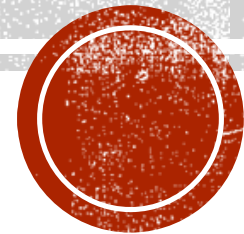


TRAUMA & TITLE IX INVESTIGATIONS

Sarah Thomas, MSW, LCSW



GOALS

- Understand the impact of trauma and how it can affect participants in a Title IX process
- Describe trauma-informed interviewing skills and techniques for investigations of sexual assault, stalking, and interpersonal violence
- Consider how trauma-informed processes can support reporting



TRAUMA

- Individual trauma results from an event, series of events, or set of circumstances experienced by an individual as physically or emotionally harmful or life-threatening with lasting adverse effects on the individual's functioning and mental, physical, social, emotional, or spiritual well-being.
 - SAMHSA



TRAUMA INFORMED INTERVIEWING

- Places a premium on the creation of a safe space in order to build trust
 - Compassionate, understanding, listening
 - Open-ended questions
- Understands the limits of memory and traumatic memory
- Understanding trauma and its potential lasting effects, while ensuring fairness to all parties, is crucial in investigations



- **The quality of sexual assault and intimate partner violence (IPV) investigations can be enhanced if the potential neurobiological effects of trauma are taken into account when conducting investigations.**



EFFECTS OF TRAUMA ON MEMORY

- During trauma, the brain detects a threat to survival
- When trauma occurs, the prefrontal cortex will frequently shut down leaving the less advanced portions of the brain to experience and record the event.
- The body produces hormones that affect regions of the brain where memories are encoded



EFFECTS OF TRAUMA ON MEMORY

- Memory of trauma is often fragmented and impaired due to changes in the brain chemistry
- Recall can be partial and asynchronous
- Individuals may not be able to recall some details at all, may not be chronological, or their ability to recall details may improve over time
- In addition to the nature and severity of the incident, contributing factors can include personality, resiliency, prior victimization, and the availability of a support system.



POTENTIAL SIGNS OF TRAUMA

- Difficulty concentrating, disorganization
- Instability, anger, temper, flat affect
- Shame, sadness
- Reluctance, ambivalence regarding investigation process
- Health decline
- Difficulty sleeping
- Destructive coping behaviors
- Disassociation/confusion
- Intrusive thoughts, nightmares, flashbacks



“COUNTERINTUITIVE” BEHAVIORS

- May appear “normal” to others after an assault
- May behave “normally” around other party when deciding what action to take
- May even seek contact with other party to convince self it didn't happen
- May delay reporting, if they report it at all
- May engage in consensual sexual or social activities after the assault



“COUNTERINTUITIVE” BEHAVIORS

- **May engaged in normal communication and texting after the assault**
- **May not cease all contact when first becomes concerned about stalking behavior**
- **May not leave or discontinue all contact with reportedly abusive person immediately**
- **Affect when describing the event may seem evasive or counter intuitive-they might be laughing, smiling, or seem emotionless**



FIRST IMPRESSIONS

- The reporting party first impression is very important
- Inappropriate comments during the reporting party's first report or during investigation can turn a complainant away from the process which:
 - Keeps the complainant from getting resources and support
- Provide support
 - Kindness, compassion, patience, and empathy- This may take additional time
- It may be difficult to establish trust with someone whose trust may have been horribly violated by another human being they may have trusted.



INTERVIEWING

- Pay special attention to how your actions and words could affect parties
- Document interview carefully in a manner that allows you to maintain focus, attention on sensitive matters being discussed.
- Don't allow distractions to imply lack of sensitivity and respect
- Allow parties to tell their account of the events first before going back and asking questions



- Try not to imply judgement with questions
 - “Why did you go to the respondent’s room?”
 - “Why didn’t you report this right away?”
- Ask open-ended questions initially and ask for more details as the interview progresses
 - “What happened next?” “Who else was there?”



QUESTIONING

- Open-ended question may yield better information
 - E.g. “what do you remember about_____?”
 - Not: “start at the beginning and tell us everything that happened?”
 - To facilitate ongoing conversation “tell me more about that” or “tell me more about_____.”
- Keep effects of trauma and issues related to IPV, sexual assault and stalking in mind when framing questions
- Do not engage in “victim blaming”



- Do not automatically assume any party is not credible just because memory, behavioral features (as discussed earlier) are present
- But: do not automatically assume policies were violated just because trauma may be present—the decision must be based on preponderance of the evidence presented
- Seek clarification of inconsistencies to the extent possible



INTERVIEWING THE REPORTING PARTY

- Acknowledge the conversation will be difficult
- Preface rational for asking questions about:
 - Motivation, choices, clothes
 - Use of drugs/alcohol
 - Inconsistencies
- The point: you are not “victim blaming”- you are gathering necessary details without pre-judgment



- When you ask challenging questions, communicate why you are doing so, and pay attention to your tone and facial expressions.
- Be strategic; always consider why you are asking a question. Questions that serve your curiosity but don't further an investigation should be avoided.
- Even if reporting parties are highly educated, ask questions in simple language, because while they are in crisis, they may struggle to follow more complicated language or compound questions.



INTERVIEWING THE REPORTING PARTY

- Focus on what can be remembered
- Memories related to senses of smell, hearing, touch, taste, sight may be better formed due to effects of trauma on memory
- Try to understand the experience and thought processes during the event
- Recollection of details may improve over time and through follow-up interviews



INTERVIEWING THE REPORTING PARTY

- **Goal:**
 - Who, What, When, Where, and Why
 - Establish chronology, even if complainant doesn't recall all events chronologically
 - While understanding these details can be difficult for complainants to recall or can be inaccurate
- Memory encoding during a traumatic event is diminished and sometimes inaccurate. Due to bottom-up attention processes focused only on central details perceived as essential to survival and self-defense, many aspects of the event, including those deemed by investigators as essential facts of the crime, may not be encoded strongly or at all.



INTERVIEWING THE REPORTING PARTY

- If they are disengaging or becoming increasingly anxious, this may be sign that you need to slow down, take a break, or shift your line of questioning.
- If you trigger something inadvertently, back off or withdraw the question. You can always come back around to it later in a different way



INTERVIEWING THE REPORTING PARTY

- Explain your neutral role
- Emphasize the university wants to know about any retaliation concerns
- Make sure complainant knows that if they recall additional information they can contact the investigator(s)
- Let the reporting party know that they interviewer(s) may be or will likely be back in touch after interviewing others.



- **Be clear about what you can share and what you can't, and how often you'll communicate with them throughout the process.**
- **Bookend interviews by road mapping what happens next and how they wish to be contacted by you for updates.**
- **Keep them informed as the investigation progresses, if they desire that.**



- A well done trauma-informed investigation does not assume everything the reporting party reports is true, disadvantage respondents, or fail to seek answers to crucial questions.
- Instead, it gathers information from potentially traumatized and/or stressed parties in a way that is often more effective than traditional investigative techniques, avoids snap judgements based on stereotypes, and considers all available evidence the parties are able to provide in a holistic, equitable manner.



SUMMARY

- Acknowledge their trauma/pain/stressful situation
 - What are you able to tell me about your experience?
 - Tell me more about... *or*, Help me understand....
 - What were you feeling when... *or*, What was your thought process during this experience?
 - What are you able to remember about... the 6 senses
 - Sight, Sound, Smell, Taste, Touch, Body sensations



- What were your reactions to this experience
 - Physically?
 - Emotionally?
- What was the most difficulty part of this experience for you?
- What can't you forget about your experience?
- Clarify other information and details... *after* you facilitate all you can about their “experience”



■ Questions?

