



Association of
Title IX Administrators

Intermediate Interviewing Techniques & Strategies for Higher Education

Training and Certification Course

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Strategic Risk
Management Solutions



Any advice or opinion provided during this training, either privately or to the entire group, is never to be construed as legal advice or an assurance of compliance. Always consult with your legal counsel to ensure you are receiving advice that considers existing case law in your jurisdiction, any applicable state or local laws, and evolving federal guidance.

Content Advisory

The content and discussion in this training will necessarily engage with sex- and gender-based harassment, discrimination, and violence and associated sensitive topics that can evoke strong emotional responses.

ATIXA faculty members may offer examples that emulate the language and vocabulary that Title IX practitioners may encounter in their roles including slang, profanity, and other graphic or offensive language.

Course Introduction



This course focuses on the best available research and field-tested practices for effective investigations.

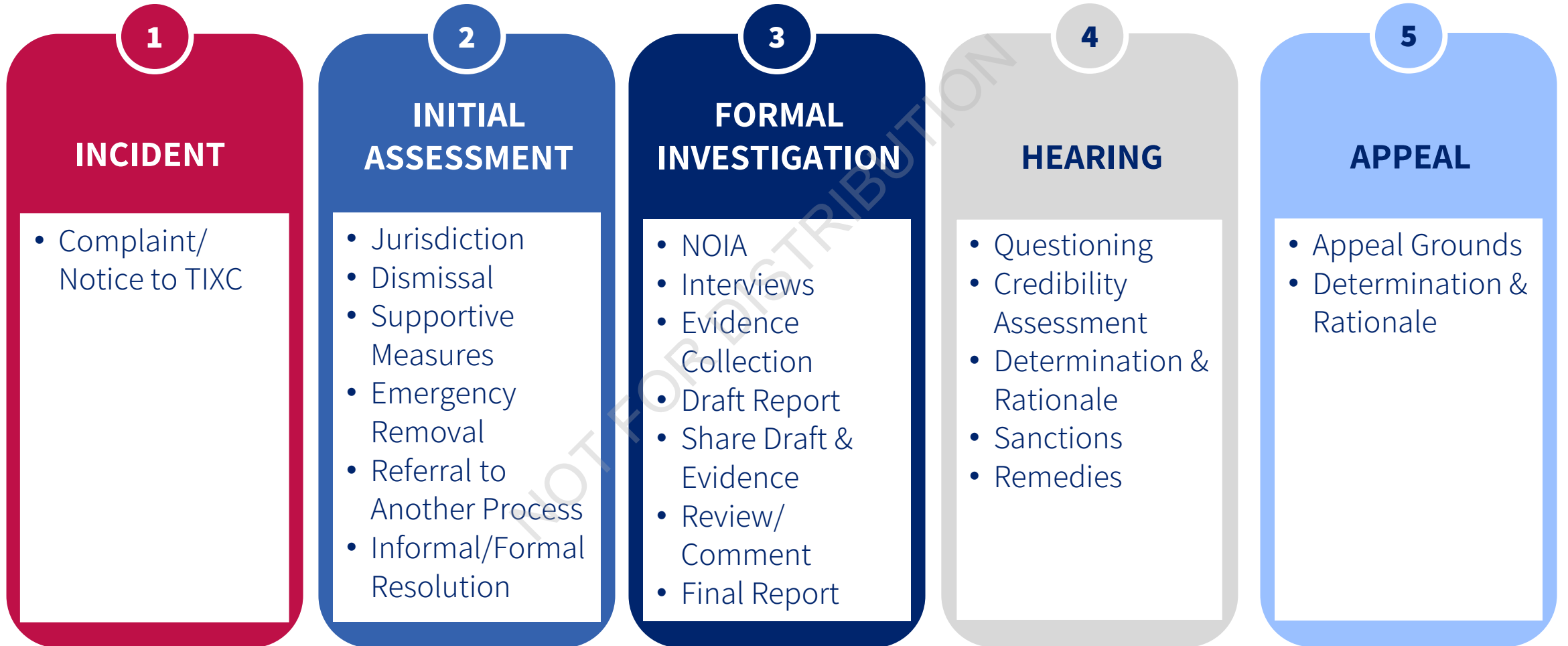


Practitioners will learn how to conduct a cognitive interview and apply sophisticated investigation skills to an array of Title IX complaints.



Our goal is to provide you with an opportunity to practice and refine your investigative skills to increase proficiency and confidence.

Title IX Grievance Process Overview



Investigation Oversight

10 Steps of Investigations:

1. Receive Notice/Complaint
2. Initial Assessment & Jurisdiction Determination
3. Determine Basis for Investigation
4. Notice of Investigation and Allegations (NOIA)
5. Establish Investigation Strategy
6. Formal Comprehensive Investigation
7. Draft Investigation Report
8. TIXC Reviews Draft Report & Evidence
9. Parties Review Draft Report & Evidence
10. Final Investigation Report



The Investigation Strategy

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Strategy Meeting

- Investigation begins with a strategy meeting
 - Typically, with Title IX Coordinator or investigations supervisor
- Review formal complaint, notice of investigation and allegations (NOIA), and intake documentation
 - Other available and relevant information
- Determine investigation basis and scope
 - Incident, pattern, climate/culture
 - Date(s), location(s), allegation(s)



Strategy Meeting

- TIXC shares file information, scope with investigator
 - Identify potential biases or conflicts of interest
 - Clarify roles and responsibilities
 - Interview scheduling
 - Primary contact for Advisors
 - Discuss information sharing



Strategy Meeting

- Assess relevant pattern considerations
- Establish preliminary investigation timeline
- Identify potential obstacles or challenges
- Develop initial witness list
- Discuss order of interviews and logical sequence for obtaining evidence
- Anticipate allegiances
- Disrupt possible collusion
- Consider whether Informal Resolution is available
- Discuss accommodations and supportive measures

