

20 MINUTES TO...TRAINED STUDY GUIDE:

ADDRESSING TRAUMA

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20 Minutes to Trained: Addressing Trauma Learning Outcomes

- Participants will understand the possible effects of trauma on individuals involved in the Title IX process.
- Participants will be able to apply trauma-informed principles to interview approaches and interview questions.
- Participants will be able to evaluate gaps in information obtained and assess whether trauma may have influenced the interviewee's answer(s) or lack thereof.
- Participants will be able to articulate the possible effects of trauma and how they have been considered during the investigation in the written investigation report.



20 Minutes to Trained: Addressing Trauma Discussion Questions

- When interviewing someone, is it possible to be trauma-informed without showing favoritism to the interview subject? If so, how would you do so?
- If someone tells you that they cannot recall some parts of an incident because of trauma, how should you evaluate the missing evidence?
- When someone is experiencing trauma, that is evidence that they have been victimized. True or false? Why?
- If someone freezes during sex, that is proof of trauma, and evidence of sexual violence. Agree or disagree, and why?
- Trauma can often cause a delay in reporting an offense, and therefore the delay should not affect the credibility of the reporting party. Agree or disagree, and why?



20 Minutes to Trained: Addressing Trauma Case Studies

Skyler

Skyler Everett met with the Title IX Coordinator on May 23 and shared the following narrative:

The assault happened last Friday night. A group of us got together at Carmen's place after final exams to celebrate together before we went home. I was having a great time. I started off with some beers and then moved to doing tequila shots – in fact Dakota, my best friend, and I had a competition to see who could do the “salt-slam-slurp” thing the quickest. We had a whole group of people gathering around us and cheering us on. I may have had some other drinks too – I can't remember, but people were passing around Jello shots and test tubes with stuff in them. I may have had some of that. The music was loud and thumping and we were all dancing. There was lots of pot smoking going on and I had a few joints. At some point people started taking off their shirts and I joined in and we were feeling great, then several people got totally naked. I kept on my underwear but no one seemed to be uncomfortable with how much or how little amount of clothes people had on.

Sometime during the evening, it was probably around midnight or so,

some guys were playing pool and asked me to join in. I don't remember if it was three guys or more. At one point, I was leaning over to make my shot and one of the guys pulled down my pants. I didn't know what to do so I just laughed and kicked them off, but I was really uncomfortable. I think we played pool for a while and maybe some other people came in. The next thing I knew another guy came up behind me and put his arms around me from behind. He put his penis between my legs and asked me if that was OK. I just froze – I couldn't speak. He proceeded to insert his penis inside me – it hurt but I didn't say anything. The other guys were laughing and saying they wanted in on the action. The next thing I knew I was performing oral sex on several of them. Eventually we all got cleaned up and rejoined the party.

Dakota asked me where I had gone and I just said, "Playing pool for awhile." I didn't want to say what happened – I needed to figure it out. I don't know why I didn't leave, no one made me stay, I liked all the guys and always felt like I was part of the group and now I don't know what's going on. I just feel so guilty, I drank a ton, got naked and acted like I was "into" it – at least I didn't specifically say "no" or leave or push anyone away. I'm so confused. It didn't seem right, but I don't know. I'm just embarrassed and scared and confused.

Tim Lane and Elizabeth Williamson

Tim Lane, Reporting Party

Elizabeth Williamson, Responding Party

Interview with Tim Lane, reporting party

- "Elizabeth emotionally and sexually abused me for two straight years."

- Williamson was interested in BDSM and made Lane play out rape fantasies and Lane wasn't comfortable with that.
- Williamson would pressure Lane to act "hyper-masculine" and Lane was "pressured and shamed...to act a certain way or else [Lane] wasn't seen as attractive."
- "I was manipulated into being certain ways for 2 straight years - affected academics, personal relationships, mental state. It causes problems in my current relationships. I am traumatized by it."
- "Elizabeth wanted me to be this hyper aggressive and hyper sexual male ideal. Before I met Elizabeth I was identifying as asexual, gender-neutral - but in the relationship, I was told I couldn't do that and needed to go by he/him pronouns. I am back to they/them."
- "She told me I was weak and to fix it. I would 'dom'¹ myself out of acting a certain way. She gave it a pet name when I was like that, "Tiger-Tim." I hated that. She would eventually be able to bring me back into that state she wanted with relative ease because she trained it with positive reinforcement."
- "Since deciding to go through with this process I haven't kept up with my academics – I wake up tired. I'm exhausted, I have nightmares – that's part of my PTSD. If I have a stressful day, that sets off nightmares – so now if I have a stressful day I won't go to sleep. There was a time [I] scratched myself up all over my body because of self-hate because I couldn't deal with the memories. I have had suicidal thoughts and none of this happened before Elizabeth."
- When asked about their gender identity prior to starting the relationship with Williamson, Lane said: "Either a-gender or gender fluid. I wasn't comfortable insisting on pronouns at that point but did tell people and was very open about being a-

¹ Dominate.

