



Equal Opportunity & Nondiscrimination

Investigator Training

Human Resources Division

August 6-7, 2025

Outline of Today's Presentation

- » Brief review
- » Investigation Techniques

DESIGNATED OFFICER TASKS

- » Jurisdiction and scope
- » Conflicts of interest
- » Interim actions re: health, safety concerns
- » Primary person to ensure process moves forward through each relevant step of the procedure
- » Release of information requests



INVESTIGATOR TASKS

- » Conducts a fact-finding inquiry or investigation of the complaint, including scheduling and holding interviews and requesting record information; may delegate this to another trained investigator
- » Informs involved parties of right a union representative or support person to accompany them during investigative interviews, as appropriate
- » Informs involved parties of the protection and prohibition of retaliation per policy
- » Creates, gathers, and maintains investigative documents as appropriate



INVESTIGATOR, CONTINUED

- » Writes investigation report with organized attachments
- » Outlines facts in the investigative report based on information collected through the interview process and review of gathered documents
- » Primary person to ensure process moves forward through the investigative steps
- » Handles all data in accordance with applicable federal and state privacy laws, consulting with the campus Data Practices Officer when necessary
- » Provides all investigative materials to the Designated Officer for recordkeeping



THE INVESTIGATION

- » Provides enough information for the decisionmaker to make a reasoned decision about whether policy has been violated
- » Maintains integrity of process
 - Timely
 - Fair to both parties
 - Provide confidentiality as required by law
 - Thorough
 - Tailored to individual circumstances
- » Provides findings of facts, **not** findings of policies



DECISION-MAKER TASKS

- » Determines whether there is any real or perceived conflict of interest
- » Receives and reviews the investigation report
- » Provides notice to the Complainant and Respondent regarding receipt of report, their role as Decisionmaker, and anticipated timeline for decision
- » Makes sure the investigator has complied with Minnesota State procedures
- » May meet with parties or request additional information from the investigator



DECISION-MAKER, CONCLUDES PROCESS

- » Decides whether policy has been violated based on information provided in report
- » Writes reasoned decision based on facts, available information, and policies
- » Provides decision letters to complainant and respondent of their findings regarding a policy violation; copy to the Designated Officer
- » Provides all related report materials to the Designated Officer for recordkeeping



Decision Factors

- » Weigh evidence and evaluate credibility
- » Consider the totality of circumstances
 - History of complaints/grievances
 - Treatment of others (those who are different and those who are similarly situated)
 - Skills/competencies of supervisors demonstrated by past actions
- » What is more convincing, more credible, and has greater probability



Relevant Evidence

For 1B.3/Title IX

- » Evidence is generally considered **relevant** when it helps determine:
 - Whether the Respondent violated policy, and/or
 - The credibility of any evidence, including a party or witness statement
- » The Investigator initially evaluated relevance, but the DM ultimately decides
- » All relevant evidence must be objectively evaluated and considered
 - **Inculpatory**: tending to suggest a finding of responsibility
 - **Exculpatory**: tending to suggest a finding of not responsible
- » In the decision-making phase, parties may dispute the Investigator's initial relevance determinations



Relevant Evidence Exclusions

For 1B.3/Title IX

- » Evidence of the **Complainant's sexual predisposition** is never relevant
- » Evidence of the **Complainant's prior sexual behavior** is not relevant except:
 - If offered to prove that someone other than the Respondent committed the alleged conduct; or
 - Specific incidents of the Complainant's prior sexual behavior with respect to the Respondent offered to prove consent
- » Exclusions apply even if admitted or introduced by the Complainant
- » Exclusions do **not** apply to the Respondent's prior sexual behavior or predisposition, which are admissible if relevant



Credibility Considerations

- » Assessing and determining credibility is an important DM role
- » Credibility is often a function of **corroboration and consistency**
- » Credibility does **not** necessarily equate to honesty or truthfulness:
 - Believability does not equal truthfulness
- » Credibility impacts the **reliability of evidence and its weight**
- » Specific credibility issues that a DM may consider:
 - Relationships between the parties and witnesses
 - Whether a witness was exposed to information (e.g. in the case of a parent or Advisor) that may have influenced their testimony



Credibility: Parties and Witnesses

- » **Credibility** impacts likeliness
 - Would a reasonable person do the same?
 - Are there more likely alternatives?
- » **Credibility Assessment** involves evaluating whether evidence is believable and reliable
 - Refrain from focusing on irrelevant inaccuracies and inconsistencies

NOTE: Memory errors alone do not necessarily diminish witness credibility, nor does some evasion