Interviewing Considerations

- Prepare questions in advance
 - Open-ended questions designed to elicit narrative responses
 - Listen to answers before asking additional questions
 - Note discrepancies or areas for follow-up
- Use active listening skills
 - Eye contact
 - Head nodding
 - Summarization
- Avoid distractions
- Insert logical additional questions flowing from interviewee's answers

Questioning Techniques



Following
vs.
Leading



Explaining
vs.
Defending



Clarifying
vs.
Challenging



Curiosity
vs.
Suspicion

Building Rapport

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Building Rapport

- Rapport is meant to create a level of transparency and trust
 - Reinforce neutrality and impartiality with authenticity
 - Set the tone for the interview
 - Establish expectations
- Rapport building does not only happen in the first five minutes of the interview
 - Ongoing effort to build and maintain rapport
- Do not sacrifice professionalism or neutrality to build rapport

Ethical Considerations



Professional
vs.
Buddy-Buddy



Understanding
vs.
Agreeing



Neutrality
vs.
Empathy



Equity
vs.
Advocacy

Practical Considerations

Attire

Location

Notetaking

Recording

Response to
Emotions

Duration

Breaks

Entry/Exit

The Spiel

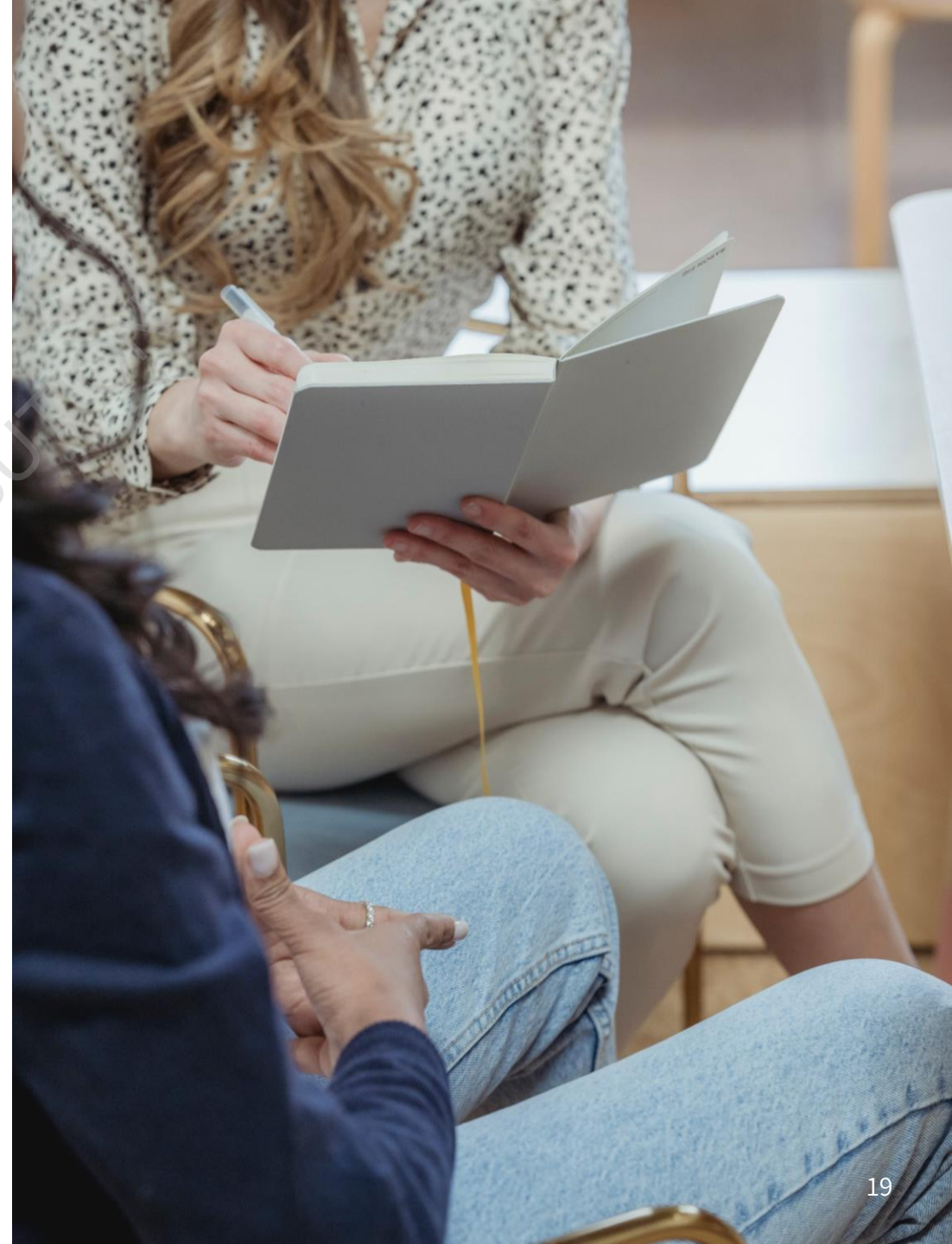
Explain:

- Process and interview flow
- Investigator role
- Expectations
- Retaliation and amnesty
- Interviewee rights
- Advisor role
- Privacy/confidentiality and their limits
- Need for truthfulness



The Spiel

- Answer questions
 - Anticipate reluctance or fear
- Provide option to take breaks
- Answer their questions about the interview or process
- Encourage interviewee to refrain from filtering language
- Avoid playing “cat and mouse” with the complaint contents or allegation details



Difficult Interviewees

- Interview in investigator pairs
- Mirror responses
- Review facts
- Highlight conflicts
- Emphasize contradictory statements
- Accept any information they will share
- Ask logical follow-up questions
- Clarify vague, nonsensical, or non-responsive answers



