Title IX: Gathering Facts on Dating Violence, Partner Violence and Stalking

Presented by: Liz DeChellis and Lexi Zuidema

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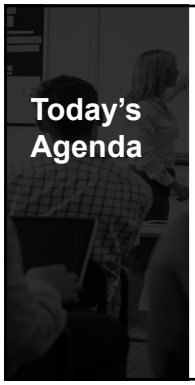

Today's Agenda

- Foundations Review
- Challenges
- Interviewing
- Law Enforcement Involvement
- Managing Your Wellbeing

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Foundations Review

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Definitions: Dating Violence (Title IX)

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and, where the existence of such a relationship shall be determined by the victim with consideration of the following factors:

1. The length of the relationship,
2. The type of relationship,
3. The frequency of the interaction between the persons involved in the relationship.

—*Clery Act/VAWA*

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Definitions: Partner/Domestic Violence (Title IX)

Includes felony or misdemeanor crimes of violence

- committed by a current or former spouse of the victim,
- by a person with whom the victim shares a child in common,
- by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
- by a person similarly situated to a spouse of the victim under the domestic or family violence laws[.]

— *Clery Act/VAWA*

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Definitions: Relationship Violence (non-Title IX)

1. Physical violence toward the Complainant or a person who has a close relationship with the Complainant […] or
2. Intentional or reckless physical or non-physical conduct toward the Complainant or someone who has a close relationship with the Complainant […] that would make a reasonable person in the Complainant's position fear physical violence toward themselves or toward the person with whom they have the close relationship. […]

— *University of California*

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Definitions: Relationship Violence (continued)

- Physical violence is physical conduct that intentionally or recklessly threatens the health and safety of the recipient of the behavior, including assault.
- Patterns of abusive behavior may consist of or include non-physical tactics (such as threats, isolation, property destruction, abuse of pets, economic control, displaying weapons, degradation, or exploitation of a power imbalance)[.]

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Definitions: Stalking (Title IX)

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or to suffer substantial emotional distress.

Course of conduct means two or more acts, including, but not limited to, acts which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

— *Clery Act/VAWA*

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Definitions: Stalking (non-Title IX)

- Repeated conduct directed at a Complainant
- Of a sexual, romantic, or other sex-based nature or motivation,
- That would cause a reasonable person to fear for their safety, or the safety of others, or to suffer substantial emotional distress

— *University of California*

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Mental Health

- These cases frequently implicate mental health issues
- We are not psychiatrists or psychologists
- Mental health conditions are more likely to make someone vulnerable rather than make them aggressive

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Evidence

- These cases can involve relationships that span longer timeframes and therefore include a lot of information to analyze
- Framing and selective production of evidence can paint a very different picture from reality
- What seems obviously connected to a Complainant may be hard to verify or connect to the Respondent
- The case material is often heavy

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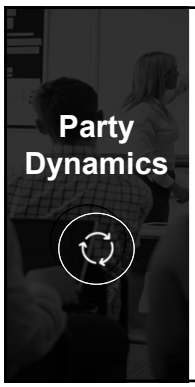
Party Dynamics



- Toxic relationships vs. abusive relationships
- Abusers may try to use campus systems against their victims to further stalk/harass them
- Violence often happens in cycles, both Parties may have experienced abuse

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Witness Dynamics

- Friend groups
- Family involvement
- Ostracization
- Fear of loss of friendships
- Gossip/rumor mill

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Challenging Preconceived Notions

- Violence and stalking affects people differently and they may act counterintuitively.
  - Why didn't they leave?
  - Why didn't they ask for help?
  - Why did they tell their friends they were fine?
  - Why didn't they seek medical attention?
  - Why did they invite them back?
  - Why did they respond to their messages?
- Retrospective and outside views are very different from "in the moment" perspectives.

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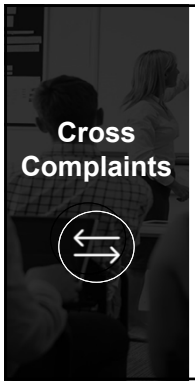

Cross Complaints

- What are they?
- Consolidate or keep separate?
- Referring to the parties in the report(s)
- Retaliation claims

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Conducting the Initial Complainant Interview

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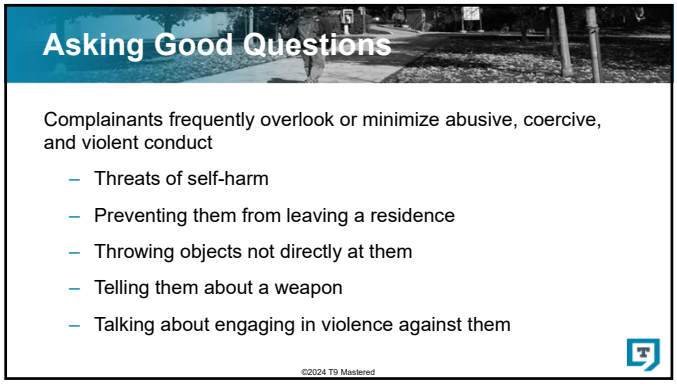

Asking Good Questions

Complainants frequently overlook or minimize abusive, coercive, and violent conduct

- Threats of self-harm
- Preventing them from leaving a residence
- Throwing objects not directly at them
- Telling them about a weapon
- Talking about engaging in violence against them

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Asking Good Questions

Question Category	Example
Timeline of Conduct	"Has the Respondent done anything similar in the past?" "Did the type of violence change over time?"
Impact on Complainant's Life	"Have your daily habits changed? How?"
How the Incident Made Them Feel	"What about the conduct made you feel afraid?"
Contact Mediums	"How did the Respondent contact you?" "When was your last contact with the Respondent?"
Communication Expectations	"Do you believe the Respondent knows you do not want any more communication? Why do you believe that?"