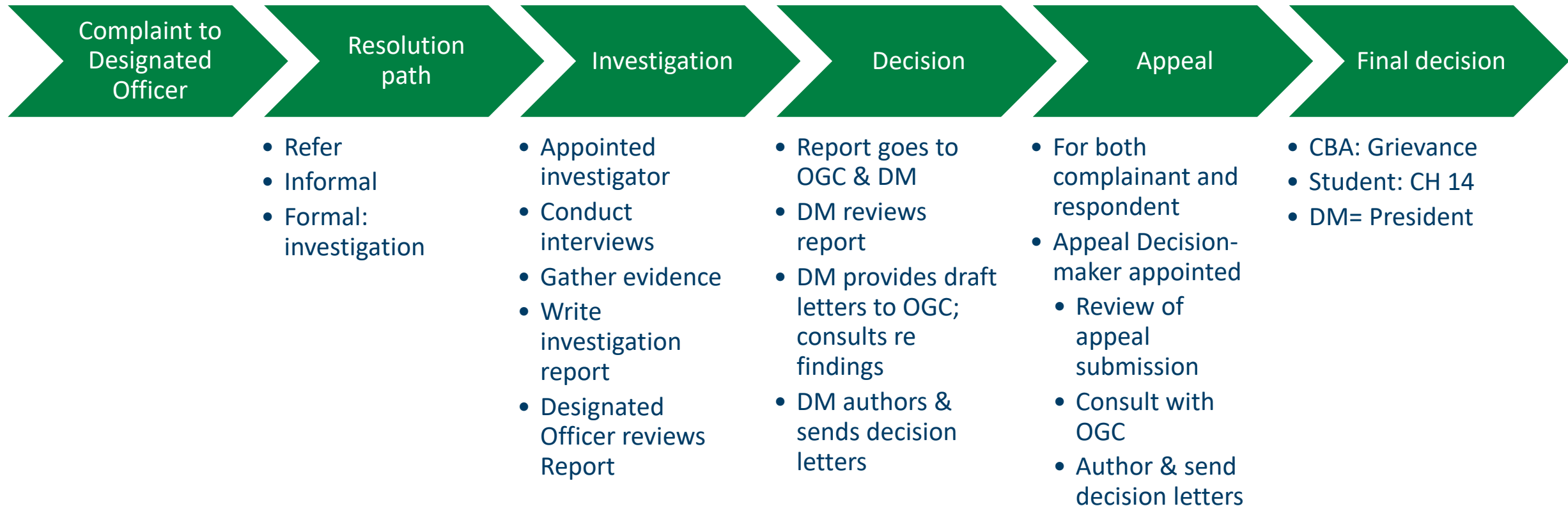


Deciding if Misconduct Occurred

- » Standard of proof in determining a 1B.1 and 1B.3 violation
 - Preponderance of evidence; i.e. more likely than not to have occurred
 - Secondary information has value
 - Reasonable inferences also are used



Procedure Overview 1B.1.1



Procedure Overview 1B.3.1

Complaint to Title IX Coord.	Resolution path	Investigation	Formal Hearing	Decision	Appeal	Final decision
	• Refer • Informal • Formal: investigation	• Appointed investigator • Conduct interviews • Gather evidence • Write investigation report • Title IX Coord. reviews Report	• Report goes to parties & DM • Formal hearing with hearing administrator	• DM provides draft letters to OGC & TIXC; consults re findings • DM authors & sends decision letters	• For both complainant and respondent • Appeal Decision-maker appointed • Review of appeal submission • Consult with OGC • Author & send decision letters	• CBA: Grievance • Student: CH 14 • DM= President

Investigation Skill-building

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Part 1: Investigation Strategy

INVESTIGATION SCOPE

» Scope of Investigation

- What are the allegations?
 - 1B.1, 1B.3, RWP, Code of conduct, etc.
 - What are sub-elements
 - Partnership w/ other departments
- Who are the involved parties?
 - Multiple respondents; multiple complainants – may consider splitting
- Do the allegations arise out of same set of facts
 - If not, consider splitting or referring non 1B.1/1B.3 matters
 - Allegations for each specific Respondent
- Why is scope important?
 - Prevents Scope creep i.e., getting lost/sidetracked
 - Can help structure interviews



CREATING INVESTIGATION PLAN

- » Outline the scope
 - Complainant(s); Respondent(s); policies, allegations
- » Allegations
 - What are the elements
 - Track information that goes to each element
- » Witnesses
 - Large witness pool
 - Name, role, who identified by, information they possess, interview date, evidence submitted
- » Investigative questions
 - Outline for each party
- » Evidence
 - Received; Needed



COLLECTING EVIDENCE

- » Initial evidence to collect and review
 - Time sensitive evidence
 - Security footage
 - Keycard access
 - University owned devices
 - Initial records to review
 - Internal past 1B.1/1B.3 records
 - Personnel files
 - Conduct records
 - Reports: security, residential life, etc.
 - Org. Charts
 - Create a timeline
 - Continue to grow as more information is gathered
 - Tracking
 - Who provided what and/or where it was found