- gendered...Everyone used he/him then because I wasn't good at advocating for myself and people weren't used to it since it is a relatively new thing.”
- “I felt pressure about a month and a half into the relationship to act out the gender role of hyper masculine man. At that point Elizabeth wanted me to act out and identify internally in that role as male.”
 - When asked what was said about this, Lane stated: “Essentially just that if I was going to continue to be Elizabeth’s partner – what Elizabeth found attractive was this hyper male standard and if I wanted to continue to be attractive that I would need to play out that role. I wanted to be a good partner so I would keep trying to meet the standard.”
 - “I was a-gendered in the beginning but the more I was pressured the more I changed internally. I still had a dissonance – it didn’t feel like me – but I did present differently. When I felt maximally dissonant was when I started to think I needed to get out of it. I never felt like who I actually was was appreciated because I didn’t show my actual self.”
 - “She would say – the way you are acting is weak. Weak people do this. At the time I thought this person knows better than I do and I should act the way they want – classic gaslight response. Looking back on it I feel like any way I would act would have been received poorly.”
 - Regarding the enactment of the rape scene, Lane said they did that “several times, not without coercion. I would go ahead and do it even though I wasn’t comfortable with it. She said she had rape fantasies. She wanted that kind of sex.... [E]ither her or me [*sic*] would be sexually aroused or horny and if I tried to engage with that – one of the ways she would indicate she wanted that kind of treatment was that she would actively resist – early on I would get visibly uncomfortable with that –

- then she would tell me I should go ahead anyway – then I learned that when she acted like that she wanted me to proceed anyway.”
- Regarding the dom/sub dynamic: “I was ok with toys and bed restraints but not with the power dynamic. The social hierarchy was what I wasn’t ok with.”
 - When asked about details regarding how Williamson pressured Lane, “Basically the entire [sexual] situation. When the situation is supposed to start with aggression and power and force I didn’t – who I am – I didn’t want to do it at all. I tried to push through that discomfort to try to do what she wanted but that’s not me. Sometimes I felt unreal for hours afterward. I felt like I couldn’t advocate for my own desires.”
 - When asked what led Lane to make the decision to report, Lane stated that it “[t]ook me a long time to acknowledge that what happened was abusive and messed up. Felt like I couldn’t keep quiet about it any longer and I don’t like the idea of this happening to anyone else. It got so hard being around campus and seeing this person not having to deal with the consequences. I wasn’t able to stay quiet about it any longer and I had to advocate for myself to prove I can and take some agency back and regain control.”
 - When asked if Lane derived sexual pleasure from their interactions, they stated: “It depends on what you mean by that. My body responded to it – but there was cognitive dissonance with my mind. I am not interested in engaging in any of those actions – they are the opposite of attractive to me – they are disgusting.”
 - “During between fifty and sixty percent of the sexual interactions with Williamson, I did not want to do those behaviors. I was unduly pressured to be hyper masculine and violent.”

Interview with Elizabeth Williamson

- “In 2015 Tim and I started BDSM in the relationship – it was experimental and consensual – we set up safe words and boundaries and I had no reason to believe anything was wrong. They were very clear in saying they wanted to experiment with it. They operated predominantly as the dominant and I was the submissive. Safe words – and clear communication about what was permissible and what was not.”
- “Then Tim started to isolate me from my family – listen in on my phone calls with my mother. Summer of 2015 I came to the conclusion that the relationship with my parents was abusive and cut off all ties at Tim’s urging.”
- “Tim did assume the position of dominant more and brought the dynamic outside of the bedroom more. [Lane] tried to separate me more from my parents. I felt uncomfortable leaving my room without him. I had a lot of anxiety at the time that I believe was brought on by the relationship. [Lane] demanded I appear more feminine – how I dressed, exercising – what I ate. We broke up because I wanted to experiment with my gender and I had no idea Tim wanted to do the same.”
- “For the whole relationship Tim used he/him. At the beginning, they said they didn’t have any close relation to any gender identity. But throughout the course of the relationship Tim used he/him and then strongly identified as he/him. There were several conversations about gender at the beginning of the relationship. Being in college we explore these issues.”
- When asked if she communicated a preference to Lane about Lane’s gender identity, Williamson said: “I personally am straight. Rather I am bi leaning toward straight. I communicated about that.” Investigators asked again if she had a preference for how Lane identified, to which Williamson stated: “There was talk about

the fact that I personally would prefer to date someone who identifies as male. But not in the context of my demanding [Lane] present a certain way.”