Activity: Interview Video

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Anatomy of a Bad Confession



Inclusive Investigations

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Activity: Trusted 5 Part I

Bias

- **Bias:** prejudice for or against **a person or group**, or an unwillingness/inability to be influenced by factual evidence
 - A preference or tendency to like or dislike
 - Implicit or explicit
 - Usually unintentional, or at least unconscious
 - Formed from stereotypes, societal norms, and cultural experiences
- Can affect our perceptions of Complainants **and** Respondents
 - Common preconceptions about Complainants and Respondents
 - Can affect our perceptions of others within the process or associated with the process

Identity in Investigations

Identities may influence openness during interviews

- Concern about administrators understanding issues related to identity
 - Cultural norms, language, religion, citizenship status, sexual practices, etc.
- Misconception that sex-based harassment cannot occur between same-sex individuals
- Fear of negative stereotypes
- Concern about law enforcement or institutional response
- Fear of minimization

Identity-Based Concern Examples

INTERNATIONAL

- Language barriers
- Cultural variance and differences
- Religious considerations
- LGBTQIA+ acceptance
- Alcohol or drug use
- Immigration/Visa concerns

LGBTQIA+

- Outing
- Unique health concerns
- Religious considerations
- Familial tensions
- Fear of betraying community
- Sexual practices

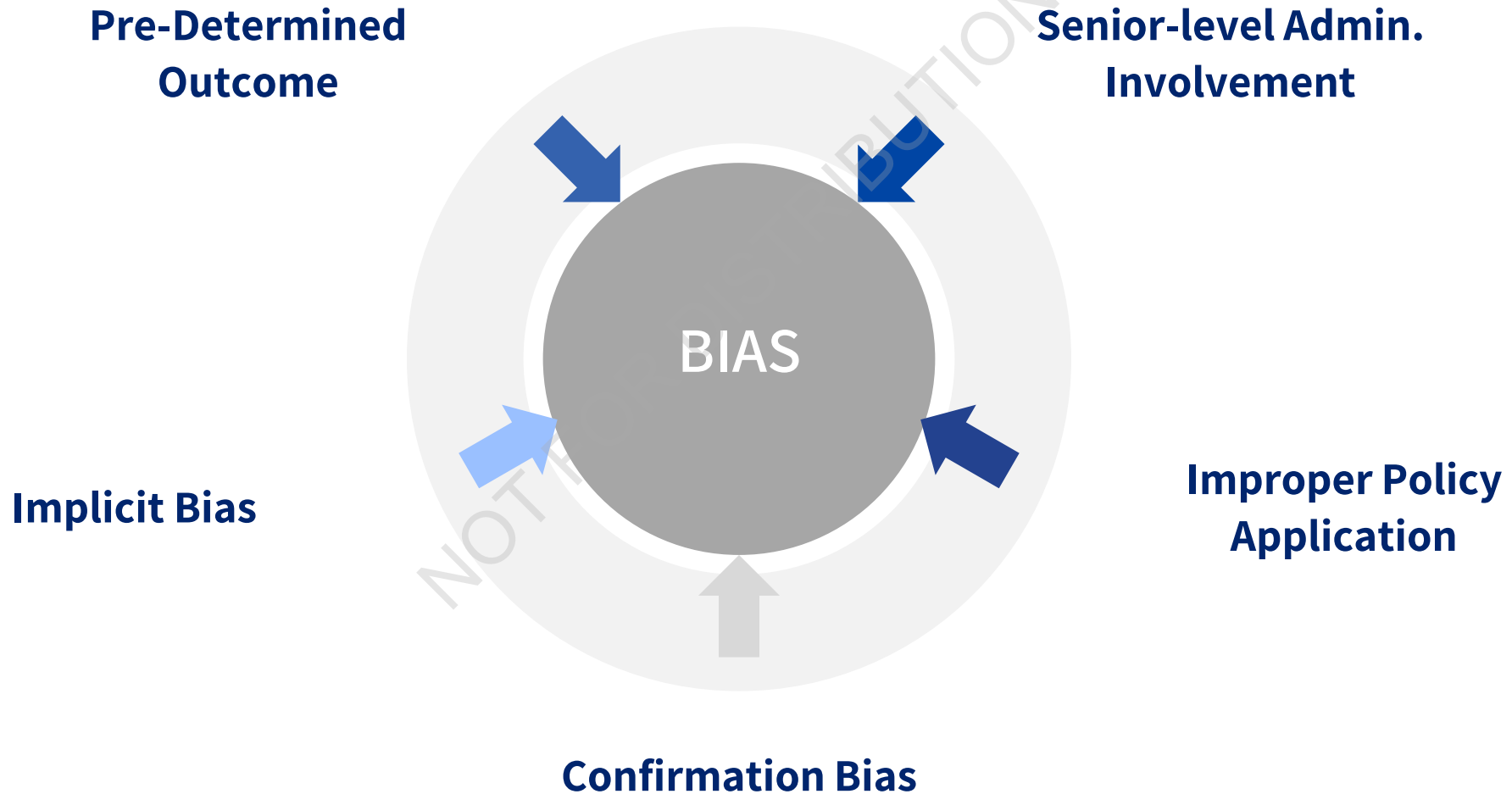
PERSONS WITH DISABILITIES

- Difficulty communicating with first responders
- Non-inclusive prevention and awareness programs
- Accommodation needs
- Processing and memory challenges

Inclusivity Discussion

- What types of challenges might disrupt or impede an effective investigation based on the individuals and/or sexual practices involved?
 - Think about institutional culture and presumptions related to race, ethnicity, religion, sexual orientation, gender identity, etc.
- How does an Investigator's response to descriptions of preferences or practices that are "new" or "unfamiliar" to the Investigator impact rapport with an interviewee?