TYPES OF EVIDENCE

- » Direct Evidence
 - Evidence based on personal knowledge or observation of a fact (can include documentary evidence)
- » Documentary Evidence
 - Written or recorded material used to prove its contents
- » Circumstantial Evidence
 - Direct evidence of a fact from which a person may reasonably infer the existence of another fact
 - Statements or behavior in other situations that support or refute alleged conduct
- » Character Evidence
- » Corroborating evidence
 - any admission or rationalizing of conduct; specific denial; witnesses with the opportunity to observe, recognize, or understand the situation
- » Hearsay Evidence



TYPES OF EVIDENCE, CONT.

» Hearsay Evidence

- Information received from someone other than the interviewee
- Offered to prove the truth of matter asserted

» Exceptions to hearsay

- Excited utterance
- Present sense impressions
- Recorded recollection
- Records of regularly conducted business activity
- Public records and reports
- Records of vital statistics
- Then existing Mental, emotional, physical condition



EXAMPLES OF EVIDENCE

- » Personnel files/conduct records
- » Meeting minutes
- » Emails, voicemails, text messages. Etc.
- » Security or Residential life report
- » Social media records
- » Supervisory notes
- » Grading data
- » D2L records



PARTNERSHIPS TO OBTAIN EVIDENCE

- » Security
- » Student Conduct/Student Affairs
- » Human Resources
- » Residential Life
- » Athletics
- » Other campus processes
- » Ombudsperson
- » Campus advocate
- » Law enforcement



WHO TO INTERVIEW

» Complainant & Respondent

» Witnesses

- Those present in incident(s)
- Outcry witnesses – administrators, friends, family complainant/respondent shared with about incident(s)
- Those involved in documenting incident or process/response - security, other administrators, etc.
- Focus on witnesses that have knowledge of the incident rather than the character of the individual

» Document interview decisions

- Who is doing the interview and why
- Why was someone not interviewed



SCHEDULING INTERVIEWS

- » Order of interviews
 - Strategy – different order for different situations
 - Witnesses – may be helpful to start w/ "neutral persons"
- » Timing
 - Set aside enough time: prep, interview, notes/reflection time
 - Consider past interactions with party
 - Consult interview outline
- » Flexibility – timing and location
 - Provide location options but be sensitive to different needs.
 - i.e., - Zoom requires technology, internet, etc.
- » Accommodations
 - Know who/what departments to partner



TYPES OF MEETINGS AND INTERVIEWS

» Complainant

- Intake
- Investigatory interview
- Follow-up interview

» Respondent

- Initial meeting
- Investigatory interview
- Follow-up interview

» Witness

- Investigatory interview
- Follow-up interview



NOTICE OF MEETINGS

» Complainant

- Outreach letter
- Notice of formal investigation – Notice of Informal Resolution
- Notice of investigation and decline to file letter
- Notice of reassignment

» Respondent

- Notice of review
- Notice of investigation (formal or informal) and allegations
- Notice of reassignment

» Witness

- Witness Pre-interview letter



MEETING STRUCTURE

- » Interview structure consistent for all parties
 - "speeches" - overview of meeting, about role/office, policy, procedure, flowchart; advisory notice, waiver of union, privacy of interview' recording/note taking timing of interview
 - Review allegations – respondent meetings
 - Background – name, title/year, start date, major, involvement in extracurriculars/committees, explanation of role, where they live on campus
 - Interim actions and supportive measures
 - Resources
 - Next steps
 - Reminder about retaliation



Part 2: Strategies for managing investigation-based challenges

BIAS

- » A disproportionate prominence in favor of or against an idea or thing, usually in a way that is closeminded, prejudicial, or unfair
 - Can be innate or learned
 - Bias can be for or against an individual, group, or belief
- » Title IX requires a college or university to conduct a “prompt, thorough and impartial inquiry.”



TYPES OF BIAS

- » First Impression Bias
- » Affinity Bias
- » Confirmation Bias
- » Attribution Bias
- » Characteristic based bias
 - Race, ethnicity, gender, religion, sexual orientation, socioeconomic, educational, etc.
- » Anchoring bias
- » Beauty Bias



Sexual Misconduct Case Specific Biases

- » The subject matter of these cases is often personal and very intimate
- » Most of us hold our own conscious beliefs and practices when it comes to this content area so it is important not to intentionally or unintentionally cast your lens on the matters you investigate
 - Your own sexual experiences
 - Moral or religious views about sex
 - Comfort level in using terms – subject matter



