Sexual Misconduct Crisis Management, Behavior Interventions, & Threat Assessment Training

Krista Anderson, Systemwide Title IX Coordinator

Fall 2021

Agenda

1. Title IX Introduction
2. Challenges & Barriers
3. Triage & Case Management
4. Threat Assessment Tools
   • Warning Signs
   • Predatory Behaviors
   • Sexual Violence, IPV & Stalking Cases
5. Crisis Management Tools & Examples
6. Title IX & Behavior Intervention Teams: Reporting & Interventions
7. Documentation & Record Keeping
Introduction

Sexual Harassment

- Employee Quid Pro Quo
- Severe Pervasive Obj. Offensive
- Sexual Assault
  - Dating Violence
  - Domestic Violence
  - Stalking

Non-Sexual Harassment

Ex. Other Inappropriate Sexual Conduct
**Definition of “Sexual Harassment” under Title IX**

Conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the institution conditioning the provision of an aid, benefit, or service of the institution on an individual’s participation in unwelcome sexual conduct (Quid Pro Quo);
2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the institution’s education program or activity; or
3. “Sexual assault,” “dating violence,” “domestic violence,” or “stalking” as defined under Clery/VAWA.

*Source: Title IX Regulations (2020)*

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**“Education program or activity” under Title IX**

Includes locations, events, or circumstances over which the institution exercises substantial control over both the respondent and the context in which the alleged sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by the institution.

- Example of a “building owned or controlled by a student organization”: Fraternity or sorority house that is occupied by students of the organization, and the student organization is a recognized organization with the institution.

*Source: Title IX Regulations (2020)*
Definition of “Other Inappropriate Sexual Conduct”

Conduct on the basis of sex that does not meet the definition of “sexual harassment” (under the Model Policy), but is

1. Verbal conduct (including through electronic means), unwanted statements of a sexual nature intentionally stated to a person or group of people, that are objectively offensive to a reasonable person and also so severe or pervasive that it created a Hostile Environment, as defined in the Model Policy.

2. Physical conduct...

Possible Examples (depending on facts):

- Unwelcome sexual advances (including explicit or implicit proposition(s) of sexual contact or activity);
- Requests for sexual favors (including overt or subtle pressure);
- Gratuitous comments about an individual's sexual activities or speculation about an individual's sexual experiences;
- Gratuitous comments, jokes, questions, anecdotes or remarks of a sexual nature about clothing or bodies;
- Persistent, unwanted sexual or romantic attention;
- Exposure to sexually suggestive visual displays such as photographs, graffiti, posters, calendars or other materials;
- Deliberate, repeated humiliation or intimidation;
- Sexual exploitation;
- Unwelcome intentional touching of a sexual nature; or
- Deliberate physical interference with or restriction of movement.

Source:
UT System Model Policy for Sexual Misconduct (2021)
Intersectionality:

*Interconnected nature of social categorizations such as race, class, and gender as they apply to a given individual or group.*

*Creates overlapping and independent systems of discrimination and disadvantage.*

*Source: Demarginalizing the Intersection of Race and Sex... (Kimberlé Crenshaw, 1989)*
Challenges and Barriers

- Family pressure or disagreements
- Care for family and/or dependents
- Financial stress
- Housing and/or food insecurity
- Disabilities
- Medical and/or mental health issues
- Unhealthy relationships
- Relationship breakups
- Lack of coping skills
- Addiction and/or substance use
- Academic issues

Power & Privilege Wheel

Source: Sylvia Duckworth; Adapted from ccrweb.ca
• In what ways, if any, have specific challenges (e.g. racism, heterosexism, ableism, etc.) affected a person’s experiences?
• In what ways, if any, have a person’s communities, family, or friends affected a person’s decisions to:
  o Tell someone or report an incident
  o End or continue an unhealthy or abusive relationship
  o Get help or support
• Has the person received support from family and friends throughout the process? What does “being supported” look like for each person?
Sexual Misconduct Resolution Flowchart

**A Report to TIXC**
*Can be submitted by anyone: Complainant, witness, third-party, employee, etc.*

- **Triage & Preliminary Assessment**

**Formal Complaint**
- **Submitted/Signed by CP**
- **Submitted/Signed by TIXC**

**Written Notice of Formal Complaint**
- Supportive Measures
- Rights & Options
- Notice of Grievance Process

**Resolution Options**
- Formal Grievance Process
- Informal Resolution
- Formal Complaint Dismissal

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**Supportive Measures**
- Emergency Removal
- Administrative Leave
Basis of the Alleged Conduct

