Conducting Trauma-Informed Investigations for Sexual Misconduct Cases

CONDUCTING TRAUMA-INFORMED INVESTIGATIONS FOR SEXUAL MISCONDUCT CASES

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LEARNING OUTCOME

After participating...

...you will be better able to account more completely for the role trauma plays in your investigation process.
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Agenda

- Overview of the Neurobiological Impact of Trauma
- How Trauma Could Impact Title IX Investigations
- Conducting Trauma-Informed Investigations
- Preparing the Final Investigation Report

Trauma Informed Approach

- Check your biases (we all have them)
- Avoid appearing impatient
- Emphasize these points
  - Safe place/comfort
  - Personal support
  - Available services
  - Always remain neutral on the facts
  - Trust and transparency
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Trauma Informed Approach

- Build rapport immediately
- Provide information to the Party
- Acknowledge the difficult situation
- Provide as many options as possible
- The Process
  - Your role (impartial, neutral, fact-finder)
  - Policy
  - Communication
  - Rapport

What would happen if we did not apply trauma-informed training to our investigations?
Value of this Approach

1. Avoid unnecessary biased and unfounded conclusions.
2. Understand how trauma impacts the brain and response of a Complainant during an attack.
3. Strategize to get the most complete story from the Complainant.
4. Trauma informed approach does not rely on a timeline in chronological order.

Neurobiological Impact of Trauma

- Physical Reaction:
  - Brain detects a threat to the body
  - Trauma triggers chemical reaction which impacts
    - Perception
    - Ability to react
    - Memory (fragmented, can’t provide narrative, misinterpreted as lying)
  - Each individual reacts differently (highly subjective)
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- **Neurobiological impact of Trauma (cont.)**

  - Sympathetic
    - “fight,”
    - “flight,”
    - “freeze”
  
  - Focus on survival
  
  - A feeling of dissociation, often described as an “out of body” experience

- **“Rules of the road”**

  - Stay in your lane
  
  - Don’t put your blinkers on
  
  - Remember your role
  
  - Remain neutral
What might be some of the range of emotions that a sexual assault survivor may experience?
ONE SIZE DOES NOT FIT ALL

Trauma - the possible impact

• Shock
• Denial
• Self-Blame
• Embarrassment
• Fear
• Angry
• Confused
• Degraded
• Humiliated
• Demeanor (lack of emotion, misinterpreted as lying)
Trauma Informed Approach

- Complainants may experience certain responses during and after the assault.
- Traumatic memory is fragmented, can’t provide narrative - misinterpreted as lying.
- Demeanor: lack of emotion or odd or inappropriate affect - misinterpreted as lying or “not being upset.”
- Sensory memories may be more detailed.

The trauma informed approach changes the way we respond and investigate, and most importantly the way we interview Complainants.
Trauma Informed Approach

- Important to focus on two concepts:
  - What are you able to tell me about your experience?
  - Where would you like to begin?
    - Provide space to allow Complainant to begin where he/she wants.
    - If Complainant has a run-on statement, let it run.
  - Use follow-up questions (non-leading) for example, “You mentioned that you told him/her “no”, can you tell me what you were experiencing at the time?”

- Instead of asking “why”, ask about what the Complainant was thinking during the experience

- Ask about memories associated with the senses such as: sight, smells, feelings.

- Avoid “Victim Blaming”
  Questions to avoid: Why did you...? Why didn’t you...?
  or ask...
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### Trauma Informed Approach

- Quote Complainant’s exact words on key elements
- Identify Witnesses:
  - Who was there before and after?
  - Who else knows anything about the sexual misconduct?
- Expect fragmented memory

### Current Events
“Rules of the road”

- Stay in your lane
- Don’t put your blinkers on
- Remember your role
- Remain neutral

QUESTIONS
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- Trauma-Informed Approach
- Wrap up

- Clarify information and details
- Focus on the Respondent
- Ask how the experience has affected the Complainant physically and emotionally
- Ask what has been the most difficult part of the experience
- Ask if there is anything the Complainant cannot forget
- Outline communication expectations

- Trauma-Informed Investigation Reports

It is important to integrate interview details into the investigation report.
Trauma-Informed Investigation Reports

Documenting the survivors experience:

- What did “no” look like? (absence of yes)
- What did fear feel like? (paint the picture)
- How did that make you feel?
- What did you think was going to happen?
- What was your thought process...?

Trauma-Informed Investigation Reports

Documenting the Complainant’s experience

Interviewing for sensory and peripheral details

*What did you see, hear, smell, taste, touch*

What were your reactions to this experience?

*Physically and emotionally*

Documenting the psychological after effects of trauma

*What has changed / family & friends observations*
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“Rules of the road”

- Stay in your lane
- Don’t put your blinkers on
- Remember your role
- Remain neutral

Promoting Fairness in Trauma-Informed Investigations

- Equitable and appropriate to use the trauma informed interview approach with Respondent.
- Opportunity to describe the events as to what the Respondent was able to recall about the event.
- Allow Respondent describe their thought and sensor perception regarding the alleged event.
- Questioned respectfully and professionally, non-judgmental manner
Promoting Fairness in Trauma-Informed Investigations

• Crucial to ask follow-up and clarifying questions to complainant without victim blaming:

  *Can you please help me understand the contradictory evidence or counter intuitive behavior?*

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**TAKEAWAYS**

• Traumatic event - brain is in survival mode.
• One size does NOT fit all.
• Your words and reactions matter.
  – *Revictimization will silence a Complainant.*
• Stay in your lane, don’t put your blinkers on, remember your role - remain neutral.
• Apply similar strategy to a Respondent.
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LEARNING OUTCOME

• Strand, Russell, The Forensic Experiential Trauma Interview
• Campbell, Rebecca, Neurobiology of Sexual Assault. National Institute of Justice.
• Dinse, Jeff-Podcast on Promoting Fairness in Trauma Informed Investigations

References
Thank you!

Please remember to complete the event evaluation. Your comments will help us continually improve the quality of our programs.