Alcohol and Drug Use Biases

- » You may have your own views on and experiences with:
 - Alcohol use
 - Drug use
- » These things may have impacted your life



Investigator-Specific Biases

- » Complainant/Respondent is likeable/sympathetic
- » Complainant/Respondent is not likeable/sympathetic
- » Repeat Complainant/Respondent
- » Fact pattern similar to a prior, unrelated investigation
- » Complainant/Respondent behavior patterns



Bias Impact on Investigation

- » Priming – Your pre-investigation or mid-investigation thoughts about the case
 - “This is a really bad case.”
 - “This person has complained three times before.”
 - “This is low level.”
- » Phrasing – The way you ask a question can influence the answer – The misinformation effect
 - Do you get headaches frequently, and if so, how often? 2.2/week
 - Do you get headaches occasionally, and if so, how often? 0.7/week
 - How long was the movie? 130 minutes
 - How short was the movie? 100 minutes

Headaches: Elizabeth Loftus (1975); Movie: Richard Harris (1973)



Rape Myth vs Common Behavior for Victims of Rape

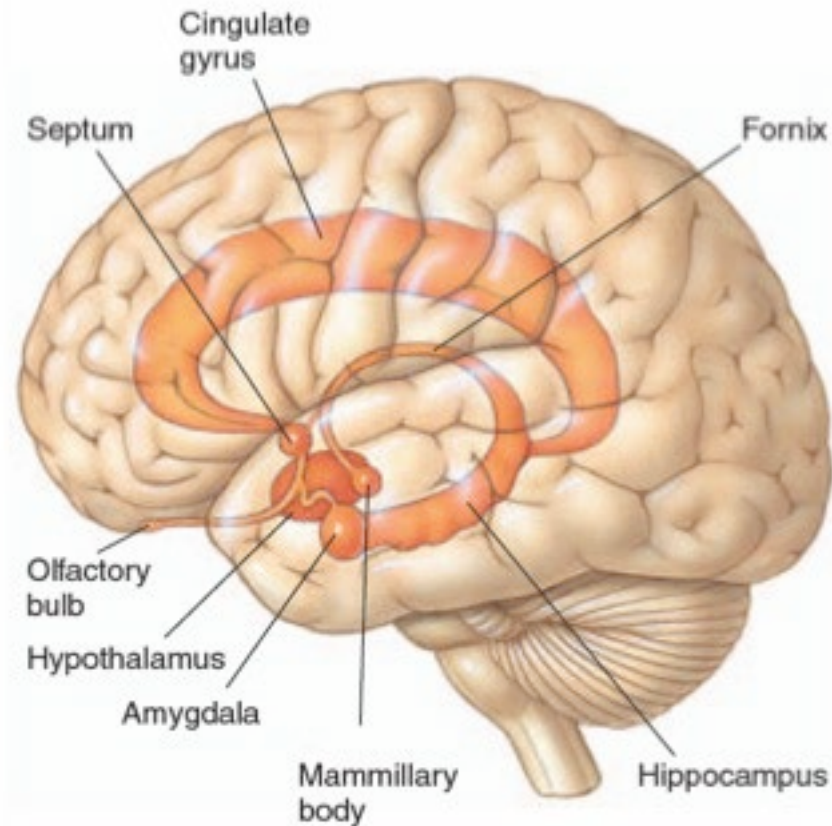
Common Behavior for Victims of Rape

- Delay in reporting
- Change in account of what happened
- Unexpected demeanor/disposition
- Unexpected behavior
 - Contact with person who caused the harm
 - Desire to resume “normal” routine
 - Subsequent sexual activity (sometimes with the person who caused the harm)