- When asked about Lane’s reaction to that, Williamson said: “Nothing in particular – there was a slow process that Tim identified more strongly with he.”
- When asked how often Williamson communicated her preference to Lane, she stated: “I imagine a handful of times. In college, we talk about gender identity a lot. I always said I would support no matter what.”
- Lane’s friends referred to Lane “[a]s he. Tim openly and publicly identified as he. I haven’t had much contact since but I heard they were going by something non-binary. That wasn’t something I would have clearly expected given our relationship.”
- When asked how the dom/sub dynamic was initially discussed, Williamson stated: “I initially said I was interested in trying this in the bedroom and Tim agreed. “
- When asked if Williamson communicated that she wanted Lane to be more dominant, she stated: “In the bedroom certainly” but Lane never discussed discomfort about the dominant role.
- When asked about discussion about her rape fantasy, Lane said “No. That is one of my hard lines. I like rough sex but not simulation.”
- When asked if she remembered asking Lane to “dom his way” out of certain behaviors, she stated: “It’s a possibility I used that term. I remember [them] having troubles in situations and telling [them they] could overcome that. A potential conversation might be something like if school was getting the better of [them] – had a lot of work to do – I would say something like – you are dominant and can take control of the situation. [They were] usually receptive and would say I was right and would take charge and control the situation.”

- “There was communication about asking Tim to be more aggressive in certain scenes – but it was all consensual. I would say – I like it when you do this – Tim would ask if I would like [them] to do it more and I would say yes – and then [they] would.”
- When asked about their discussion regarding safe words, Williamson stated that it occurred “[v]ery early on. Green is go ahead – red is stop – and yellow is pause and discuss...We never really had to use them. We did a lot of stopping and discussing throughout the relationship.”
- When asked if it was clear they both had access to safe words, Williamson said “I tried to make it as clear as possible. The conversation was that we should both have safe words. Tim said that was a good idea. Tim was not comfortable with anal play on [themselves] and that was the only clear boundary I got from [them].”
- When asked if Williamson had communicated to Lane that she enjoyed the dom/sub dynamic outside of their sexual interactions, she said: “Yes, originally. But then the dynamics went out of the bedroom. The most specific examples are the ones that make me uncomfortable. January and beyond 2016 – controlling what I wore, what I ate – defensive of me around my family. The later portion of it was when I started to become really uncomfortable and things made me upset. I felt that when I brought up having problems with the dynamic Tim would brush it off – say that it was confirmation bias and that the problem didn’t exist. That made it difficult to communicate any discomfort. This was with make-up and all the things listed – but also normal relationship things – like you don’t trust me – we didn’t discuss that – but those types of things.”
- “In January 2016, Tim began controlling my appearance and affecting my self-image and degree of attractiveness. [Lane]

would tell me that [they] thought I was unattractive and had been gaining weight. [Lane] told me to start wearing makeup more in order to look more attractive and began telling me what to wear and what to eat. [Lane] also told me to start exercising to make myself look more feminine. [Lane's] demands escalated to the point where I would have to ask permission to eat certain foods. During multiple instances, [Lane] would not allow me to eat dessert." When asked whether she communicated her discomfort around Lane's control of her appearance, she stated: "Yes, I said I wasn't comfortable – that I wanted to wear what I wanted to wear. Tim never changed [their] behavior based on my communicated discomfort."

- "There was a period of time that I wanted [them] to monitor my eating – but then I became uncomfortable with that and with the things [they] would say like 'I'm not attracted to you when you do those things.'"
- Williamson denied calling Lane "weak."
- When asked if Williamson told Lane that she wasn't attracted to them if they acted certain ways, she stated: "There may have been times that I said behaviors made me uncomfortable and I didn't know how to handle them and that [they weren't] as attractive to me – but it wasn't meant with any harm. There was a time [they] drank too much and started throwing up and I might have said I wasn't comfortable with that."
- When asked if Williamson put pressure on Lane to act more masculine, she said: "Possibly. Never to harm though. I would say I liked certain things – and ask if [they] were comfortable doing them. [They] would say yes. [They] would continue. These were things in the bedroom."
- Williamson stated that Lane did seem to derive pleasure from their sexual interactions.

- When asked about the “Tiger-Tim” state, Williamson said: “Yes, that was generally during sex when [Lane] got more forceful. Generally, it started in the bedroom and [they] would get more forceful at times. It was just a response as how things play out - you start having sex and things get heated...it wasn’t really an altered state – just more forceful...[it ended] when sex ended.”
- When asked if Lane ever acted unlike their normal self, Williamson said no.
- “[They] would say [they] felt a bit different and that [they were] in a state that [they] wanted what [they] wanted. They enjoyed it – [they] said [they] enjoyed it. [Lane] would say after the sex was done that it was some of the best sex [they] ever had.
- When asked if Williamson communicated to Lane that she liked this state, she said “Yes, probably more than once.”
- Lane engaged in controlling behavior:
 - “My parents have a lot of expectations. I didn’t handle that well for a very long time. Tim convinced me not to talk to my parents, they would listen in when I was talking to my parents. Once I came to the conclusion that my parents were potentially abusive, Tim tried to convince me not to make up with them. Tim would get agitated and worry that my parents would do something to try to hurt me. There were several times that I wanted to discuss what I had considered problematic with my mother. Tim would immediately shut that down and convince me that was a bad idea. Tim went out of their way to not interact with my parents and convinced me to do the same.”
 - When asked about Lane listening in on her phone conversations with her parents, Williamson said that it started “Fall of 2014 and continued throughout the relationship. Sometimes I would have it on speaker and sometimes Tim would just be in the room. Early on that was