- Alleged **incident** of prohibited conduct
- Alleged **pattern** of prohibited conduct
- Alleged **climate issue(s)** in an area or department

Types of Concerning Behavior

- Sexual Harassment or Sexual Misconduct
- Sexual Violence
- Dating or Domestic Violence
- Stalking
- Sexual Exploitation
- Disruptive or Interfering Conduct
- Suicidal Ideation or Threats
- Hospitalizations
- Homicidal Ideation or Threats
- Property Damage
- Safety Concerns
- Actions Endangering Self or Others
Other Triage Analysis & Considerations

Person(s) Affiliation to the Institution?  
Incident Location(s)  
Date/Time of Incident

Time of Alleged Incident: Institutional Nexus or Jurisdiction?  
Institutional Action? Preventative Action? Remedies?  
Level of Concern? Threat Level?

Other Required Action?

<table>
<thead>
<tr>
<th>Type of Concern</th>
<th>Action</th>
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</thead>
<tbody>
<tr>
<td>Non-emergency behavioral or wellness issues(s)</td>
<td>Refer to Behavior Intervention Team (BIT) or campus equivalent</td>
</tr>
<tr>
<td>Immediate safety concerns (emergencies) or welfare check required</td>
<td>Report immediately to 911</td>
</tr>
</tbody>
</table>
| Clery reportable crimes that meet Clery geography requirements and/or timely warning requirements | Timely Warnings: Report immediately to campus law enforcement  
Clergy Crime Reporting: Report to the campus Clery Manager |
| Alleged abuse and/or neglect of minors               | Report immediately to Child Protective Services or state equivalent                         |
| Alleged conduct could violate other institutional policies | Refer to the appropriate office(s) who oversees the applicable policies               |
TIXC: File a Formal Complaint?

Consider if there are compelling reasons:

1. The **nature, circumstances, & seriousness** of the alleged conduct;
2. The **safety & risk of harm** to others;
3. Any **pattern evidence**, other similar conduct or allegations of the **RP**;
4. **RP's affiliation** with the institution & **applicable options** for institutional action; and/or
5. Other relevant factors in the specific matter?

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**Examples of Supportive Measures**

- **Non-Disciplinary & Non-Punitive Measures**... that do not unreasonably burden the other party

  - Housing Reassignment
  - Counseling Services
  - Class Extensions or Adjustments
  - Work or Class Modifications
  - Class Withdrawal or Retake (w/o penalty)
  - Leave of Absence
  - Mutual No-Contact Btwn Parties
  - Campus Escort Services
  - Increased Campus Security
Time Out

Limitations of your role

Healthy Coping Strategies

- Talking to friends, family, or professional
- Exercise
- Healthy eating
- Meditation
- Regular sleep

- Journaling
- Prayer, support from faith-based groups
- Dance, art, music, creative outlets
- Nature
Threat Assessment Tools

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Supportive Measures Rights & Options Notice of Grievance Process

Resolution Options
Formal Grievance Process Informal Resolution Formal Complaint Dismissal
1. **Individualized safety & risk analysis**: Determines that immediate threat to the physical health & safety of any student or other individual arising from the allegations justifies the respondent’s removal from the education program or activity.
   - Notice & opportunity to challenge the decision immediately following the removal.
   - Rights under ADA & Section 504 still apply.

2. **Doesn’t preclude an institution from placing non-student employee respondents on administrative leave** during the pendency of the grievance process.

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### Crisis/Threat Continuum

**LEVEL OF CONCERN**

- **LOW**
  - 1st time seeing a concern
  - Makes you or others uncomfortable but nothing specific
  - No direct threats made

- **MODERATE**
  - Not the first time seeing a concern
  - Continuation (persistence) of low-level behaviors
  - Threat implied or issued in a vague manner
  - Threat through verbal or electronic medium
  - Quick change in disposition or behavior

- **HIGH**
  - Any serious/severe incidents
  - Multiple incidents in short time frame
  - Multiple concerns (pervasive) or escalating from the “low” to “moderate” continuum
  - Access to or potential to access weapons
  - Clear direct and specific threat and/or plan