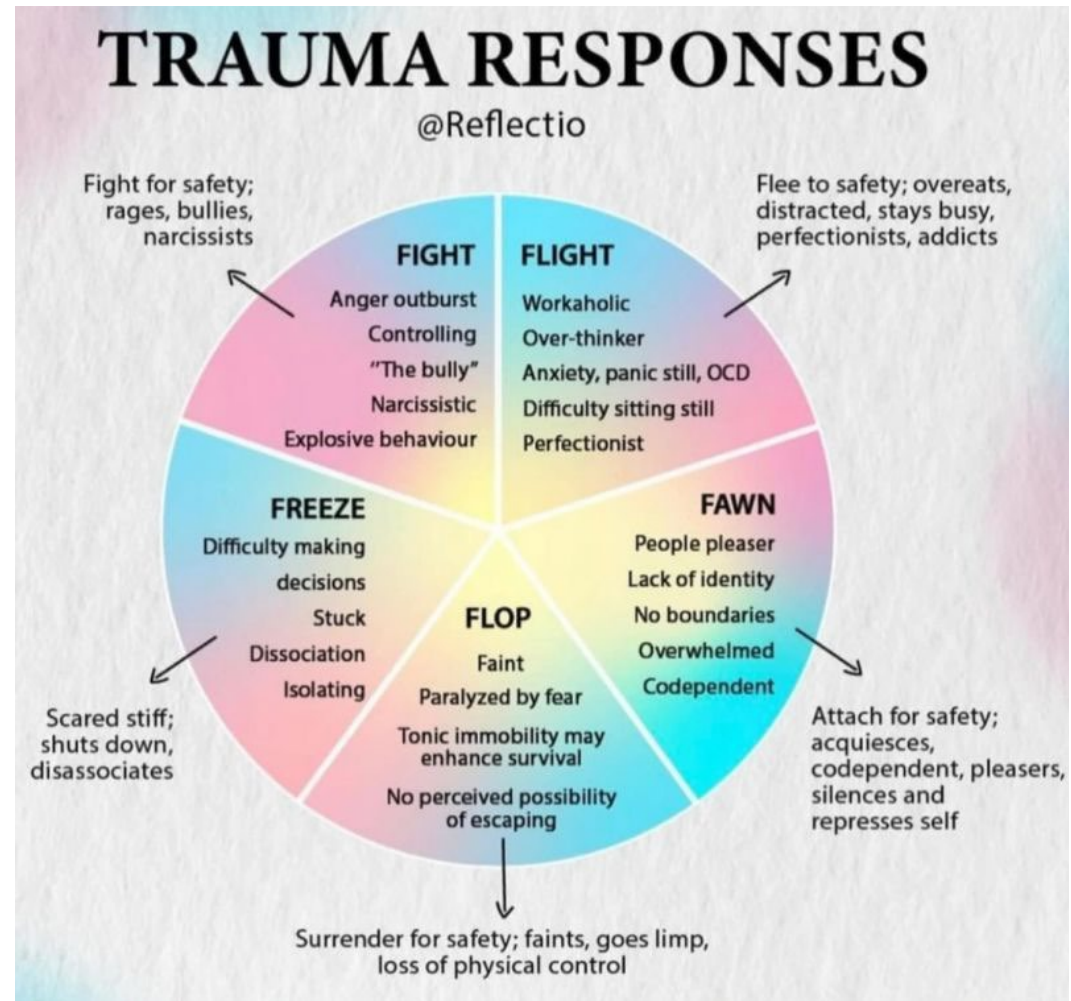


Neurobiological Responses to Trauma

Neuroscience – The Limbic System



Responses of the Brain & Body During Trauma



Freeze or Dissociation

- » Defense mechanism (of the brain) to protect against overwhelming sensations & emotions
 - Occurs automatically, without trying
- » Portions (i.e., memories) of an experience that are normally linked together become “dis-associated”
- » Examples (during & immediately following a trauma):
 - “Blacked out” or “spaced out” – in some way felt that I was not part of what was going on
 - What was happening seemed unreal to me – like I was in a dream or watching a movie or a play
 - Felt “disconnected” from my body



Flop or Tonic Immobility

- Uncontrollable response
- Mentally know what's happening but physically unable to move (like being awake during surgery)
- Rate of occurrence
 - 12 – 50% victim/survivors of rape experience tonic immobility during assault (most studies are closer to 50%)
- » Caused by:
 - Fear
 - Physical restriction
 - “Perceived” inability to escape