Common Bias Manifestations in Investigations



Mitigating Bias

- Investigation pairs
- Investigators review each other's questions
- Follow your process
- Question mapping to ensure comprehensiveness
- Be conscious of own biases
- Be aware of bias in the process



Activity: Small Group Discussion

Disability Considerations

- Collaborate with disability/accessibility services staff as appropriate
- Possible accommodations
 - Communication services
 - Extended time
 - Accessible materials
 - Additional support persons
 - Other reasonable accommodations
- Equitable reciprocation between parties as needed



Interviewing Considerations

- Investigations should be non-judgmental and respectful
- Language is important
 - Use inclusive language
 - Avoid inflammatory, dated, or biased language
 - Reflect language used by interviewees
 - Get educated; do not expect interviewees to educate investigators
 - Assume nothing and permit the interviewee to self-identify



Interviewing Considerations

- Visible reactions may impact rapport building or push a witness to dig deeper
 - Consider how facial expressions and demeanor may impact interviewees
 - Whether you are impassive or expressive, be intentional and keep it neutral
- Be mindful of power dynamics, Investigator identities, and Investigator role as a figure in the Title IX process and the institution



Interviewing Considerations

- Anticipate heightened confidentiality concerns
 - Prepare to answer questions
 - Be clear about expectations, especially limiting other parties or witnesses from discussing the complaint or the individuals involved
- Be aware of personal biases and assumptions
 - Cultural barriers
 - Lack of knowledge or experience
 - Consent

Activity: Trusted 5 Part II

Cognitive Interviewing

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Non-Cognitive Interviews

- Interviewer briefly establishes rapport
- Open-ended questions
 - Narrative answers
- Direct questions focusing on details
- Neutral delivery
- Limited effort to promote memory recall
- Linear questions tracking anticipated timeline of events
- Occasionally solicit a written narrative before the interview

Outcomes to Avoid

- Non-cognitive interviews tend to disrupt the natural process of memory searching, leading interviewees to:
 - Withhold information
 - Not provide unsolicited information
 - Abbreviate answers
 - Provide inaccurate answers



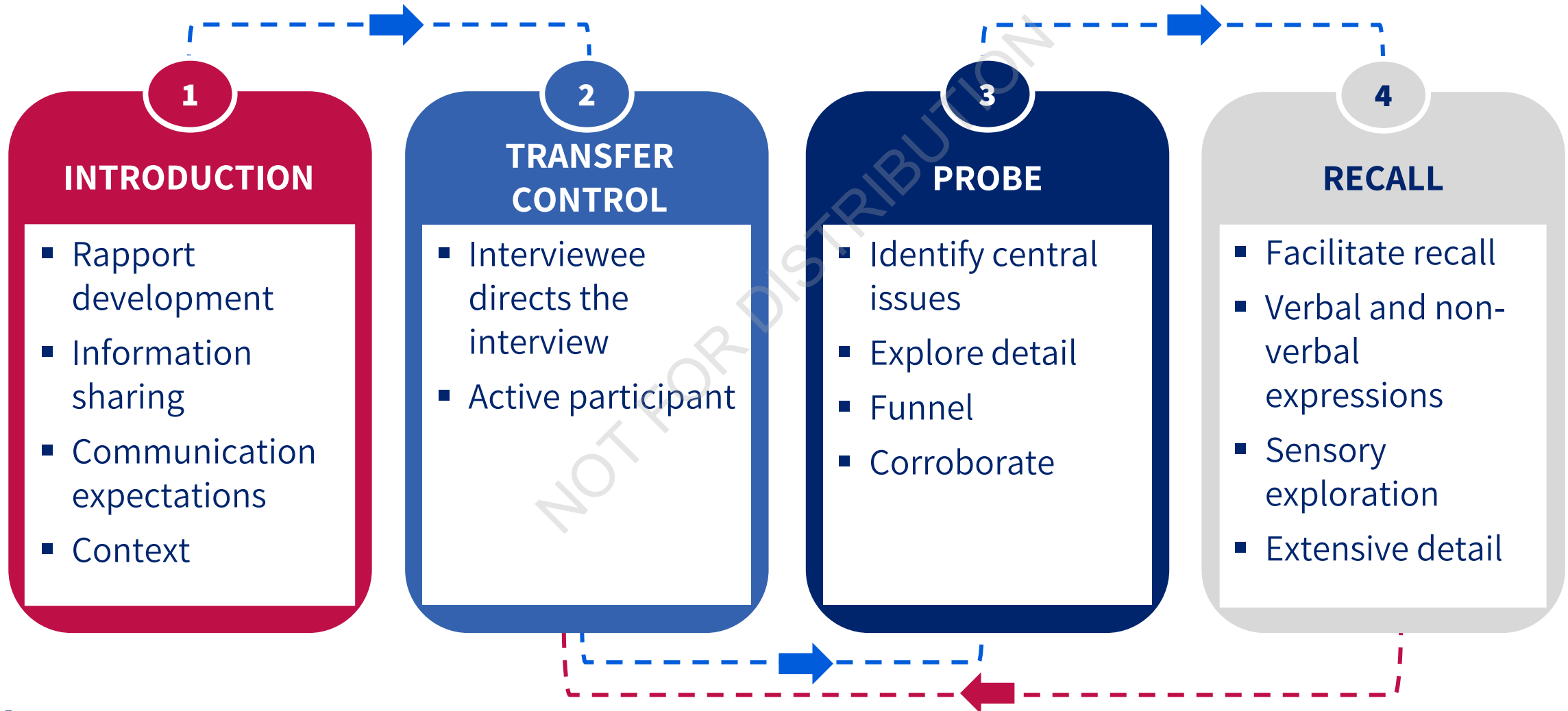
Cognitive Interviewing

- Based on principles of memory and communication
 - Increases the quality and amount of relevant information an interviewer can gather
 - Decreases the likelihood of an interviewee recalling an event incorrectly
- Rapport is highly valued
 - Increases willingness of interviewee to share
 - Decreases:
 - Anxiety about discussing sensitive subjects
 - Sense of feeling judged
 - Defense mechanisms