okay with me and it became less okay as time went on and I wanted to have a relationship with my parents. They were oftentimes placing themselves as a barrier to having a relationship with my parents. Late Summer 2015 – Fall 2015 I became uncomfortable with it. At the time, I thought it was fine and looking back on it I don't. I think it was Tim's influence that had me seeing it that way. I really appreciate my relationship with my parents now. I went on a trip to Ireland with my mom over spring break and I wouldn't have done that with Tim there."

- When asked about Lane controlling her social life, Williamson stated: "At the time a lot of it was because I felt uncomfortable going to things without Tim. That seemed fine at the time but now is quite alarming. We had a lot of the same friends, mostly [Lane's] friends, [Lane and their friends] would often disparage my social skills and said I wasn't good with people or social skills. It was mostly Tim and his friend Eric and it made me extraordinarily anxious in social situations, and now I know I'm quite good at those interactions. Fall 2015/Spring 2016. People calling me awkward – saying I was poor at reading people, my rocking and constant motion annoyed people – Tim and Eric would say these things...I took it to heart. I trusted them and their assessment of me."
- There was a time when it was okay that she and Lane went to events together but "I started to feel that Tim became upset when I would do things without them." Williamson was unable to provide an example.
- "I am queer and I wanted to go to the LGBT center, to their meetings, to theatre showings. It was inconceivable to do things without Tim at the time. It is something that is hard for me to put into words...I wasn't okay with my own social skills."

- Lane controlled Williamson' appearance:
 - "I went off Adderall Summer 2015 – it raises your metabolism and lowers your appetite and I gained about 20 pounds. [Lane] wanted me to work out more, lose weight, have a tighter body. I started getting into make-up – it was fun – art for your face. [Lane] said I should wear make-up more, that it looked good – that when I wasn't wearing make-up I wasn't attractive – I was frumpy. There was a period of time that they chose the clothes I wore – that ended quickly. They would only comment positively on my appearance when I put in more effort than I generally do. They would disparage it otherwise."
 - Lane commented that Williamson was gaining weight, not as attractive. When asked if she remembered the conversation, Williamson said "not really."
 - Lane made "comments like you'd be so much more attractive if you worked out. I want you to have a tighter body."
 - When asked what her response was, Williamson said: "I felt I had to agree. Tim had already started working out at that point. I said I liked it and I liked the results."
 - "They liked it when I wore shorter shorts, higher heels, tighter tops."
 - When asked if there was a time when Williamson was okay with Lane picking out her clothes, she said: "Yeah, through manipulation. In Spring 2016, I told Tim I was going to wear what I wanted to wear. Initially I liked wearing makeup. I didn't want to wear it as much or as heavy as they wanted me to wear it. I would say I didn't want to wear makeup today - they would say they thought I should wear it. And I would."

- When asked what she thought would have happened if she didn't wear makeup, Williamson stated: "They wouldn't have been attracted to me...I don't think any sort of control like that is healthy. You are a partner, you are supposed to be supportive and make people feel better about themselves, not worse."
- "They were pushing me to go to the gym. I'm not a gym person, so I proposed maybe I would watch what I eat to get them off my back. They agreed to that and when I would eat something like a dessert they would say I thought you were trying to lose weight. It was me making a series of concessions to make them less upset with me."
- "I just wanted the comments about my appearance to stop." When asked if she communicated this to Lane, Williamson stated: "I wasn't aware of what it was doing to me at the time. None of it is okay looking back on it."
- When asked what led to the decision to report, Williamson stated: "I realized all these things had an effect on me. I didn't know I could report until Tim did it."



20 Minutes to Trained: Addressing Trauma Q & A

Skyler

For Discussion

- Do you feel, based on the information provided, that Skyler is experiencing sexual based trauma? Why? Why not?
 - While not determinative of trauma, it's important to recognize that freezing is a legitimate physiological response to trauma and may be indicative of trauma.
- What else do you want to know from Skyler?
 - How did Skyler feel while this was happening?
 - Did Skyler tell anyone about this interaction?
 - What was Skyler's relationship with the individuals prior to this incident? What about after?
- Does Skyler's gender change the questions you have or how you need to ask them?
 - Investigators need to make sure they are aware of individuality (as compared to hetero-normative assumptions/bias)
- What do you want to ask Skyler?
 - Trauma-informed questions include asking Skyler specific questions about perceptions throughout the incident, such as what Skyler remembers seeing/hearing when the events

were occurring.

- Discuss how you will phrase the questions you have.
 - Be cognizant of victim- and respondent-blaming questions and tones of voice.
 - Work to create safe space for interviewees.
 - Content and manner of questions
 - Physical space
 - Safe/trusting relationship

Tim Lane and Elizabeth Williamson

For Discussion

After Tim's interview:

What are your initial thoughts?

