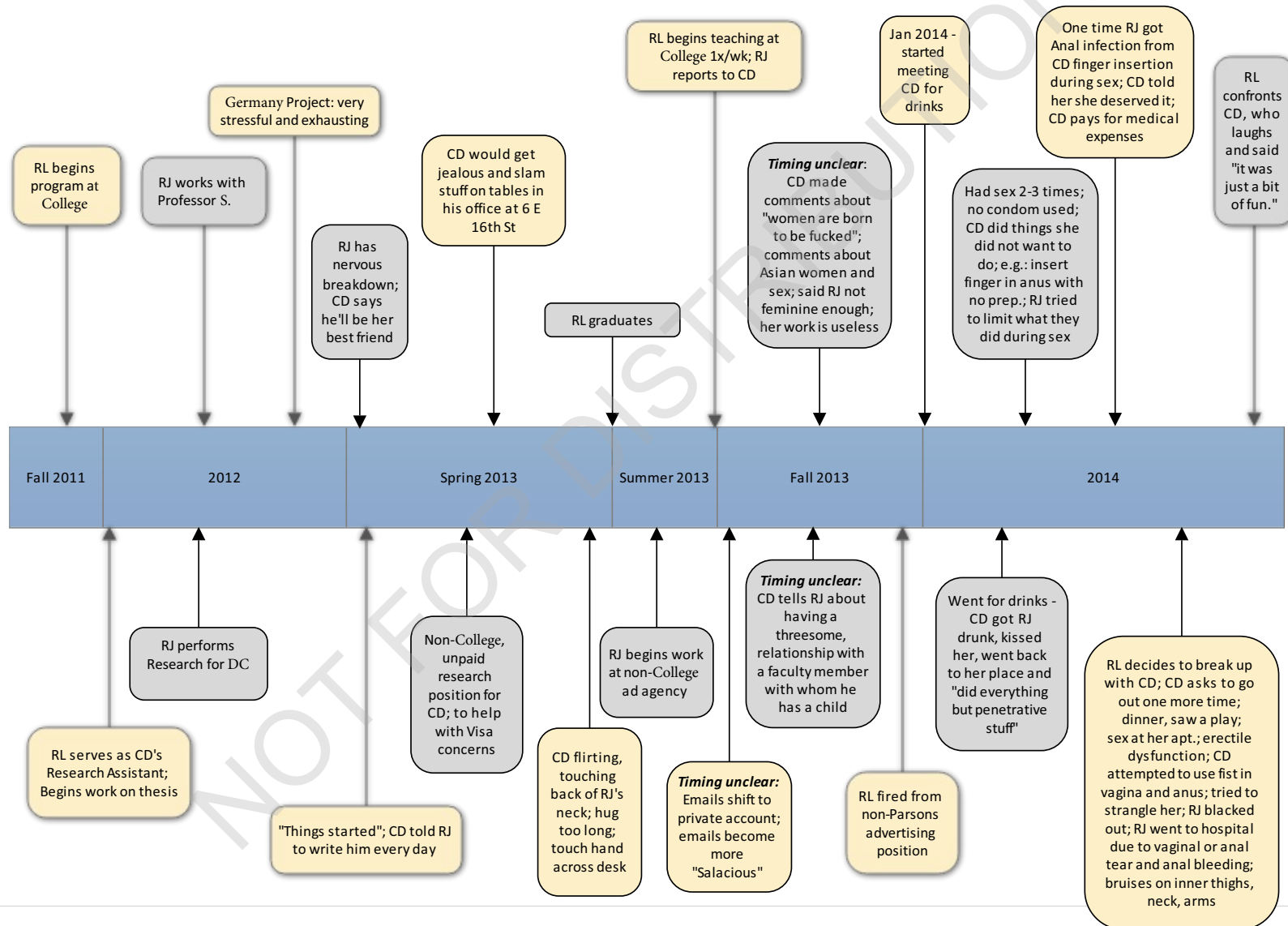


- Results of interviews with parties and witnesses.
- Results of interviews with experts.
- Summary of other information collected (i.e., information from police reports including pretext calls, medical exams, video surveillance and photographs, copies of texts, emails, and social networking messages,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

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# Importance of Timelines



# CONTACT INFORMATION

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# MORE ATIXA CASE STUDIES

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- “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