**EXAMPLES OF BEHAVIORS**

- Excessive eye rolling
- Constant interruptions
- Annoying behaviors
- Crying, sad, angry
- Apathy, lack of energy
- Delayed responses
- Distracted or difficulty concentrating
- Impulsive
- Interference in your or other’s learning or work duties
- Seeking “revenge”
- “You’ll be sorry” or “You’ll pay for this”
- Disrespectful, rude
- “You are incompetent & stupid”
- “I don’t care if I live anymore” or “No one will miss me”
- Feelings of hopelessness
- Threatening and posturing in intimidating manner
- Violent statements
- Hate speech
- Physically violent

*Adapted from Student Emergency Services & the Behavior Concerns & COVID Advice Line (BCCAL), UT Austin*
**Terminology Examples**

- **“Threat”**: Threat of...physical violence or harm, safety, exploitation, damages (implicit or explicit), or possible emotional or mental harm
- **“Severe”**: Physically threatening or humiliating; effects of the alleged conduct to a reasonable person (using a “reasonable person” standard)
- **“Pervasive”**: Frequency, duration of the alleged conduct
- **“Objectively offensive”**: To a reasonable person (using a “reasonable person” standard)
- **“Reasonable person” standard**: An objective test to denote a hypothetical person who exercises average care, skill, and judgment in conduct under similar circumstances as a comparative standard.
- **“Totality of the circumstances”**: Examples: the degree of the alleged conduct’s interference with a person or effects in an educational or work setting, type of alleged conduct, frequency and duration of the conduct, knowingly unwelcome in nature

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**Most Critical Warning Signs**

1. Direct communicated threat?
2. Plans, tools, weapons, and/or materials to carry out physical harm?
3. Harbors violence fantasies?
4. A timeframe or action plan created?
5. Fixations and/or focused on a specific target?
6. Grudges or resentments?
7. The specific target has been described negatively in writing by the person of concern?
8. “Leakage” concerning a potential action plan?
9. Current suicidal thoughts, ideations, and/or plan to die?
10. Talks about being persecuted or treated unjustly?
11. Engaged in “last acts” behaviors?
12. Confused, odd, or troubling thoughts; may hear voices or see things that are not there?

**Purpose**: Understand, contextualize, assess, examine, qualify... macro-analysis...

What is the level of concern/threat?

**Source**: SIVRA-35, NaBITA
Hunters vs. Howlers

Example Tactics of Hunters:
Operates in stealth, avoiding notice from others; typically has a goal of wanting to harm others; and follows a path of progression toward violence through (a) surveillance, (b) gathering intelligence, (c) obtaining weapons, and then (d) acting on a plan of violence.

Example Tactics of Howlers:
Makes transient threats; attracts attention; acts out toward others to frighten or intimidate; wants to be seen and heard; wants to control a victim’s emotional state; can be overtly “in your face;” and typically doesn’t want to harm others physically.

Source:
Perspectives on Threat Assessment (Calhoun & Weston, 2015)

Transient vs. Substantive Threats

<table>
<thead>
<tr>
<th>Transient Threat</th>
<th>Substantive Threat</th>
</tr>
</thead>
<tbody>
<tr>
<td>Statements that do not express a lasting intent to harm themselves or someone else.</td>
<td>Statements that express a credible and/or continuing threat to harm themselves or someone else.</td>
</tr>
<tr>
<td>Figure of speech or short-term feelings.</td>
<td>Impulsive, reactive, emotional. Impaired emotional recognition. Exhibits lack of control.</td>
</tr>
<tr>
<td></td>
<td>Long-term feelings established. Desire to harm self or others extends beyond an immediate incident or argument.</td>
</tr>
</tbody>
</table>

Affective Violence

Premeditated Violence
Special Considerations:
Sexual Violence, IPV, & Stalking Cases
Common Considerations:
• Indicators of **power & control**
• Presence or threat of a **weapon**
• **History** of dating or domestic violence
• Aggressive or hostile **body language**
• Pre-existing **protective orders** or “no contact” directives
• Comparative extent of **injury** (if both are injured)
• **Property** damage
• **Elements of fear**

Source: The National Center for Campus Public Safety

Power & Control Wheel (Examples)

Source: www.alteristic.org
Examples of Predatory Behaviors

- Tests the **boundaries** of the prospective victim.
- Uses **grooming** tactics: Isolation of the prospective victim, trust building, gift giving, have “secrets” between the perpetrator & victim.
- **Plans** and **premeditates** assaults.
- Uses “**psychological**” **weapons** – power, control, manipulation, threats*
- Uses **alcohol** and/or **drugs** as a weapon to incapacitate a prospective victim.

