Title IX Investigator Training
Questioning Techniques

* Open-ended vs. Closed questions → each have their own time/place
  - “Can you tell me more about...”
  - “What, if anything, do you remember about...”
  - “Is there anything else you want me to know?”

* Avoid complex questions containing multiple concepts - separate & simplify

* Ask for clarity when needed -
  - “I’d like to go back to when you said...”
  - “Can you walk me through _____ again? I want to just make sure I’m understanding.”

* Inquire about sensory information - What did they hear, see, smell, feel?

* Embody and demonstrate both empathy & active listening

* Ask questions in a logical order and/or grouped by particular concept/topic
Mock Interview #2

30 min
Mock Interview #2

DEBRIEFING

60 min
Relevant Questioning Practice

20 min
Contents of Investigative Report

* The investigative report must fairly summarize all RELEVANT evidence - both inculpatory & exculpatory.

* Typically will include (as applicable):
  * an investigative timeline;
  * the Reporter’s statement;
  * the Respondent’s statement;
  * each witness’ statement;
  * timeline of alleged incident;
  * any supplemental documentation obtained; and
  * a summary of any other information the Investigator(s) in their discretion deems relevant.
Report Writing Techniques

* Professional

* Balanced and neutral
  - Content
  - Linguistics

* Use of verbatim quotes

* Avoid declarative credibility language

* Use of terms “Reporter” (or Complainant), “Respondent” and “Witness #__”

* Write the report in a way that the relevant evidence speaks for itself without further interpretation from Investigators
“The Department notes that the universe of evidence given to the parties for inspection and review under § 106.45(b)(5)(vi) must consist of all evidence directly related to the allegations; determinations as to whether evidence is “relevant” are made when finalizing the investigative report, pursuant to § 106.45(b)(5)(vii) (requiring creation of an investigative report that “fairly summarizes all relevant evidence”).” (p. 1041)

“The Department declines to define certain terms in this provision such as “upon request,” “relevant,” or “evidence directly related to the allegations, as these terms should be interpreted using their plain and ordinary meaning.” (p. 1017)

**Relevant Evidence**

“Information that tends to make a material fact at issue more or less probable and the fact is of consequence in determining the action.”

Evidence is relevant when it tends to prove or disprove an issue in the complaint.

**Directly Related Evidence**

Evidence that is connected to the complaint, but is neither inculpatory (tending to prove a violation) nor exculpatory (tending to disprove a violation).

Only “relevant” evidence can be subject to the decision-maker’s objective evaluation in reaching a determination, and relevant evidence must be considered, subject to the rape shield and legally recognized privilege exceptions contained in the final regulations.
Serving Impartially

Investigators are required to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

**Implicit Bias:** refers to the automatic and unconscious process of assigning a stereotype and/or linking negative or positive attitudes to a particular group, or to an individual associated with a group (Kang, 2009).

Implicit biases may oppose a person’s adopted worldview, but because they are not consciously controlled, they may nonetheless be reflected in their behavior – including in the professional realm (Halilović & Huhtanen, 2014, p. 33).

Stereotypes & attitudes that may exist due to explicit or implicit biases can interfere with one’s assessment of cases involving sexual violence, the evaluation of victim and suspect credibility, and ultimately our determination about whether a crime was even committed.

The intersection of racial and gender stereotypes and biases can pose particularly unique difficulties for women and LGBT individuals of color seeking police services to address sexual assault and domestic violence incidents.
Serving Impartially

In order to overcome the harmful consequences of gender bias in sexual assault response and investigation, we must be willing and able to confront our individual stereotypes and attitudes (Huhtanen, Lonsway, & Archambault, 2018).

Based on recommended core principles from the DOJ, the following factors may help reduce the potential for discrimination, which include:

1. Recognizing and addressing biases, assumptions and stereotypes about both Reporters and Respondents generally;
2. Treating all parties with respect & employing interviewing tactics that encourage the party to participate & provide facts about the incident;
3. Investigating complaints of sexual harassment thoroughly and effectively
4. Properly implementing Supportive Measures for the Reporter and refer to appropriate services requested/appropriate.
5. Maintaining, reviewing, & acting upon data regarding all forms of sexual harassment.

Testing Implicit Bias

Implicit Association Test (IAT) assesses beliefs and attitudes that people may be unable or unwilling to report - helps identify the gap between intention and reality when it comes to implicit bias.

Can also provide for the Respondent as well as requested/appropriate.
Contact Me

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References

Department of Justice Archives - Identifying & Preventing Gender Bias