- What policies are potentially implicated?
 - Sexual Harassment
 - Non-Consensual Sexual Contact
 - Non-Consensual Sexual Intercourse
 - Intimate Partner Violence
- What additional questions do you have for Tim?
 - Possible questions:
 - Did Tim communicate their feelings/thoughts about Elizabeth's actions to Elizabeth? How so? When? What was her reaction?
 - Did Tim communicate their wishes regarding their gender identity to Elizabeth? If so, how and when?
 - Tim mentioned coercion. How exactly did Elizabeth coerce Tim?
- What are your next steps?
 - Possible next steps:
 - Ask Tim for witnesses, speak with Tim's friends. What was known in Tim's circle about how Tim wanted to

identify/express themselves? Did Tim ever discuss with their friends how they felt about Elizabeth?

After Elizabeth's interview:

- What are your initial thoughts after hearing Elizabeth's report?
- What policies are potentially implicated?
 - Sexual Harassment
 - Intimate Partner Violence
 - Non-Consensual Sexual Contact
 - Non-Consensual Sexual Intercourse
 - Stalking
- What additional questions do you have for Elizabeth and/or Tim?
 - For both parties here, it is important to raise the issues that the other individual brought to your attention. It's also vital to obtain – as best as you can – the dynamics of the relationship to understand what was acceptable to both parties and what wasn't – and when/how conduct crossed the line and became unacceptable.
- Do you have credibility concerns about either party?
 - Concerns may exist regarding the legitimacy of the “counter” report. What is the best way to handle this concern?
 - There needs to be at least a preliminary inquiry into the counter report to determine whether it is retaliatory and/or there is sufficient evidence to proceed with further investigation.
 - Is an individual's preference for their significant other's appearance/behavior (i.e. more makeup, more “masculine”) a violation of policy or is it a natural preference of humans in a relationship? Could these preferences constitute a policy violation? Discuss that scenario.
- What are your next steps?

- More information is needed! Speak with witnesses. What are/were their impressions of the parties individually and the relationship between the parties? Try and obtain more information before circling back to second meetings with the reporting and responding parties.

INTRODUCTION

For 2016, ATIXA has chosen the topic: *The Seven Deadly Sins of Title IX Investigations*. While there are certainly more than seven fatal mistakes, we honed in on what we feel are among the most common, as well as the most problematic. This white-paper will address each in turn, provide context and guidance as to how to avoid these mistakes, and improve your policies and procedures to reflect best practices pertaining to civil rights investigations.

1. Failing to understand and use trauma-informed investigations and questioning.
2. Assessing credibility ineffectively or improperly — “Don’t Lie to Me.”
3. Allowing ambiguity and assumptions to rule the day rather than telling a cogent story of what happened.
4. Interpreting the evidence to match a desired conclusion rather than letting the evidence lead you to a conclusion.
5. Failing to “Show Your Work,” or gathering facts without analysis of evidence and credibility.
6. Being blind to personal biases.
7. Failing to treat the investigation as a hearing.

1. FAILING TO UNDERSTAND AND USE TRAUMA-INFORMED INVESTIGATIONS AND QUESTIONING

4 COMPONENTS OF TRAUMA-INFORMED RESPONSE

1. *Understand the impact of trauma on a neurobiological, physical, and emotional level.*
2. *Promote safety and support.*
3. *Know positive ways to respond that avoid re-traumatization.*
4. *Provide choice with a goal of empowerment.*

Imagine that you meet with a reporting party in a sexual misconduct allegation for an initial investigative interview. You are aware that the report involves allegations of unwelcome sexual contact occurring two nights ago, and that both parties were using alcohol and possibly drugs. You wisely prepared for this interview by reviewing your school policy and outlining your questions.

When the reporting party, Kai, arrives, you start the interview by asking why Kai hasn’t reported this incident to the police, and suggest that would be a good idea. As Kai describes the incident, you jump in with clarifying questions, trying to drill down on the details and establish a timeline of the night. You are having difficulty understanding why Kai remembers some parts of the night so clearly, and other parts not at all, so you press Kai to fill in some of the gaps. Kai is unable to share a clear account of what happened, and you become concerned that Kai’s credibility may be an issue.

You learn that the reported incident took place in the restroom at a bar, and now you’re wondering why Kai didn’t ask someone for help or just leave. When you ask, Kai doesn’t really have an answer, so you make note of that. You also note that Kai doesn’t appear upset at all, but seems pretty distant and a bit put off, and that, too, strikes you as odd. After all, if this had just happened to you, you’d probably be crying and would be grateful that the school wanted to help. You certainly would have left the restroom and called the police.

