Legally Bound:
Integrating frameworks to ethically respond to sexual assault

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4/2/14
Outline

• Welcome
• Overview of need for new model
  – Theoretical orientation
• Interdisciplinary model
  – 3 operating frameworks
  – Ethical integration
• Discussion on methods of best practices
Theoretical Orientation:

The benefits of a new model
Integration of Deterrence and Health Promotion as suggested by Potter, Krider, & McMahon (2000)

Deterrence: “Fear of Punishment”

Best Response

Health Promotion:
• Victim-Survivor empathy
• Perpetrator responsibility
Center of Empowerment and Security: Proposed multidimensional model for college & university responses to sexual assault

*Best interests of Students, Society, and the School

- Title IX officially linked with sexual assault/harassment
  - Not as narrowly defined
- Burden of Proof
  - “Preponderance of evidence” vs. “clear and convincing”
- If School is aware: “prompt and equitable resolution”
- Responsibility to train, publish procedures

(Cbery Act, 2009; Title IX, 1972)
Risk Management/Law: Clery, etc.

- Clery Act
  - Timely warnings of community threats
  - Req. mandatory reporting policies and procedures
  - Intended to encourage share honest info

- VAWA/SaVE
  - Violence prevention programs
  - Expanded Clery

(Clery Act, 2009; VAWA, 1994)
Civil Rights Investigation Model

- Preliminary investigation BEFORE the charge
- Intended vs. enacted policies
- Risk Management at best is:
  - Mission-centered and ethical
  - Holistic
  - Dynamic and proactive (not containment)
  - Intentional “not an afterthought”
- Asks: Is there a need to trump victim’s wishes in favor of community?

Guiding question:
Is there a need to trump victim’s wishes in favor of community?
Sexual Assault Counseling: Using a victim-centered model

- Victim/Survivor voice is valued
- Importance of advocacy
- Understanding of trauma and victim-blaming culture
- No judgment; assuming the truth

See more at Office of Justice Programs: Office for Victims of Crimes Training and Technical Assistance Center
https://ovcttac.gov/saact

(Ledray, Moscinski, & Ferrucci, 2012; Ledray, O’Brien, & Chasson, 2011; Rape Abuse and Incest National Network, 2009; Young, 1993)
Student Affairs Guiding Principles

- Autonomy for ourselves and others
- Do no harm
- Altruism
- Promote human dignity, equality, and fairness
- Faithful to your obligations and duties
- Seek and convey truth
- Promote relationships and foster community

(Evans, 2001)
Building a usable model:

Using ethics as a way to tie it all together
Best Interests of the Student

- Standards of the profession
- Professional codes of ethics
- Ethics of the Community
- Personal Code of Ethics
- Individual Professional Codes

Shapiro & Stefkovich (2010)
Apply Ethics to Legal Cases

Best Interests of the Students

Responsibility

Rights

Respect

Stefkovich (2006)
Center of Empowerment and Security:
Proposed multidimensional model for college & university responses to sexual assault

*Best interests of Students, Society, and the School*
The integration: Basics

• Communication across departments
• Recognizing the merits of each:
  – Liability
  – Supporting victims
  – Protecting the community
• Trained to look at patterns/trends with info
  – Ask yourself before trumping victim rights: is it a large community concern or not?
  – Ability for creative options and responses

(Office of Civil Rights, 2012)
The integration: Lessons from alcohol

• Policy, design, education and enforcement congruent to practice
  – Common, equal, fair
• Think process, not outcomes
• Intentional language

Workman’s (2013)
Limitations/Barriers

• Feasible at every campus?
• Problems of definition
  – i.e., What constitutes a community concern?
• Are creative responses really feasible?
  – e.g., Existence of a separate office to find patterns and educate
Guiding question:
Does the standard of “preponderance of evidence” trump the perpetrator’s rights?
How does your University respond to sexual assault given this framework?

*Best interests of Students, Society, and the School
Discussion: Methods of best practice

• What’s the process?
• Who is involved?
• And how do they communicate?
• Other ideas?
Further Resources

Association for Student Conduct Administration (theASCA.org)

National Center for Higher Education Risk Management (NCHERM.org)

National Sexual Violence Resource Center (NSVRC.org)

The Office of Civil Rights, U.S. Dept. of Ed. (www2.ed.gov/ocr)

Office of Violence Against Women, U.S. Dept of Justice (OVW.usdoj.gov)

Rape, Abuse, & Incest National Network (RAINN.org)
Selected References
(full list given on request)


Lewis, W. S., Schuster, S. K., & Sokolow, B. A. (2013). *The top ten things you need to know about Title IX (that the DCL didn’t tell us).* Malvern, PA: The NCHERM Group, LLC & ATIXA.

Office of Civil Rights. *Dear Colleague Letter: Sexual Violence*

Office of Civil Rights. *Dear Colleague Letter: Retaliation*


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