Autonomic Responses and the Body

» Physiology

- Heart rate, respirations, dilated pupils, dry mouth, knot in the stomach

» Affective (mood and emotion) responses

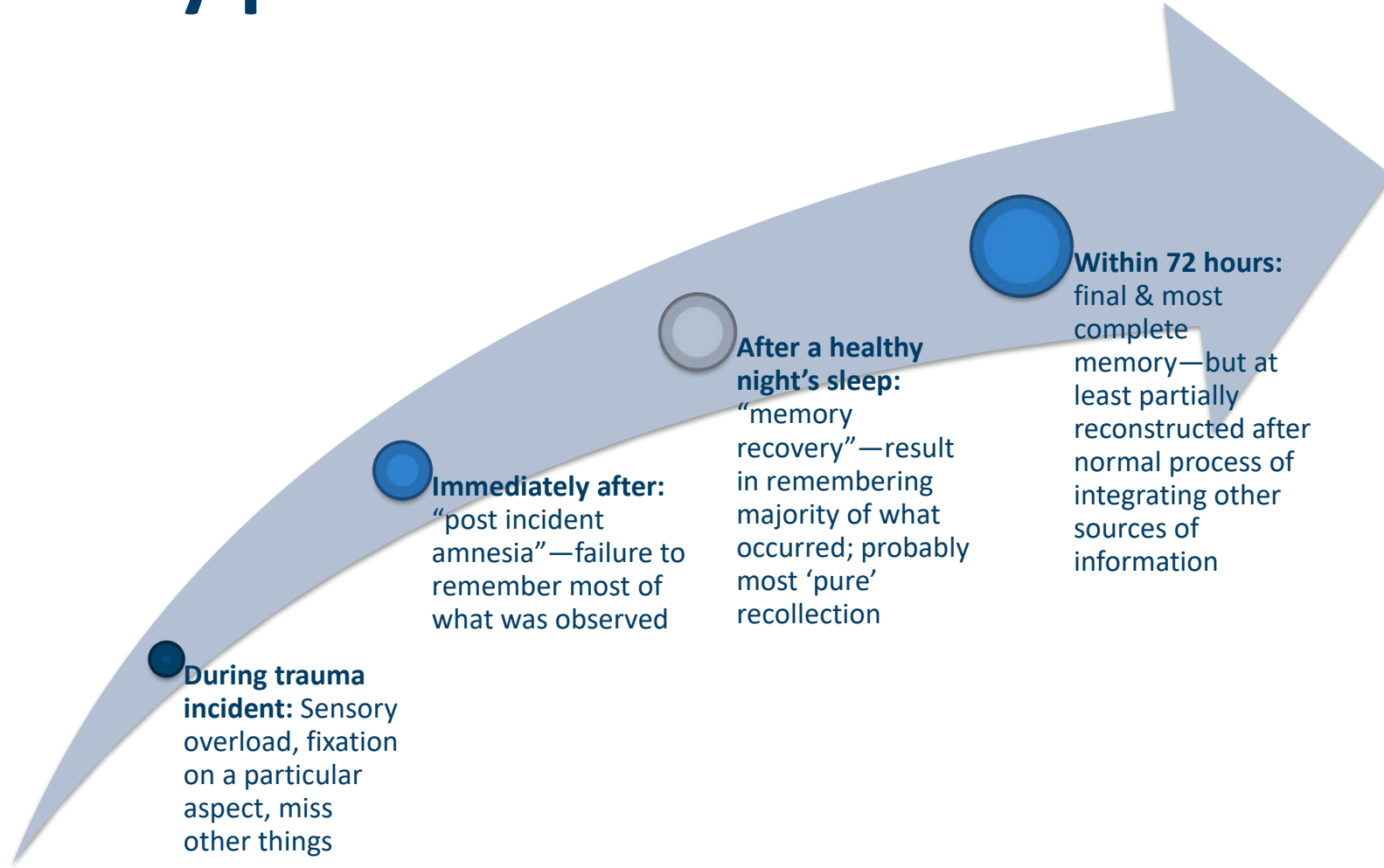
- Fear, helplessness, horror

» Cognitive (thought) processing

- Memory – fragmented, out of sequence
- Time distortion
- Increased confabulation
- Trauma memory and recall



Memory phenomenon in traumatic situations



Impact of Trauma on Victim/Survivor Behavior

- » The effects of trauma can influence behavior of a victim/survivor during an interview
- » People are often reluctant to recall experiences that evoke negative feelings and emotions such as anger, fear, humiliation, or sadness

--Strand, 2013



PARALLEL PROCEEDINGS

- » Independent from any civil or criminal proceeding
- » Not required to delay, and in most cases should not delay due to other proceedings
- » May contact prosecutor/law enforcement to coordinator when feasible
- » Gather available information:
 - Police Report
 - Court records



Best Practices

- » Rely on the policy and procedure
- » Adhere to the policy and procedure
- » Let the evidence lead you



Part 3: Interviewing Approaches

Trauma Informed and Human Centered

- » Empathy and validation
- » Reinforce agency and choice
- » Set clear boundaries
- » Consider the centrality of identity



Trauma Informed Preparation

- » Developing questions in a way that does not assign responsibility, blame, or guilt
- » Creating safe and comfortable interview environment/setting
- » Check your bias especially when reflecting credibility
- » Consider questions that speak to the senses
- » Framing and phrasing meeting invitations, email communications
- » Understand and attend to your own reactions or triggers



Trauma-Informed Approach

- » Pre-interview framing: “it’s okay if you don’t remember something today,” “sometimes it takes time to remember, which is okay”
 - Also clarify: “if you don’t remember yourself but your friends told you that’s what happened, please share that”
- » Let Complainant talk uninterrupted and ask clarifying questions afterwards
 - Consider explaining questions (e.g. “I’m trying to image that”)
 - Avoid asking “why” and victim-blaming; instead “tell me more” or “what do you remember next”
- » Consider asking questions about the other senses
 - Is there any smell about the room that you remember?
 - Do you recall what color the walls or bed was?
 - Were there any sounds or noises that you remember– music? Voices?
- » Do not insist in chronological order retelling; gather the information and organize it