Cognitive Interview Considerations

- Cognitive interviewing requires the interviewer to bring the interviewee back to the scene
 - Raises concerns of re-traumatization
 - Prepare the interviewee for the possibility
- Interviews will likely take more time
- Investigators may want to explain the interview approach
 - Transparency is a rapport-building tactic
- If using co-Investigators, do not switch questioners during the recall process
 - Switching could break focus and disrupt recall

Cognitive Interview Structure



Sensory Recall

Prompt recall through sensory experience, rather than event narrative

- “Are there specific scents or smells you remember?”
- “Are there specific sounds that you recall?”
- “How did the drink taste to you?”
- “How did it feel as you sat down on the couch?”
- “What else do you remember seeing from your spot on the couch?”

Interview Tactics and Tools

Reverse
Chronological
Order

Model
Statements

Unexpected
Questions

Written Narrative

Draw a Picture

Third-Party Point
of View

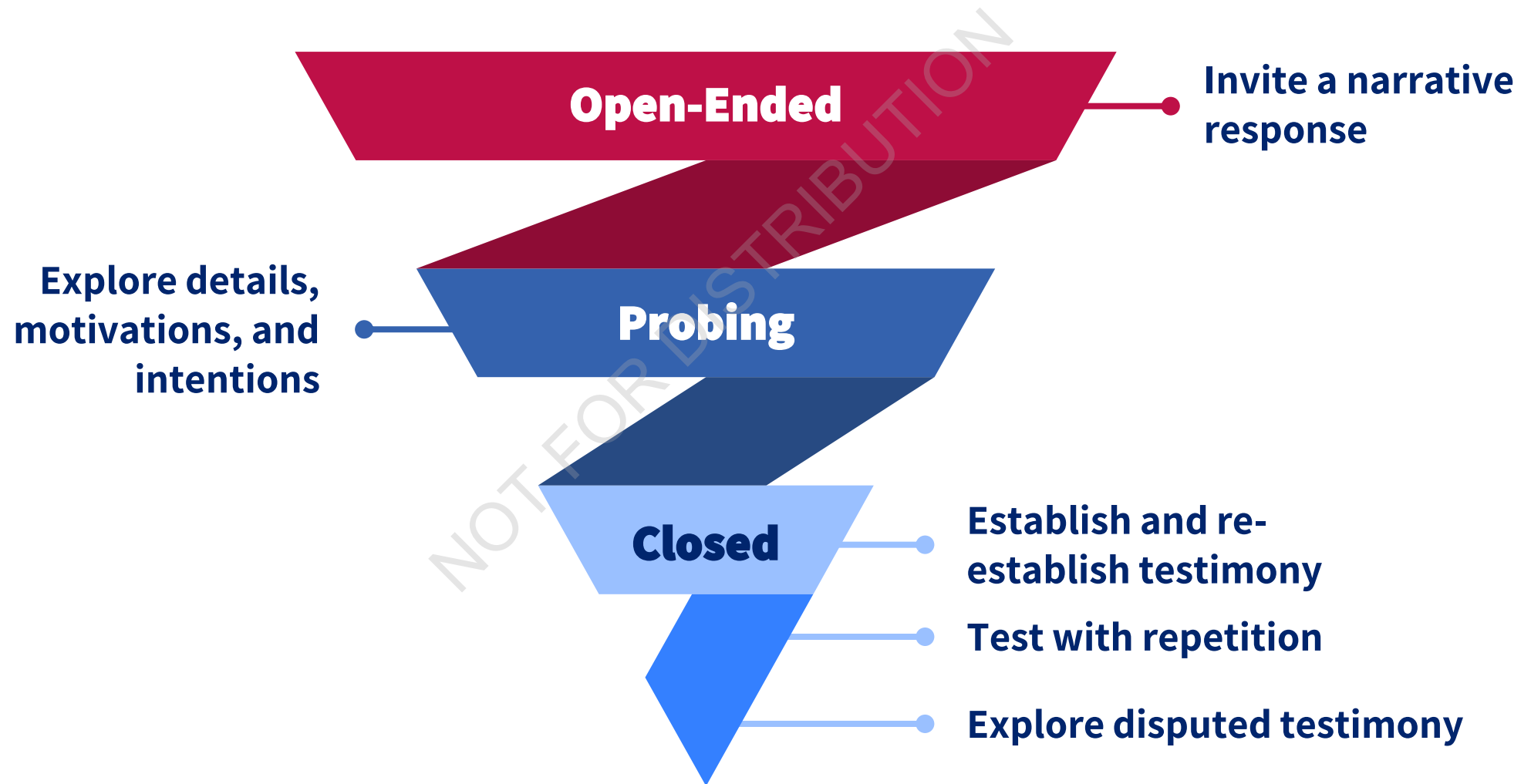
Focus on Specifics

Review details to:

- Spur additional recall
- Check for accuracy and consistency
- Correct errors or omissions
- Clarify contradictions or ambiguities
 - Terms
 - Phrases
- Rephrase confusing questions



Funnel Technique



Interview Closure

- Ask the interviewee to contact the Investigator with any new information
 - Extends the interview
 - May result in more or better detail
- Ask interviewee to suggest other individuals for the Investigator to interview
 - Or suggest questions to ask others



Activity: Cognitive Interviewing

Cognitive Interviewing Activity

Step 1

- **Interviewee:** Review your prompt in the lobby
- **Interviewer:** Review your prompt in the lobby

Step 2

- **Both:** Do not share details from your respective prompts
- **Interviewer:** Conduct interview and take notes

