Beyond Campus Adjudication: Improving the Criminal Justice System's Response to Campus Sexual Assaults

UNH School of Law, March 17, 2015

Sponsored by UNH Prevention Innovations and the UNH School of Law, in association with the NH SART Initiative, NHCADSV, the NH Department of Justice, and the NH Attorney General’s Office
Beyond Campus Adjudication: Improving the Criminal Justice System’s Response to Campus Sexual Assaults

“Overcoming Obstacles from the Investigator’s Point of View”

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Complexities of Sexual Assault

Case Example:

Victim...

Victim’s Dad:  “I told you not to go to that party”

Victim’s Mom:  “No one will believe her”

Sexual violence myths, misconceptions and victim blaming impact the pursuit of justice...
Complexities of Sexual Assault

Key barriers to advancing sexual violence prevention:

• The persistence of “rape myths” & misconceptions
• Victim blaming, Investigations need to focus on offender behavior, not victim behavior
• Victims’ reluctance to report, (second victimization)
• Lack of community engagement & public discourse
• Lack of effective training & education on sexual violence for first responders & communities at large

Complexities of Sexual Assault

New Hampshire Jury Polling in Adult Sexual Assault Cases

Released January 6, 2014:
A group of University of New Hampshire graduate students in justice studies partnered with the New Hampshire Attorney General’s Office on a jury polling project that aims to better understand the factors that influence not guilty verdicts in adult sexual assault cases.
2014 UNH / NH AG Jury Polling

- Jurors endorse many of the rape myths and victim blaming attitudes...
- Jurors often negatively judge the victim and witnesses based on whether they receive public assistance, are too emotional, or not emotional enough, or unemployed.
- Jurors hold misconceptions about what rape is, when it can occur, and who the suspect is.

“ALLEGED...”
“ALLEGED...”
“It all sounds suspicious...”

“Victim can’t get her story straight...”
“It sounds like she is making it up...”
“She didn’t scream, fight, or run away...”
“She isn’t acting the way I would expect...”
Do you believe me?

Video: 2013 Human Rights Watch
Do you believe me?

“The light bulb started to go off…”
Sexual Assault Cycle of Doubt

- Myths & Bias
- False Reporting
- Victim Blame "Accuser"
- "No one believes me"
- Not Trauma Informed
- Such a Good Guy

Rape Culture

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NOT ALONE

The First Report of the White House Task Force to Protect Students From Sexual Assault

April 2014

BARACK OBAMA
“Let's Get Ready to Rumble…”

TITLE IX

VS.

CRIMINAL JUSTICE SYSTEM
If your institution knows or reasonably should know about sexual harassment that creates a hostile environment, Title IX requires immediate action to eliminate the harassment, prevent its recurrence, and address its effects.

- Regardless of whether a harassed student, his or her parent, or a third party files a complaint
U.S. DOE Office of Civil Rights: 90+ Title IX Investigations

March 12, 2105

http://www.huffingtonpost.com/2014/08/13/college-sex-assault-cases_n_5675564.html
“A central thrust of the federal investigation will focus on complaints that local law enforcement has failed to properly investigate and prosecute sexual assaults on women in Missoula due to gender discrimination,” the justice department said.
Sexual Assault: “Activism & Outrage”

Title IX:

Are you working together?
- Campus Title IX
- Campus Law Enforcement
- Local Law Enforcement
- Prosecutor
- “Community Coordinated Response”
- Model MOU
White House Task Force: Model MOU

Building Partnerships among Law Enforcement Agencies, Colleges and Universities:

Developing a Memorandum of Understanding to Prevent and Respond Effectively to Sexual Assaults at Colleges and Universities

www.whitehouse.gov/.../white_house_task_force_law_enforcement_mou.pdf
Sexual Assault
Cycle of Doubt

- Myths & Bias
- False Reporting
- Victim Blame "Accuser"
- "No one believes me"
- Not Trauma Informed
- Such a Good Guy

RAPE CULTURE
Shattering the Sexual Assault Cycle of Doubt...