You ask where the drugs came from, but Kai refuses to answer. You know it’s your job to be impartial as an investigator, but Kai’s demeanor and memory issues make a negative impression on you. At the conclusion of the interview, you thank Kai for meeting and say you’ll be in touch. You continue with your investigation. A week later, you contact Kai to schedule a

follow-up interview, but you don't receive a reply. Ultimately, you prepare your investigative report, noting your concerns about Kai's credibility and demeanor.

At first glance, it may seem that you did a sound job. After all, you got Kai in for an interview quickly and worked hard to establish a linear account of what occurred. In fact, you have utterly failed, and committed the first deadly sin. Your approach was not *trauma-informed*. Investigators must understand how trauma may impact reporting parties, and must be able to deploy trauma-informed investigations.

Individuals who have been exposed to an event that creates a real or perceived threat to life, safety, or sense of well-being and bodily integrity may experience the event as a trauma. Sexual violence, relationship violence, and stalking can all create this threat or sense of threat and various factors contribute to how and whether individuals experience trauma as a result. 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.

Recognizing the potential for trauma, federal guidance has increasingly emphasized that school officials responsible for campus resolution procedures should be trained on the effects of trauma and on how to administer a resolution process that is trauma-informed. In its 2014 guidance, the U.S. Department of Education's Office for Civil Rights indicated that all persons involved in implementing a school's grievance procedures should have training or experience in the effects of trauma, including neurobiological change.

“Recognizing the potential for trauma, federal guidance has increasingly emphasized that school officials responsible for campus resolution procedures should be trained on the effects of trauma and on how to administer a resolution process that is trauma-informed.”

As investigators, this paper's authors employ a trauma-informed interviewing style not only because we are required to, but because doing so helps us gather more complete and more reliable information from reporting parties. Interacting with reporting parties in a manner that demonstrates awareness of and sensitivity to the impact of trauma helps to create an interview environment where they are more likely to provide an unfiltered account of what occurred, including very personal and sometimes embarrassing details. In addition, experiencing trauma has counter-intuitive implications for how someone responds in the midst of a threatening event and following the event, and it is critical that we understand this.

Trauma-informed investigating and interviewing include the following key components: 1) understanding the impact of trauma on a neurological, physical, and emotional level; 2) promoting safety and support; 3) knowing positive ways to respond that avoid retraumatization; and 4) providing choice with a goal of empowerment. Each of these are covered here at length:

Understanding the Impact of Trauma on a Neurobiological, Physical, and Emotional Level

Investigators should have received training on the neurobiology of trauma; that is, on how the brain responds to trauma by releasing chemicals into the body in response to the actual or perceived threat. This chemical “surge” is autonomic, and can't be controlled. It impacts individuals' response to a perceived trauma in the moment, and may corrupt recall of the event. As a result of the chemical surge, the ability of reporting parties to fight or flee the threat is impacted, which is why we often hear descriptions of freezing and being unable to move during an assault. This is called tonic immobility. It is also critical to understand that the chemicals released

KEY POINTS

- » *The body responds to trauma or perceived trauma by releasing a surge of chemicals that can stay in the body for up to 96 hours.*
- » *Questioning about a traumatic event can reactivate this neurobiological response.*
- » *This surge of chemicals may help explain delays in reporting, unexpected emotional affect, non-linear accounts, and fragmented memories.*
- » *Giving reporting parties a couple of sleep cycles before interviewing them may help by allowing time for the chemicals in the body to subside.*

into the body may stay in the body for 96 hours, and a triggering event (such as your interview) can reactivate this response. The chemical surge may help explain why reporting parties' emotional state may seem counterintuitive. For example, if the brain responded to the trauma with a surge of opioids, it would result in a reporting party displaying a flat or even disinterested affect. Inappropriate laughing, conversely, can also be common. These responses can't be controlled, as they are the result of the body's defense mechanisms and whatever chemicals the brain decides to release, which are different for each person and circumstance.

It is also crucial to understand that the encoding and grouping of memories is negatively affected when individuals are experiencing a trauma. Because of this, we should anticipate non-linear accounts, with jumping around and fragmented memories. When we press reporting parties to fill in gaps, we actually may do a disservice by causing them to speculate about details they don't have, which can create credibility concerns later. It can take up to 200 days for the brain to retrieve and reorganize the information from a traumatic event into something cogent, which is one reason why there may be a delay in reporting. What's happened still isn't fully clear to the person it happened to. When alcohol is a factor, memory may be further impacted, and answers to narrow and detailed questions will be difficult for reporting parties to access. Attempting to do so may create additional stress. Key interview techniques that reflect the neurobiology of trauma include allowing for one or two sleep cycles prior to interviews, which may bolster the ability to connect memories, and using strategies that pull out fragmented memories, such as tapping into the senses of smell and sound.

Asking individuals what happened may be less effective than asking them how it made them feel, as the feelings may help to decode memories of what caused the emotions. Most importantly, investigators should be patient and recognize that recall can be slow and difficult as a result of how memories are consolidated in the brain, and pressing reporting parties may actually have a deleterious impact. If you are frustrated with gaps in reporting parties' accounts, or their inability to retrieve details, don't show it. They are likely frustrated as well, and won't understand why they can't recall.