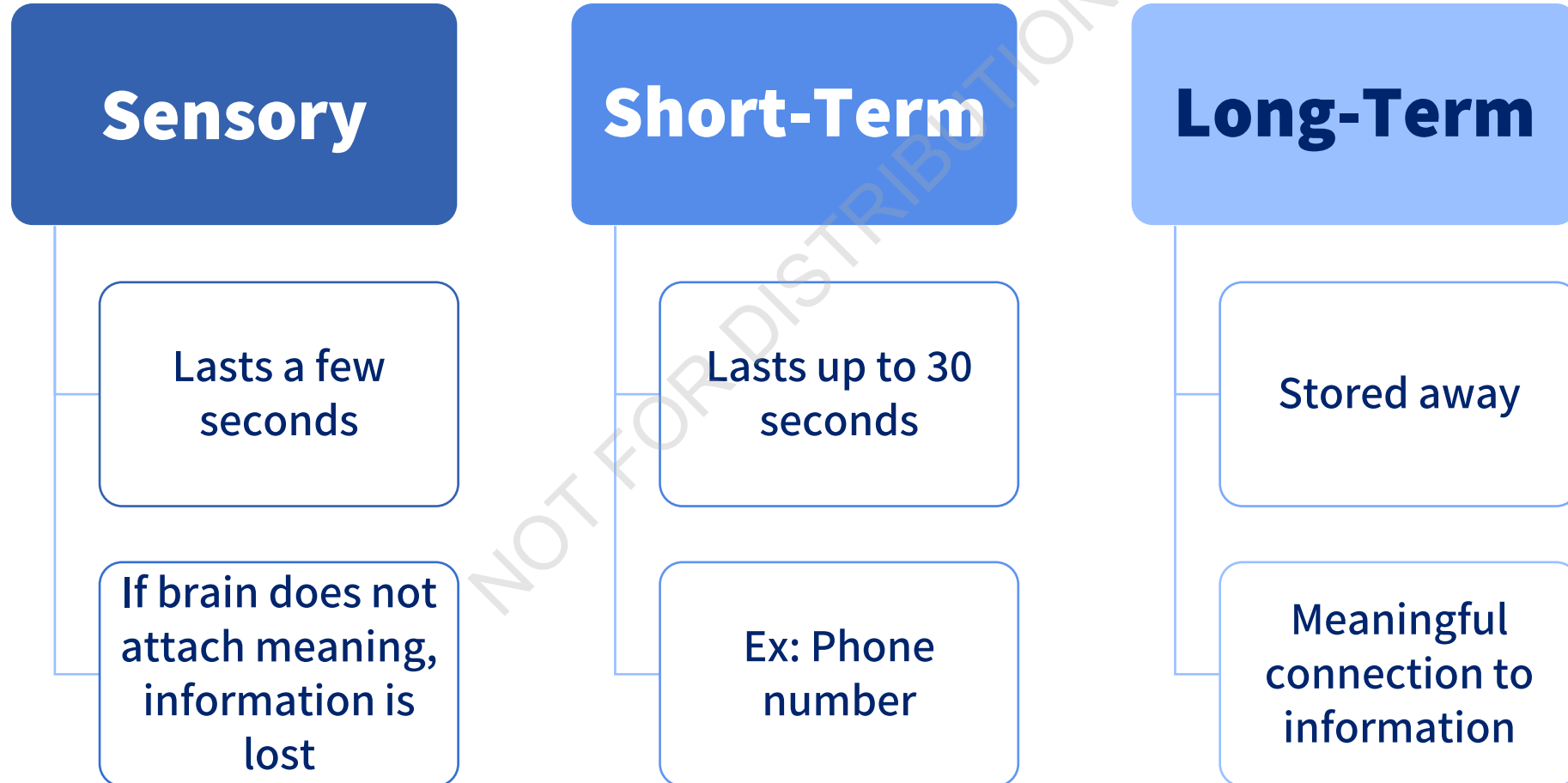
Step 3:

- **Interviewee:** What did the interviewer do that helped, hindered, or distracted you?
- **Interviewer:** What approaches did you use? Were they effective?

Memory

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Memory Basics



Memory, Perception, & Accuracy

- Long-term storage is strengthened through association
 - Accessing memory means traversing association pathways
- Memory is not like a carbon copy of a file or a video
 - Memory is filtered through:
 - Prior experiences
 - Beliefs
 - Education
 - Perspective
 - The result is a mix of factual recollection and filtered perception
 - May alter facts; memory can vary with each retrieval

Memory and Recall

- Repeated recollection attempts can strengthen recall and improve accuracy
 - Neural access pathways can literally thicken
 - Strategies encouraging holistic memory retrieval yields more accurate information
 - Questions focused on episodic memory or isolated critical moments are less reliable
- Focus on broader recall, even innocuous details
 - Repetition can help
- Use open-ended questions, delay funnel questioning if needed
- Tie critical details to nonessential details for continuity
- Provide adequate space and time for recall to occur
- Silence can be your friend

Trauma Review

- **Trauma** is exposure to an event or events that create a real or perceived threat to life, safety, sense of well-being and bodily integrity
 - Acute, chronic, or complex
 - Neurological, biological, psychological, social, and emotional impacts
 - Developmental, intergenerational, historical, secondary, vicarious, or collective
 - Responses to trauma can vary, depending on a variety of factors
- Trauma-infused practices serve to better communicate and interview

Memory and Trauma

- Trauma may cause the brain to block access to memory
 - Traumatic memories are stored, but access may be hindered
- Trauma-informed interviewing techniques lower the brain's defensive measures
 - In a safe environment, the brain is more willing to access and experience traumatic memories
- Don't assume trauma is the cause of memory issues



Memory and Trauma

- Traumatic memories are highly filtered
 - Self-blaming
 - Normalization
 - Lack of recall
 - Denial
- Trauma can impact Complainants, Respondents, and Witnesses
 - Different forms and manifestations