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Asking Good Questions

Ask about a range of evidentiary sources:

- Text message history with Respondent and witnesses
- Social media exchanges/activity
- Emails
- Notes/Journals
- Phone call logs
- Receipts
- Google location data
- Photos

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Asking Good Questions

Probing into counterintuitive conduct:

- Can you walk me through your decision to go back into the residence?
- Can you help me understand your thought process when you reinitiated contact with Respondent?
- What led you to ultimately report Respondent's conduct?

Avoid "Why didn't you do this?"

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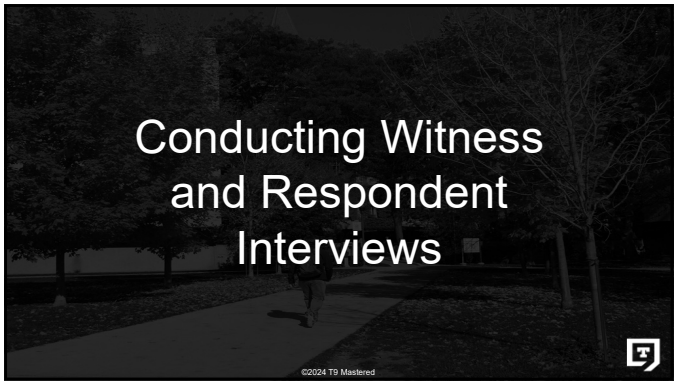

Witness Interview Challenges

- Requests for more information about the case
- Fears of the impact to them and their social life
- Volume of information
- Witness biases
- Witnesses sharing information outside the interview space
- Communications back to one or more of the parties

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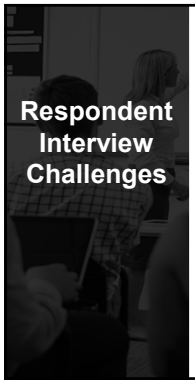

Respondent Interview Challenges

- Similar to Complainant challenges:
  - Length of relationship
  - Volume of incidents being investigated
  - Difficulty obtaining relevant details
  - Friend and family involvement
  - Length of time since some incidents
- Allegations against Complainant
- Process questions about cross-complaints, confidentiality, and retaliation

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Scope Challenges

- Level of detail in the scope
  - Pros
  - Cons
- Amended scope(s)
  - Importance of accuracy v. impact to the parties
  - Date confusion
- When do you stop scope expansion?
  - Let Policy be your guide
  - Remember the big picture

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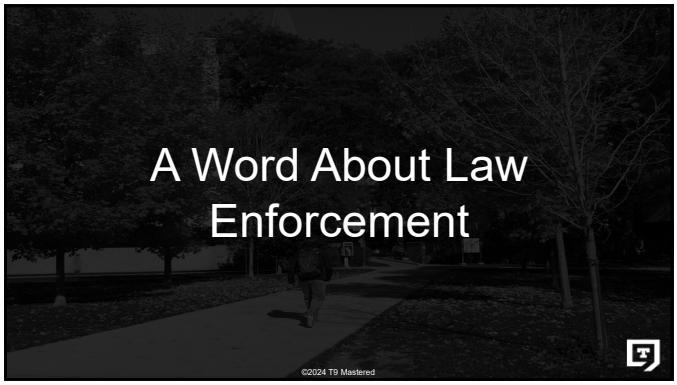

Law Enforcement Involvement

- Different avenues to obtain information:
  - Copy of the report
  - Review of the report
  - Interview with lead investigator
  - Discussion with the assigned District Attorney
- Handling Information Obtained
  - How do you use it in your investigation?
- Managing Medical Records

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Managing Your Wellbeing

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Things to Consider

Heavy Content
- Extensive message histories
- Graphic imagery
- Different kinds of abuse

Managing the Impact
- Important to check in with yourself
- Asking for help or a break is not weakness
- Drawing boundaries on content is healthy
- Take care of your physical self
- Make a plan for burnout and fatigue, don't wait for it to happen

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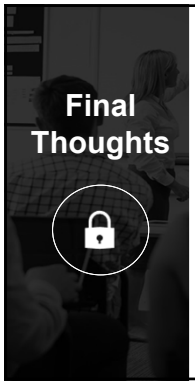

Final Thoughts

- These cases are challenging for **everyone**
- You are only responsible for your investigation and your actions
- Resources are available on campus and throughout the community to assist the parties
- The case will eventually, inevitably, draw to a close
- There are communities of Title IX professionals – Utilize your network!

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QUESTIONS?

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