We see many reports of drugging on campuses, yet drugging is a relatively rare occurrence. Naturally, survivors jump to this conclusion, though, when they can't otherwise explain the gaps in their memories. A truly cogent account of a recent incident from reporting parties is nearly impossible, but we also find that reporting parties are motivated to fill in gaps they recognize so that we don't doubt them, even if they aren't as sure of the details as they portray themselves. In one recent allegation, a reporting party asserted that she had said "no" six times during an incident. It's likely she said "no" repeatedly, but that she said it six times is much more likely gap-filling than actual recall.

Promoting Safety and Support

The Title IX coordinator should ensure that reporting parties are aware of sources of support such as counseling and advocacy, and should identify who is available to consult on a safety plan, if one is needed. Investigators have a hand in creating an interview environment that feels safe. One way to do this is to be cognizant of the interview setting by providing a comfortable space that affords privacy to reporting parties. For example, pay attention to their basic needs by having water, coffee/tea, and tissues available, and by making sure the room is a comfortable temperature. Consider having interviews in a neutral location that will not draw attention to reporting parties as they enter or exit. Making stress balls or stuffed animals easily available can make a huge difference, in our experience.

“At the outset, you should be clear about your role, the fact that you are impartial, and about what the school process can or cannot accomplish, while still conveying sensitivity and empathy for the fact that the reporting parties feel harmed or violated.”

You can also promote safety by building rapport and trust while still maintaining your impartiality. It is important for reporting parties to know who you are and what your role is. You should also spend some time getting to know them as individuals, and not just as victims. This can be as simple as learning about how they came to attend or work for the school. This isn't "small talk," but a sincere desire to connect with them before questioning. It is important to allow reporting parties to self-identify, so avoid assumptions about gender and sexual orientation.

Providing transparency and predictability also helps to promote safety. At the outset, you should be clear about your role, the fact that you are impartial, and about what the school process can or cannot accomplish, while still conveying sensitivity and empathy for the fact that the reporting parties feel harmed or violated. 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.

Knowing Positive Ways to Respond that Avoid Retraumatization

Negative or blaming responses can cause real damage to individuals who may have already been harmed, often causes reporting parties to shut down and, in some cases, drop out of your process. Avoid this by being strategic and transparent in your questioning. If you need to ask about alcohol and drug use, or about previous sexual encounters, explain why. Explain amnesty so that talking about alcohol/other drugs isn't a barrier. It is the job of investigators to think critically about allegations, which means asking for details, clarifying vague statements, and pushing back at times. 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.

Responding positively also means simply paying attention to the reporting parties. You should summarize what you think you heard them say and repeat it back. This demonstrates that you are listening and that you understood what was said. Also, pay attention to their nonverbal cues. 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. If you have to ask something that is potentially triggering or blaming, own it and be transparent about it. Consider the least triggering way to ask. For example, if you suspect that a reporting party felt trapped, and you want to establish that for the record, you might ask, "Did you try to leave?" However, if the reporting party didn't try to leave, this can feel blaming. Instead, you might ask, "Can you recall what options you considered when he closed the door behind you?" This is a more neutral question and might get you the information you seek without the subtly blaming potential implications of that line of questioning.

Providing Choice with a Goal of Empowerment

Individuals who have experienced trauma feel they have lost control over the situation, and the ability to reestablish a degree of control is crucial for healing. Even reporting parties who appear

poised and collected may be internally dysregulated. This is one of the reasons we usually start interviews with broad-based, open-ended questions that provide individuals control over how they share their accounts. Questions like, “What can you tell me about what happened?” and “Where would you like to start?” leave reporting parties in control. When you need to follow up, soft-approach questions such as “Can you tell me more?” and “Can you help me understand?” are useful.

If they made what you think was a poor decision, they’re probably already thinking the same thing. That sense of self-blame won’t help you uncover the real facts, and you should try to help them past it. People can make poor choices and still be victimized. Worse, if you decide to point out poor decisions, you gain nothing and risk alienating the reporting parties. Be sensitive to the fact that although defining or labeling their experiences may ultimately be part of your job, doing so at the investigative phase takes control away from them.

If reporting parties choose not to report to the police, respect that as their choice. You might be able to give them amnesty for drug use, but the police may not. Finally, remember that if reporting parties request a delay in your process for some reason, you can often honor that, document it, and return to your investigation when they are ready to proceed.

2. ASSESSING CREDIBILITY INEFFECTIVELY OR IMPROPERLY — “DON’T LIE TO ME”

Credibility is the process of weighing the accuracy and veracity of evidence. To assess credibility, evaluate the source, content, and plausibility of what is offered in light of other evidence. When source, content, and plausibility are strong, credibility is strong. Credibility exists on a 100 percent point scale, with the most credible evidence being 100 percent, and the least credible being zero percent. Most evidence lies somewhere in between. A low credibility rating alone may not weight the scale sufficiently, as you are trying to determine whether the preponderance of the evidence standard has been met or not. Using the language of the preponderance standard as a means to evaluate credibility indicates that evidence that is less than 50 on the 100 point scale is less credible than more so. Evidence has to be more credible than not to weight the scale at all. If it helps, think of the scale to weight the credibility of all evidence as 0–100; however, the evidence you actually use is really weighed on a scale of 50.01–100, because evidence that falls below 50 carries little weight.