Credibility

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Credibility

- Credibility assessments weigh the accuracy and reliability of relevant information
 - Not synonymous with “truthful”
 - Evasion, misleading testimony, or memory errors may impact credibility
- Primary consideration is **corroboration**
 - Source + content + plausibility
- Avoid too much focus on **irrelevant** inconsistencies

Common Credibility Errors

- Misplaced emphasis on:
 - Nonverbal indicators (nervousness, anxiety)
 - Inconsistent information
- Confusion about memory
 - Stress and emotion can complicate memory
- Parties' status
- Investigator bias



Cognitive Interviewing & Credibility

- Deception requires greater cognitive load
- Deceptive individuals:
 - Prepare responses to anticipated questions
 - Develop a consistent, fixed narrative
- Honest individuals generally provide more detail or information
- Cognitive interviewing leverages differences in cognitive processing and strategy
 - Reveals inconsistencies in fixed narratives
 - Elicits verifiable details in credible accounts
- The motive for deception may be of interest, too

Source: Vrij, A. (2019). Deception and Truth Detection When Analyzing Nonverbal and Verbal Cues. *Applied Cognitive Psychology*, 33, 160–167.

Trauma and Credibility

- Investigators can only collect available relevant evidence
 - Never substitute trauma indicators for evidence
 - Trauma is neutral; it neither enhances nor detracts from proof
 - Lack of evidence from an individual often negatively impacts their credibility
- Avoid biased thinking about what a person “should” or “would” have done
- If an individual’s account changes, differentiate between **more** information, **different** information, and/or **contradictory** information
 - Minor or insignificant variations should not significantly impact credibility
- One’s affect is **not** evidence
 - May signal a need to probe more deeply or differently

Credibility Factors

Corroboration

- Aligned testimony, other evidence

Inherent Plausibility

- Does it make sense?
- Caution: Monitor for bias

Motive to Falsify

- Do they have a reason to lie?

Past Record

- Is there a history of similar behavior?

Demeanor

- Use caution with this one



Corroborating Evidence

- Strongest indicator of credibility
- Independent, objective authentication
- Corroboration of central vs. environmental facts
- Not simply aligning with friendly witnesses
- Contemporaneous witness accounts
- Outcry witnesses
- Allegiances



Inherent Plausibility

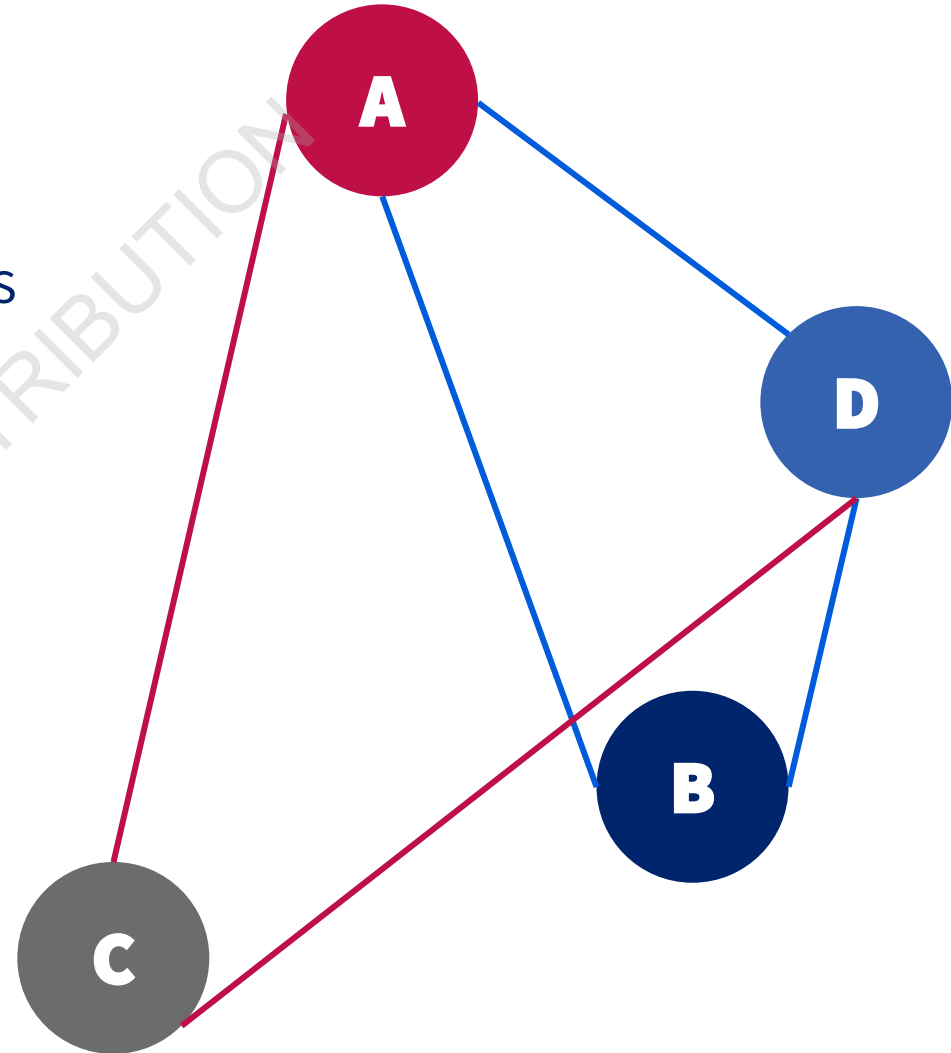
- “Plausibility” is a function of “likeliness”
- Does what the interviewee described make sense?
 - Consider environmental factors, trauma, relationships
- Is it believable on its face?
- Is the interviewee’s statement consistent with the evidence?
- Is their physical location or proximity reasonable?
- How good is their memory?