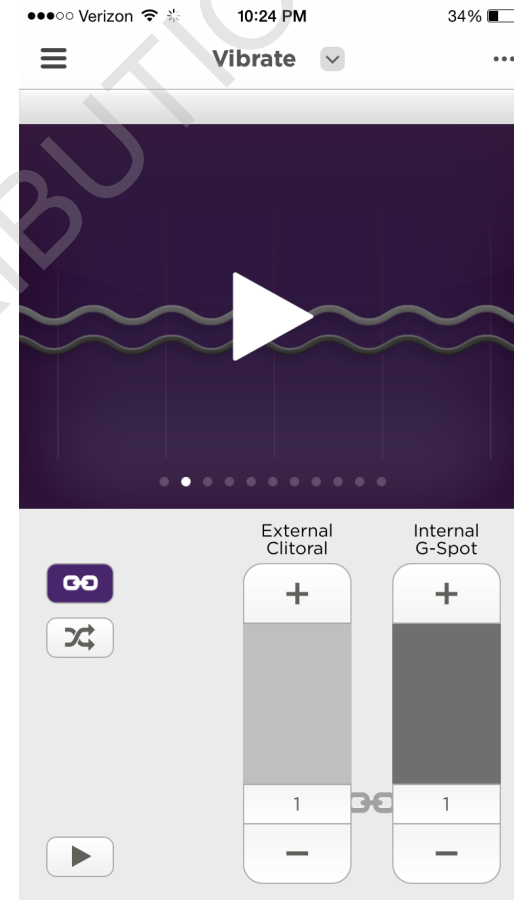


- Maris purchases a product called the we-vibe (<http://we-vibe.com>) that allows Maris to insert the vibrator and have the speed, duration, and vibration intensity controlled by an app on both her and Greg's phone.
- Their sex life includes the use of vibrators and toys and some light BDSM play. Both 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.

# SCENARIO DISCUSSION: ANGELA & JAMES



- On Friday, July 14th, Angela – an Atlanta State student (age 19) – attends a party at a friend’s apartment. Prior to the party, she and some of her friends gather at a nearby house and pre-game from 10:00pm - 11:00 p.m., where Angela had five or six shots of vodka. She and her friends then walked over to the party. Upon arrival, she was handed a solo cup of vodka-laden “punch” from a cooler. From 11:00 p.m. – 1:00 a.m., Angela drinks two full cups of “punch.”
- Assume Angela has not eaten anything since 6:00 p.m.

## SCENARIO DISCUSSION: ANGELA & JAMES



- James – an Atlanta State student –did not enroll in the spring, but plans to enroll in the fall, had a basketball game Friday evening. After the game he received a Snapchat invite to a party, so he went home to shower and dress. He arrived at the party at around 11:00 p.m. and soon began dancing with Angela. James had three “Jack and Cokes” before the party, and from 11:00 p.m.-1:00 a.m., drinks 2 1/2 cups of the vodka-laden punch.
- James is also taking anti-depressants and took some of his roommate’s Adderall prior to a test that afternoon.

## SCENARIO DISCUSSION: ANGELA & JAMES



- By midnight, James and Angela are getting more physically intimate with each other and their dancing is very...intimate.
- Around midnight, Angela stumbles outside and throws up leaning over the porch railing. Some of the partiers take video of Angela throwing up and post it to a private Facebook page they share with about 50 other students and they tag it #PartyFail.
- James goes looking for Angela and finds her outside, leaning over the porch looking queasy and offers to walk her home. Angela's friends see her stumbling away with James, but don't want to get involved or "block" the situation.

# SCENARIO DISCUSSION: ANGELA & JAMES



- The next morning, Angela wakes up naked, with a pounding headache, and in a room she has never been in. She looks around and sees some of James' things and realizes she is in James' room. She also sees an empty condom wrapper on the nightstand and can feel that something happened.
- Sensing movement, James wakes up naked and is startled to find Angela in the bed. He looks at her, sees her confusion and says, "what did we do?"
- A week later, Angela tells a friend that James raped her. The friend then reports this to an Assistant Dean of Students.

## CASE STUDY: BLU-RAY



- The reporting party in a sexual misconduct allegation stated that after the assault, responding party 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 responding party was in the bathroom, reporting party played the Blu-Ray disk that was in the player. She contends that the way responding party 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: THE INTERESTED PROFESSOR



- The reporting party, 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.