- Sexual Assault Myths, Misconceptions, Rape Culture, and Victim Blaming impact the pursuit of justice... *(Awareness & Prevention)*
- Understand offender behaviors *(Training)*
- Trauma Informed Sexual Assault Response and Investigations *Policy & Training*
- Community Coordinated Response with emphasis on advocacy support...
Sexual Assault Investigations: We Know What Works

- **Coordinated** – Multi-disciplinary (Policy & MOU)
- **Compassionate** – Victim Centered Services & Trauma Informed Approach with advocacy support
- **Objective** – fact finding investigation that focuses on the offender
- **Thorough** – investigations & reports
Alcohol / Drugs:

- The Weapon of Choice
- The Shield of Protection
Changing the Lens: Trauma Informed Training

- Understanding the impact of Victim trauma promotes:
  - victim healing – more reporting
  - better interviews & investigations
  - greater offender accountability = Public Safety
- Not understanding leads to bad outcomes and potentially long-term, devastating consequences for Victim and Community...
Changing the Lens: Trauma Informed Training

- Delayed reporting, inability to recall details and sequence of events is common as a result of **victim trauma** (fragmented memory)
- Impacts of trauma can be life long
- Disclosure is a process not an event
- Traumatic memory is stored in the brain differently
Understanding Trauma

Trauma physically changes our brain...

- Trauma triggers chemicals...
- Chemicals influence perception, reaction, and memory...
- Memory becomes fragmented (out of sequence)
- Memory is stored in the brain differently
- We **do not control** how the brain and body respond to trauma...
Trauma Informed Interview

The interview is a way to allow the victim to express what their experience was rather than just what they remember or don’t remember. Capturing the trauma and the sensory and peripheral details of the event is compelling evidence.
Victim’s First Impression Matters!

“The tone of the first meeting with the victim may set the tone for the rest of the investigation.

By being empathetic, patient, and respectful, (you) can contribute to the immediate and long term recovery of the victim and lay the foundation for mutual cooperation and respect on which a successful interview, investigation and prosecution is built.”

IACP Sexual Assault Issues and Concept Paper
Police: Command & Control – Body Language & Tone

STAY CALM EVERYTHING WILL BE OK
WE ARE HERE TO HELP

www.tomtremblayconsulting.com
Reassure the Victim

Reassure and empower the victim with a consistent and supportive message:

“Can I share something with you?”

- “I’m sorry this happened to you”
- “I commend you for reporting”
- “This is not your fault”
- “I believe you”
Avoid “Victim Blaming”

Explain all of your questions!

Questions to avoid:

Why did you...?

Why didn’t you...?

If we need to answer these questions use trauma informed questions...
How Victim Trauma Impacts Investigation

Counterintuitive Behavior:

• Most victims who report do so after some delay
• Most victims do not physically resist;
  - Freeze
  - Tonic immobility
  - Submit - Negotiate
  - Dissociation
• Prosecutors can use expert witnesses to explain the impact of trauma
Police – Prosecutor Relationships

Working Together to Get Beyond a Reasonable Doubt
Vanderbilt Case – 2015 Conviction
Student Awareness & Prevention Education

- Bystander Intervention
- Institutional Climate and Culture
- Healthy Relationships
- Consent, Affirmative Consent, Incapacitation
- Are we using this information to our advantage when questioning suspects / respondents?
Policy

Sexual Assault Investigations

- Coordinated
- Compassionate
- Objective
- Thorough

STATE OF NEW HAMPSHIRE
GOVERNOR’S COMMISSION ON DOMESTIC AND SEXUAL VIOLENCE

OFFICE OF THE ATTORNEY GENERAL
A MODEL PROTOCOL FOR RESPONSE TO ADULT SEXUAL ASSAULT CASES

http://doj.nh.gov/criminal/victim-assistance/protocols.htm
2012 Edition

It is New Hampshire’s expectation that all disciplines involved in the response to adult sexual assaults will work collaboratively using a victim-centered approach.

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Leaders Wanted
Promising Practices

- Multi-disciplinary Trauma Informed Policy and Training
- First Responder Training (First Impression Matters)
- After Action Case Reviews
- Auditing Cases and Reports
- External Review Teams
- Officer Evaluations; report examples
- Recognition / commendations
SELF-CARE

Self-care is a priority and a necessity — not a luxury — in the work that we do!

Care for Yourself, So You Can Care for Others!

What you do makes a difference...

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Conclusion / Review

- Sexual Assault is the most complex crime that the police deal with *(Policy & MOU)*
- Use what we know about the realities of sexual violence, victim trauma and offender behavior as the foundation for your investigation *(Training & Strategy)*
- Investigation requires a trauma informed, multi-disciplinary coordinated, compassionate, objective and thorough response – focus on the offender *(Community Coordinated Response)*
Thank you!

- The work that you do is important...
- You can contribute to the long term healing of victims...
- The safety of the people shall be the highest law...
- You make the law keep it’s promise.
- Be Safe!
“Overcoming Obstacles from the Investigator’s Point of View”

Q & A

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