Significant Time Between Incident And Report

- » The norm when the person causing the harm was not a stranger
- » Many victim/survivors are able to report only after they receive the necessary support to do so
- » Why do they wait? For many of the same reasons they later recant
 - They fear repercussions
 - They are pressured by others not to report
 - They feel shame, embarrassment
 - They are afraid of the person who caused the harm
 - They are afraid of not being believed
 - Fear that nothing will be done about it



Cultural Considerations

- » Communication styles
- » Attitudes toward conflict
- » Approaches toward completing tasks
- » Decision-making styles
- » Approaches to knowing
- » Attitudes toward disclosure
 - Appropriate to share emotions, reasons for conflict

--Sue Ann Van Dermyden, 2017



Common Practice Considerations

- » Be mindful of cultural differences
 - Continuum of honesty and face-saving
 - In-group vs. out-group
 - Linear vs. non-linear narrative
- » Check biases, especially when assessing credibility
- » Ask questions in a way that does not assign responsibility, blame, or guilt



Investigation Clarification

- » Policy elements
 - Components defined
 - Evaluation considerations
- » Evidence and credibility
- » For 1B.3.1 (Title IX) Consent construct
 - Force
 - Incapacity
 - Consent



DETERMINE GOALS OF QUESTIONS

- » Who, what, where, when, why, how
- » Intake meeting vs. Investigatory interview
- » Refine scope
- » What information are you missing or have questions
 - Read through reports/complaints and note any questions
- » Policy elements
 - Policy element handout



HOW TO STRUCTURE QUESTIONS

- » Start with broad/open ended questions
- » Allow to tell their story/experience however they choose
 - Where they start/end their story and what they emphasize can be very telling and important for you to have.
- » Clarifying questions
 - Funnel approach
 - Ask to clarify meaning of words/descriptors
- » Allow for Silence
- » Additional questions/things left unanswered
- » Closing questions
 - Is there anything else you think I should know?
 - Anything I didn't ask that you thought I would ask about?
 - Is there anyone that you think I should talk to? Why?



INTERVIEW QUESTIONS for ALL

- » Interview questions for all parties
 - Allow them chance to share their story/experience
 - "Tell me about your experience" - "this is your opportunity to respond to allegations" - "do you know why I asked to meet with you"
 - Prepare what information willing/able to share
 - Ask the who/what/where/when/how questions
 - Summarizing Information back
 - Policy elements
 - Effect/impact



INTERVIEW QUESTIONS CONTINUED...

» Interviewee specific questions

- Respondent – make sure to review allegations before questions
 - Make sure the respondent has an opportunity to speak to each individual allegation
- Complainant – clarify protected class and identity
- What they observed/their perspective of incident(s)
- Inconsistencies with other parties/witnesses
- Evidence specific questions – what they have, might have seen/been part of, etc.
- Desired outcome/resolution



Assessing Credibility



INTERVIEW CONSIDERATIONS FOR CREDIBILITY

- » Look for consistency with out-cry witnesses or contemporaneous reports
- » Assess demeanor
- » Inherent Plausibility
 - Consider relevant past acts; are there alternative versions that are more plausible
- » Compare overlap/consistency with other statements
- » Interviewee who derails questions and/or focuses on irrelevant information
- » Providing inconsistent statements
- » Motives/Relationships
- » Positionality
- » Mind/memory altering substances



Analyzing certain qualities and factors

- » Demeanor: noted reactions to allegations or information shared; behaviors or feelings shared with others
- » Logic and consistency: consistency with what others shared (including possible witnesses); plausible explanations
- » Corroborating evidence: any admission or rationalizing of conduct; specific denial; witnesses with the opportunity to observe, recognize, or understand the situation
- » Circumstantial evidence: statements or behavior in other situations that support or refute alleged conduct
- » Trauma-informed approach: note that trauma itself is not evidence to support or not support



CONDUCTING INTERVIEWS



EACH INTERVIEW MIGHT LOOK DIFFERENT

- » Emotion – crying, anger, indifference, being conflicted, shock, trauma, etc.
- » Timing – short answers, decisions to make, communication styles, etc.
- » How you ask questions
- » Credibility concerns
- » Effort needed to structure interview – redirect, diffuse conversation, etc.