*Note:* “**Threats**” may not be threats of violence
Has the person of concern:

- Prevented you from talking to others such as family or friends?
- Listened to your private phone calls or read your email?
- Acted jealous?
- Humiliated you at home or in public?
- Broken your personal belongings or damaged your property?
- Prevented you from leaving or held you against your will?
- Behaved violently or aggressively at home or in public?
- Assaulted your friends or family?
- Been arrested in the past for violence?

Sources: National Center for Campus Public Safety; Stalkingawareness.org

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Has the person of concern:

- Have access to a weapon, and/or threatened to use a weapon?
- Threatened to harm or kidnap your children?
- Threatened to kill you, themselves, or others?
- Harmed your pet(s)?
- Been abusing alcohol or drugs?
- Stalked or followed you? Showing up unannounced?
- Forced confrontation(s) with you?
- Forced you or your children to flee in the past?

Sources: National Center for Campus Public Safety; Stalkingawareness.org
Crisis Management Tools

Pre-Crisis Tools

- Expectations of various roles
- Protocols for meetings, referrals, and emergencies
- Phone tree, essential contacts at the ready
- Resource handouts at the ready
- Tissue, water, snacks at the ready
**Pre-Crisis Tools (Cont.)**

- Awareness of warning signs
- Strategies for de-escalation & communication “in the moment”
- Role-playing & practice
- Install an emergency “panic” button
- Set-up a close patrol before a meeting
- Office safety walkthrough assessment with campus police

**Initial Assessment of the Situation: Quick Triage**

- Current emotional status?
- Current stressors?
- Level of concern/crisis?
- Current options?
- What must be taken care of NOW?
- What can be dealt with LATER?
Crisis/Threat Continuum

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- Distracted or difficulty concentrating
- Impulsive

**MEDIUM**
- Interference in your or other’s learning or work duties
- Seeking “revenge”
- “You’ll be sorry” or “You’ll pay for this”
- Disrespectful, rude
- “You are incompetent & stupid”
- “I don’t care if I live anymore” or “No one will miss me”
- Feelings of hopelessness

**HIGH**
- Threatening and posturing in intimidating manner
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Adapted from Student Emergency Services & the Behavior Concerns & COVID Advice Line (BCCAL), UT Austin

**Strategies – In the Moment**
Active Listening

- **Goal**: Sense of feeling heard and understood; may increase cooperation
- Paying attention to the person
- Open-minded & impartial focus
- Nodding, affirmative non-verbals
- Not interrupting
- Open-Ended Phrases
- Clarifying checks:
  - Reflecting
  - Summarizing
  - Restating

Active Listening: Examples

<table>
<thead>
<tr>
<th>Type</th>
<th>Example Prompts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reflecting</td>
<td>“Sounds like you are saying...”</td>
</tr>
<tr>
<td></td>
<td>“What I’m hearing is...”</td>
</tr>
<tr>
<td>Summarizing or Restating</td>
<td>“Let me summarize to check my understanding... Did I get that right?</td>
</tr>
<tr>
<td>Open-Ended</td>
<td>“Tell me more about...”</td>
</tr>
<tr>
<td></td>
<td>“Help me understand...”</td>
</tr>
<tr>
<td></td>
<td>“Explain/describe...”</td>
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<tr>
<td></td>
<td>“What do you mean when you say...?”</td>
</tr>
<tr>
<td></td>
<td>“[Repeat/rephrase what the other person said]...Is this what you mean?”</td>
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</tbody>
</table>
Strategies – In the Moment

LOW LEVEL
De-escalation strategies:
• Active listening techniques
• Acknowledge the behavior, and the impact of the behavior
• Redirect with an alternative directive
• Take a break

MODERATE LEVEL
De-escalation strategies:
• Take a break
• Stop engaging or communicating (“silence” technique)
• Repeat your priority directive and consequences (“broken record” technique)

EXAMPLES OF BEHAVIORS
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• Feelings of hopelessness

HIGH LEVEL
Safety strategies:
• Press the emergency “panic” button
• Use “code words” to communicate with staff discretely
• Call 911
• Lockdown the office suite and/or offices

Practice Scenarios

EXAMPLES OF BEHAVIORS
• Apathy, lack of energy
• Delayed responses
• Distracted or difficulty concentrating
• Impulsive
• Interference in your or other’s learning or work duties
• Seeking “revenge”
• “You’ll be sorry” or “You’ll pay for this”
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• Threatening and posturing in intimidating manner
• Violent statements
• Hate speech
• Physically violent
Support & Resources for YOU