“When source, content, and plausibility are strong, credibility is strong.”

It is important to note that credibility and honesty are not identical constructs, and parties and witnesses can be generally honest, yet provide information that is lacking in credibility or vice versa. Investigators must figure out the impacts of lies, especially when credibility determinations can, on their own, be sufficient to establish that policy was violated. A single lie does not entirely destroy credibility, most of the time. We have to decide if the lie is isolated or enough to undermine the credibility of the interviewee in total. Another consideration is how crucial was the discredited information.

A decision can still be made that an incident occurred when the evidence of the allegation(s) is credible, even if there were no witnesses to the incident. Put another way, a preponderance can be established simply because you believe one party and not the other based on the assessment of the credibility of the parties and the evidence provided.

Some aspects of credibility are positional or locational. For example, could witnesses hear what they say they heard? See what they say they saw? Know what they claim to know? Some



January 15, 2018

Dear Members, this [report](#) is an important read. It's slanted, of course, but the essential messages are worth considering. While there is value (even great value) in the topic of the report, it is constructed around a sloppy premise. The report attacks the "believe the victim" precept, from the investigation perspective (which is essential), but somehow conflates the narrative of why "believe the victim" is the enemy of objective investigations with the narrative that a victim-centered investigation is an anathema. Because Save Services conflates victim-centered with "Believe the Victim," its attack on both is consistent, but the mistake is in conflating them at all.

ATIXA believes that investigations must be victim-centered without being victim-favoring, and we wrote extensively on this in *The Playbook*. However, to the extent that the field conflates the two, Save Services has a point. Our goal must be to figure out how to maintain objective victim-centeredness to the investigation process without that meaning there is a "believe the victim" bias. How do we do so? It's a good and necessary thing to be victim-centered. Without a claimed victim, we have no process, so in a real sense, the investigation is catalyzed by, propelled by, and about the alleged victim. Thus, how can it not be victim-centered? It is centered on his, her, or their experience and the assertion by them that the experience was transgressive of our policies.

Really, the distinction lies in dividing the procedural from the substantive. We need to be procedurally victim-centered without allowing that to substantively effect the evidence or our interpretation of it, while also not neglecting the procedural protections of the responding party. No one is suggesting not being "responding-party centered," as the rights of all parties must be respected, but being victim-centered and being responding-party centered are not the same thing, and can require some differentiation in skills sets and understandings. Being victim-centered invokes the laundry list below, while being "responding party-centered", to me, means according their rights and offering equitable supports. So, what more is involved in being victim-centered? Here are some examples, in my opinion:

- We must largely allow the reporting party to be the driver of the process, determining when and whether we proceed;
- The reporting party also largely drives the decision on not to proceed, to proceed informally (and by what informal route), or to proceed formally. The responding party has very little role in that determination, except to agree to or refuse an identified informal route.
- The pacing of the investigation will often take its cue from the reporting party, both in terms of readiness and whether the reporting party has chosen to involve law enforcement.
- We are reporting party-centered in the techniques of investigation and interviewing we deploy. We use trauma-informed techniques that only apply to a reporting party, generally. However, as I wrote recently to this listserv, this is procedural, not substantive. We inform our practice of interviewing with a grounding in trauma research, but we do not allow trauma to influence evidence or our interpretation of it. Save Services' report shows well how other organizations use trauma to tip the scales, and in the next couple of years, trauma will be fully on trial in the courts as a result. As I noted previously, this body of knowledge should inform our investigation practice (and not impede it), but not our substantive evaluation of the evidence.
- We should be reporting party-centered in the ways that we keep the reporting party apprised of the progress of the investigation, in our communication protocols, and in the transparency that we maintain about the process and its results.
- We should be reporting party-centered in offering advocacy services.
- We should be reporting party-centered in the way that we infuse the investigatory process with resources, services, supports, and interim actions. The support function of the university or school is not silo-ed from the investigatory function, in most cases. Again, that does not mean that we neglect the support function of the responding party.
- We are reporting party-centered to the extent that we endeavor to make the process equitable with the rights afforded to the responding party.
- We are often reporting party-centered in the way that we soften the blow of findings that support the responding party's position ("it's not that we didn't believe you, it's that we didn't have sufficient evidence to prove a violation", or

in the humane way that we often sidestep or minimize mental health issues that may have contributed to the reporting party's interpretation of the events).

- I am sure there are other items to add to this list (and I invite you to write in and do so), but this is what occurred to me at first blush after I read the Save Services report yesterday.

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