MAINTAINING CONTROL OF INTERVIEW

- » Provide roadmap of interview
- » Safety – Think about how you have arranged the room, security, etc.
- » Union reps/ support persons/parents/lawyers
 - Be clear about what their role is [I.e., don't ask interview questions and don't answer questions) from the very beginning (include in letters; share in speech)
 - Communicate to party and support person (if appropriate)
 - Allow for time and space for them to meet away from investigator (separate room; breakout room, etc.)
 - Give reminders/warnings if necessary
- » Don't be afraid to end a meeting
- » Difference between control and parties not cooperating



PROVIDING EMPATHY AND VALIDATION

- » Empathy for all interviewees
 - Focus on treating the individual as a whole person
 - Develops rapport and shows respect for your story/experience
 - Reduces resistance and allows them to share in supportive environment
- » Remain neutral
 - Don't confuse/misuse as a way to justify actions or suggest leniency in consequences
 - Don't relate to your own personal experiences (this is not about you)
- » Needs to be sincere and genuine
 - Develop your own style
 - Practice using sample language that validates a person's experience but remains impartial
- » Remember to allow space for decisions



CHALLENGING INTERVIEWEE TROPES

- » The Clueless one
- » The Denier
- » The Distractor
- » The Confessor
- » The Explainer
- » The Apologetic one
- » The TV lawyer
- » The Avoidant one
- » The Questioning one



RECORDING AND NOTE TAKING



NOTE TAKING

- » Handwritten, typed, Teams transcript
- » Some of this is a personal preference – be consistent
- » Have outline of meeting/interview
- » Consider a notetaker for support
- » Model notes after investigation report
- » Make notations where you still have questions for follow up or for other parties



COMMON CHALLENGES & TIPS

» Common challenges

- parties talk fast or talk in circles/share repetitive information
- interviews are long
- prioritizing typing notes after interview
- Self-care

» Tips

- type notes/update as soon as possible after interview
- document thoughts for follow up
- have a notetaker
- encourage all to submit a written statement



RECORDING INTERVIEWS

- » Allows the investigator to focus on content/information and being present during the interview
- » Recordings can ensure that all data and information is accurate.
 - Provides for use of direct quotes
 - Allows for investigator to review/reflect to determine what gaps still exist
 - Provides investigator an opportunity to refine investigation skills
- » Recordings can be taken in multiple ways
 - Teams, handheld, etc.
- » Record ALL the interview - including opening information, data privacy review (ask for verbal acceptance), all "housekeeping" information



RECORDING INTERVIEWS, CONT.

- » There are additional nuances of recording that are different from standard interviewing.
 - Open recording stating date, time, and introduction of parties (including spelling of names). End recording with time.
 - Audio recordings do not pick up on non-verbal (head nods, etc.) – prepare parties at beginning of interview and clarify during interview if needed.
- » Develop a plan for your recording - send for transcription, etc.
 - This provides a typed/hard copy of the interview.
- » Transcription review
 - Determine if you want to add this as a part of your process
 - Who can attend to complete the review



RECORDING CONSIDERATIONS

- » Contracts for transcription
 - REV.com, other transcription services.
- » Access to transcripts
 - Who, when, why
- » Storage of recordings and transcripts
- » Data retention policies



Part 4: Components of Investigation Report

GOALS OF INVESTIGATORY REPORT

- » Present findings in a well-written and well-organized format
- » Document the steps taken during the investigation
- » Document the evidence collected and reviewed
- » Provide a clear, objective picture of investigation to the DM
- » Should contain all information a DM needs to make their decision



INVESTIGATORY REPORT COMPONENTS

1. Transmittal letter & Cover Sheet/Disclosure Notice
2. Investigation report cover page
3. Table of contents
4. Introduction
5. Scope & Methodology
6. Policies & Definitions
7. Statements & Evidence
8. Synthesis
9. Exhibit Index



TECHNICAL VS OBJECTIVE WRITING

Technical Writing

- Focuses on explaining complex concepts clearly
- Instructional, procedural, and often involves guidelines/manuals
- Primary goal is to make technical information easy to understand and use
- Written for a specific audience



TECHNICAL VS OBJECTIVE WRITING, CONT.

Objective Writing

- Impersonal and factual
- Focuses on being neutral and informative, ensuring the reader can make their own judgments
- Focuses on credibility but avoids overt persuasions
- Presenting facts without bias
- Written for a general audience



TECHNICAL VS OBJECTIVE WRITING, COMPARISON

Comparing technical and objective writing:

- Both require clarity, structure and accuracy
- Both are focused on fact-based and credible information
- Share a purpose to explain or instruct without bias

Best practices:

- Be concise and avoid unnecessary complexity.
- Stick to facts and connect to relevant exhibits attached to investigatory report
- Avoid language that can be misinterpreted



ASSIGNMENT TO DECISIONMAKER

- » DM Assignment Memo - Introduction of the investigation to DM
 - Investigators contact information
 - Parties' contact information
- » DM Checklist
- » MoveIT Securely Instructions
- » Investigation report and exhibits
- » Notice of DM Assignment sent to Complainant(s) and Respondent(s)
- » Update internal tracking
- » Copies to system office



Thank you.



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