- Your Supervisor and/or Human Resources (HR)
- Employee Assistance Program (EAP)
- Behavior Intervention Team (BIT)
- Dean of Students Office
- Campus Police & Victim Services
- Ombuds Office
- Legal Affairs
- Off Campus Medical and/or Mental Health Providers
- Others?
Title IX Office should receive information about:
- Information or disclosure of sexual violence, sexual assault, domestic violence, stalking, or other sexual misconduct cases
- Signs of possible ‘abusive’ relationship
- Power and control behaviors, predatory behaviors relating to sexual violence, sexual assault, dating violence, domestic violence, stalking cases
- Threats of violence/harm, homicidal threats

BIT should receive information about:
- Information or disclosure of wellness issues or basic needs not met
- Personal impacts: decline in academics or mental health, financial instability, unsafe housing
- Self-harm, suicidal ideation, or suicide attempts
- Disruptions, interruptions, or “acting out” in learning or working environments
- Signs of possible ‘abusive’ relationship
- Power and control behaviors, predatory behaviors relating to sexual violence, sexual assault, dating violence, domestic violence, stalking cases
- Threats of violence/harm, homicidal threats

Title IX & BIT Reporting - What & When?

Promptly, daily triage

Title IX Office

BIT

Title IX & BIT Reporting & Communications

How?

Promptly, daily triage

Title IX Office

BIT
Title IX & BIT Example Interventions

**Title IX**
- Outreach to CP (victim/survivor) or RP (alleged of a policy violation)
- Coordinate supportive measures for CP or RP
- Safety planning options
- Sexual Misconduct Grievance Process
  - Formal grievance process
  - Informal resolution process (if available)
- Refer for Interim Action considerations: Emergency Removal (Dean of Students) or Admin Leave (Provost or HR)
- Refer to BIT (wellness or safety concerns)
- Collaborate with BIT
- Call police for emergency welfare check, close patrol, or back-up
- Others?

**BIT**
- Outreach to the person of concern
- Wellness meeting w/ person of concern
- Warm referrals to resources or support services
- Coordinate resources & support services
- Data mining & collaboration with w/ key campus stakeholders (advisors, faculty, supervisors, DOS, etc.)
- Contact emergency contact(s) listed
- Refer to Title IX (TIX reportable information known)
- Refer for Disciplinary Review/Action (including Interim Action considerations)
- Collaborate with Title IX
- Call police for emergency welfare check, close patrol, or back-up
- Others?

Best Practices for Title IX & BIT’s

- Collaboration
- Partnerships
- Open Communication Pathways
- Resource Sharing
- Continuing Professional Development & Inter-Relationship Building
- Collective Problem-Solving
- Open to Constructive Disagreements
- Transformational Relationships & Goals
- Holistic Focus
- Documentation
Documentation & Record Keeping: TIX & BIT’s

When disclosing information under FERPA’s “health or safety emergency” exception, document the following:

- What is the **significant threat** to the health or safety of a student or other individual(s) that formed the **basis of the discloser**?
- To **whom**, **when**, **what**, and **how** the information was disclosed?
- What is the **legitimate educational interest** in the behavior of the student?

Intake & Initial Triage
Case Management Timelines, Decisions & Interventions
Contact & Communications
Data Systems for Electronic & Hard Copy Records

Bottom Line for Institutions

- Utilize the **Title IX Office, Behavior Intervention Teams (BIT’s), and threat assessment tools** to mitigate institutional risks and address campus safety
- Establish & maintain a **communication plan** to key partners
- Know **WHO** is making the **key decisions**
- Be **consistent** with communication & decision-making
- Refer to **case precedent** (e.g. similar fact or elements)
- Follow your **policy** and **process**
- **Document** accordingly
Contact Information

<table>
<thead>
<tr>
<th>Krista Anderson</th>
<th>Sean Flammer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Systemwide Title IX Coordinator</td>
<td>Assistant General Counsel</td>
</tr>
<tr>
<td>Office of Systemwide Compliance UT System (Austin, TX)</td>
<td>Office of General Counsel UT System (Austin, TX)</td>
</tr>
<tr>
<td>Phone: 512-664-9050</td>
<td>Phone: 512-579-5106</td>
</tr>
<tr>
<td>Email: <a href="mailto:kranderson@utsystem.edu">kranderson@utsystem.edu</a></td>
<td>Email: <a href="mailto:sflammer@utsystem.edu">sflammer@utsystem.edu</a></td>
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