

Addressing Sexual Abuse of Youth in Custody

Module 14: Investigating Sexual Abuse of Youth in Custody

Developed by the NIC/WCL Project
under NIC CA #06S20GJJ1

Objectives

- Identify the foundations of successful investigations
- Understand why investigations fail
- Identify the considerations for an effective investigation

Objectives

- Understand the implications of Garrity
- Identifying useful investigative techniques (including interviewing staff & youth, evidence collection, etc.)

Foundations of Successful

- Strong & clear zero tolerance policy for staff sexual misconduct
- Strong investigative policy
- Training staff & youth about investigative process & policy

Foundations of Successful Investigations

- Explain & demystify the investigative process
- Keep youth involved in process
- Defined as public safety/security issue for individuals, institution, and community partners

Foundations of Successful Investigations

- Reasonable assurances of retaliation control against youth, witnesses, and community partners
- Knowing the channels of reporting (including your mandatory reporting guidelines)
 - Time is the enemy
 - Reporting should be immediate

Foundations of Successful Investigations

- Staff, youth, & community partners view process as credible
- Legal/Judicial partners view processes in compliance with applicable laws & criminal procedures

Foundations of Successful Investigations

- Even if the youth recants from their original statement that something happened, or they denied something happened and you have some evidence to contrary, work the allegation as if it took place and you will be moving forward

Why Investigations Fail

- Attitude toward the victim
- Actions-Reactions-Lack of Action by 1st responders
- Complainants with limited mental capacity & murky past

Why Investigations Fail

- Lack of communications with investigative partners both internal & external
 - Law Enforcement
 - Child Protective Services
 - Mental Health
 - Medical
 - Prosecutors
 - GAL
 - Social Workers
 - Lawyers/ Public Defenders

Why Investigations Fail

- Lack of support for the victim's safety
- Timing & pace of the investigation
- Distrust of investigators
- Poorly trained investigators

Why Investigations Fail

■ Administrative Reasons

- Weak or non-existing policy
- Lack of support from the administration
- Poor teamwork
- Poor Recordkeeping **

Why Investigations Fail

- Not properly utilizing all of the available investigative tools
- Evidence that is
 - Limited
 - Weak
 - Poorly collected and preserved

Why Investigations Fail

■ Process

- Leaks
- Uncooperative victims
- Uncooperative staff- code of silence

Considerations for Effective Investigations

- Who will conduct the investigation
 - Agency Personnel
 - Outside law enforcement
 - Other outside agency

Investigative Considerations

■ Investigative Team

- Gender
- Ethnicity
- Expertise
- Qualifications
- Language ability

Investigative Considerations

- Criminal versus Administrative
- Garrity Issues

Considerations: Garrity

- What you learn independent of the interview of the suspect can be turned over to law enforcement
- Garrity does not prohibit law enforcement from turning over information to you
- Due to the “fruits” of the Garrity interview, you may want to save your interview of the suspect to one of the last things you complete in the investigation

Considerations: Garrity

- The administrative investigation can be conducted simultaneously with the criminal investigation
- The criminal investigation should have the higher priority and due to this, the administrative investigation may be put on hold so as not to interfere with the criminal

Investigative Techniques

- First and foremost consideration should be the health & safety of the victim
- Unless there is overwhelming evidence to unfound an allegation, action should be taken to separate the victim and accuser, at least until the investigation concludes

Investigative Techniques

- Consider constructing a timeline to put people in a particular location at a particular time
- If the allegation is of a sexual assault and it is fresh, the victim should be examined by a trained professional
- Prior to an incident, determine if you have a S.A.N.E. program in your area and what their policy is for examining juveniles

Investigative Techniques

- Second most important consideration is the preserving and collection of evidence
- Area where the incident took place should be processed for physical evidence
 - Clothing of both victim and suspect
 - Bodies of both victim and suspect

Investigative Techniques

Potential DNA evidence

- Blood
- Semen
- Saliva
- Skin
- Hair

Other Potential Evidence

- Letters/notes written back & forth between the participants and others (search of resident/youth's cell)
- Gifts exchanged between participants
- Reports from other staff and youth

Other Potential Evidence

- Records-Logbooks, Telephone logs, Outgoing mail log, Victim's account activity Victim's Mail, Key check-out logs, duty rosters/timesheets, journals, etc
- Video/Live-streaming
- Cell phone records of staff member

Sample Letter

log,

4.25.07

It's coming time to say farewell. I guess we both have to look at the positives. We're not saying good bye, but see you later. Goodbyes are for relationships that never last. See you later's are for people like us who have a future. You say you love me, you say you gone off me, I just pray you don't eat your words and end up with [REDACTED]. If I see you on the streets with her, I'll kill you. real talk. But anyways, this letter is for you to sit back and do the time, and think about bashin me hard, from the back. Think about me deep throatin the whole thing. They don't call me ~~see~~ Hudini for nuthin. Make sure you write and call my off days are. Mon, tues, Fri. I don't go to work till 2:00 and I don't get off till 12:00. Keep ya head up.

Always,

Brittany Flowers

AKA Hudini ☺

Interviewing the Victim in Cases of Staff Sexual Misconduct

- If other agencies are involved in the investigation, coordinate with them so that the victim is not subjected to multiple interviews
- Interview as early in the investigation as possible
- The person who talked with the victim first, initiating the investigation, should be interviewed and if they are staff, required to prepare a detailed memo of that interview

Interviewing the Victim in Cases of Youth on Youth Sexual Abuse

- Conduct and attitude by the first responders and investigators will have a major impact on the alleged victim
- Treat all alleged victims with dignity and respect
- Patient, supportive and reassuring
- Consider having mental health professional present during interview

sses

- All youth on the pod with the victim
- Any youth who may have been on the pod and recently moved or released
- Family of the victim
- Fellow staff members
 - Floats
 - Supervisors
 - Control Operators
 - Counselors

Aggressive Investigative Techniques in Cases of Staff Sexual Misconduct

- Body Wire
- Controlled Calls
- Computer
 - Examine Staff's Office Computer
- Polygraphs
 - Victim
 - Suspect

Special Considerations: Staff

- In addition to investigating the assault, staff should be investigated for a lack of supervision
- If you have sexual offenders in your program, staff should receive additional specialized training in dealing with this population

Special Considerations: Youth

- Forcible acts are crimes and should be investigated in much the same way as staff on youth
- The alleged offender is entitled to his/her constitutional rights and should be so advised.
- Most are represented by DPA on the charges that got them detained or committed.

Special Considerations: Youth

- “Consensual” sex acts should be investigated to determine if a crime has been committed and for a supervision issue with staff
- Law enforcement in KY is reluctant to investigate misdemeanor crimes
- Involved youths should be held accountable administratively for their behavior (Treatment Team)
 - Loss of privileges
 - Loss of phase

Special Considerations: Youth

- Youths should be separated from each other
- Youths should be examined medically i.e. STDs
- Staff should be held accountable for supervision if act occurred on their watch, if it was preventable

Investigators Should

- Document completely everything they do in the investigation
- Adapt the investigation to the facility
- Know their investigative resources
- Know how to use technology effectively
- Understand evidence collection & chain of custody
- Include other agencies
- Prepare before you get an allegation

Remember

- Be tenacious
- Be creative. Think outside of the box
- Keep good records Document-Document-Document
- Know your agency's policy and procedures & state & federal criminal laws
- Bring in other skill sets
 - Lawyers
 - Physicians
 - Forensics
 - Treatment Partners
 - Available community resources