Triangulating Credibility

- Abductive reasoning
 - Likeliest possible explanation based on incomplete facts
 - Less compelling than corroboration, but sufficient in some circumstances
- Investigator is faced with two different but equally plausible explanations
 - Need to determine which may be more likely, more logical
 - Use other evidence to drive the analysis
 - “In light of evidence provided by Witness C and Witness D, Respondent’s account appears more likely than Complainant’s account”

Triangulating Credibility

- Circumstantial analysis
 - More helpful when standard of proof is the preponderance of the evidence
 - A formal way to process inherent plausibility
- If A and D are true, is B or C more likely to be true?
 - D is a bigger stretch to get to than B, so B is more plausible



Motive to Falsify

- Does the interviewee have a reason to lie?
- What's at stake if the allegations are true?
 - Academic or career implications
 - Personal or relationship consequences
- What if the allegations are false?
 - Other pressures on the Complainant
- Reliance on written document while answering questions



Past Record

- Applicable in pattern investigations or for Decision-makers considering sanctions
 - Is there evidence or records of past misconduct?
 - Are there determinations of responsibility for substantially similar misconduct?
 - Written/verbal statements
 - Pre-existing relationships
- Use **caution**
 - Past violations do not mean current violations



Demeanor

- Use significant **caution** here
- Physical presentation and speech patterns are not determinative of truthfulness
- Humans are excellent at picking up non-verbal cues
 - But are terrible at spotting liars
- Do certain lines of questioning create agitation or argumentation?
- Look for indicators of discomfort or resistance and ask additional questions



Making Credibility Assessments

- Examine consistency of the story
 - Analyze statement substance and chronology
 - Inherent plausibility of all relevant evidence taken together
- Compare degrees of credibility within evidence
 - Is a piece of evidence consistent with other evidence known to be credible?
- Consider the amount of detail provided
- Non-verbal behaviors may be important to note
 - Do **not** let this drive the analysis

Credibility Assessments in Investigation Reports

- Indicate to the Decision-maker where to focus without rendering conclusions or making findings related to credibility

NOT GOOD

“The Decision-maker should find Mark to be unbelievable in his testimony about having received consent for the following reasons...”

BETTER

“Mark’s testimony about X conflicts with Mariana’s testimony about X. The accounts of Witness 1 and Witness 7 aligned with Mariana’s testimony, not Mark’s, during the investigation.”

Decision-Making and Credibility

- A hearing is the last chance for the Decision-maker and parties to probe credibility
 - Currently, live hearings required for higher education
 - Cross-examination through Advisors
- Some courts have also endorsed a hearing for credibility assessment purposes
- Types of cross-examination
 - Questioning can occur through the Decision-maker
 - Questioning must occur between parties/Advisors when credibility is in issue
 - Questioning could occur through exchange of written questions

Activity: Credibility Assessment

Credibility Assessment Activity

Step 1

- Read the fact pattern and statements from Omar and Devya.
- Highlight elements that factor into credibility assessment.

Step 2

- What information boosts Omar's or Devya's credibility?
- What evidence could potentially bolster or detract from Omar's or Devya's credibility?

Step 3

- Outline the evidence that impacts each party's credibility.
- Itemize evidence you would like to collect related to credibility.

Looking Ahead

- Day Two Activity
 - Opportunity to practice skills from Day One
 - From the initial investigation strategy through interviews and credibility assessments
 - Intentionally small and sparse case file
 - Mix of small group role-playing and large group discussion
 - Faculty modeling some skills

Investigation Simulation Exercise

Introduction

Participants will have an opportunity to practice skills from Day One:

- Investigation Strategy
- Rapport Building
- Cognitive Interviewing
- Funnel Technique
- Trauma-Informed Questioning
- Credibility Assessments

Activity

- Participants will review file documents in phases; do not read ahead
 - Each document will provide information or evidence
 - Each phase will have specific tasks
- Participants will engage in small group discussion and role playing to practice different skills
- **Note:** The file, by design, will only provide limited evidence
 - Participants should keep notes of any evidence that comes from small group or paired role-playing
 - Those notes will become part of the credibility exercise at the end

Phase 1

Materials for Review

- Formal Complaint
- RA Report
- NOIA Excerpt

Tasks to Complete

- Discuss the file as you would in a strategy meeting
- Outline the spiel, given the information in the file
- Prepare initial questions for the Complainant, using cognitive interviewing strategies and techniques
- Discuss pre-interview rapport building strategies

Phase 1 Debrief

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Phase 2

Materials to Review

- Materials from Phase 1
- Complainant interview transcript excerpts

Tasks to Complete

- Review the transcript excerpts
- Identify areas needing:
 - Further development through more questioning or evidence gathering
 - Different questioning structure
 - Improved trauma-informed questioning
- Keep notes of small group discussion

Phase 2 Debrief

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Faculty Skill Modeling

Phase 3

Materials to Review

- Materials from Phases 1 & 2

Tasks to Complete

- Take turns acting as interviewer and interviewee
 - Use funnel method
- Keep notes of answers
- Interviewees can review Cognitive Interviewing Activity for ideas on how to vary their role playing

Phase 3 Debrief

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Phase 4

Materials to Review

- Materials from Phases 1-3
- Respondent interview transcript excerpts

Tasks to Complete

- Review the transcript excerpts
- Identify areas needing:
 - Further development through more questioning or evidence gathering
 - Different questioning structure
 - Improved trauma-informed questioning
- Keep notes of small group discussion

Phase 5

Materials to Review

- Materials from Phases 1-4
- Additional evidence file
- Any notes from role playing or other discussions

Tasks to Complete

- Assess parties' credibility using strategies outlined in Day One slides
- Draft key points for credibility analysis, as you would for the investigation report



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Questions?

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