Specialized Training: Investigating Sexual Abuse in Correctional Settings
Notification of Curriculum Utilization
December 2013

The enclosed Specialized Training: Investigating Sexual Abuse in Correctional Settings curriculum was developed by The Moss Group, Inc. (TMG) as part of contract deliverables for the National PREA Resource Center (PRC), a cooperative agreement between the National Council on Crime and Delinquency (NCCD) and the Bureau of Justice Assistance (BJA). The PREA standards served as the basis for the curriculum’s content and development with the goal of the Specialized Training: Investigating Sexual Abuse in Correctional Settings curriculum to satisfy specific PREA standard requirements.

It is recommended that the Specialized Training: Investigating Sexual Abuse in Correctional Settings curriculum be reviewed in its entirety before choosing which modules to use. Any alterations to the original materials must be acknowledged during their presentation or requires removal of the PRC and TMG logos.

BJA is currently undergoing a comprehensive review of the enclosed curriculum for official approval at which point the BJA logo may be added.

Note: Utilization of the enclosed curriculum, either in part or whole, does not guarantee that an auditor will find a facility “meets standard”. Rather, an auditor will take into consideration the curriculum used as part of their overall determination of compliance.
Module 8: Report Writing

Time: 2:30 p.m. – 3:00 p.m. (30 min)

Training Objectives:
1. Understand what a final investigative report should contain.
2. Identify techniques for writing the final report to ensure accuracy and clarity.
3. Explain criteria required for administrative action and prosecutorial referral, per requirements of PREA standard 115.(3)34.

Materials Needed:
1. Easel pad and markers
2. PowerPoint® player/machine (lap top computer and LCD projector)
3. Screen or monitor
4. Handout: Consider pulling a sample investigation report from your agency to use as a handout for this module. The content examples within the module could be replaced with content examples from the sample report to make the module agency-specific and directly applicable to your investigators.

Training Tips:
• This module is designed to address how an investigative report – the format, the writing style, and content – can be significant to determining whether a perpetrator of sexual abuse or sexual harassment is administratively sanctioned or prosecuted. Portions of this module could be combined with a more general agency training module on report writing, but ensure that the module includes information pertaining to the criteria required for administrative action or prosecutorial referral, per the requirements of PREA standard 115.(3)34.
• Review this module to ensure all recommendations are consistent with agency requirements for investigative report writing. If there are inconsistencies, modify the content.
• Contact an investigative supervisor in your agency to establish whether there are particular areas in which investigators are struggling. Emphasize those areas within this module.
• Consider replacing the example content within this module with example content from an agency report. You may also modify the content to address a type of incident that is frequently investigated within the agency.
This module is designed as a brief overview of report writing, which is a key part of any investigator’s job.

The investigative report is extremely important because it communicates the steps you took during your investigation to the people in charge of the next step – administrative action or prosecution.

- If your report is confusing or inaccurate, it doesn’t matter if you conducted an investigation because the person reading your report will not know what you did.
• If you don’t include something in your report, it didn’t happen.

If you conduct an investigation against a perpetrator of sexual abuse and refer it for prosecution, you may be called to testify during the trial. The defense attorney can and will use any mistakes in your investigation report as part of their client’s defense.

1 min

**Requirements for a Report**

The PREA Standards have certain minimum requirements for investigative reports, including

- The inclusion of any evidence found
- In administrative reports, your reasoning for any credibility assessments.

Ensure that you comply with these requirements, as your reports may be pulled during your facility’s audit.

2.5 min

**Criteria for Administrative Action**
The criteria for administrative action are determined by individual agencies. However, the Standards require that agencies set the bar no higher than requiring a preponderance of the evidence to substantiate an allegation for administrative action, which would mean that more than 50% of the evidence supports the allegation.

Criteria for Prosecutorial Referral

The criteria for prosecutorial referral include substantiation of any allegations of conduct that appear to be criminal. Therefore, an investigator or an administrator at an agency does not decide whether or not to refer a case for prosecution based on their expectations regarding whether the prosecutor will want to prosecute the case. Cases are automatically referred if:

a. The conduct appears to be criminal, and
b. The allegation was substantiated by the investigation.
However, although the agency must automatically refer all substantiated allegations involving conduct that appears to be criminal for prosecution, this does not mean that the prosecutor will choose to prosecute. Why does a prosecutor choose to prosecute a case? Why might a prosecutor choose not to prosecute a case?

Discuss.

1 min  Criteria for Prosecutorial Referral

Criteria for Prosecutorial Referral

- Investigation Report must be complete and accurate
  - NO bias
- Crime Scene Preservation
  - Do not forget that sometimes a person’s body is the crime scene (DNA)
- Evidence Preservation
- Photograph EVERYTHING

Your report will impact the prosecutor’s decision about whether or not to prosecute a case. If your report is complete, accurate, and without bias, there is an increased chance that the prosecutor will decide to prosecute. Prosecutors will not take a case if they don’t believe they can win. If your report includes appropriate evidence, the prosecutor may feel more confident that a prosecution would be successful.

1 min  Why Does a Prosecutor Charge a Defendant?

Why Does a Prosecutor Charge a Defendant?

- Heinous Crime
- Defendant is an evil person
- Defendant committed an egregious act
- The victim is sympathetic
- The case can easily be proven
- Investigation is solid
Why does a prosecutor charge a defendant? A lot hinges on the defendant; the crime that was allegedly committed; the prosecutor’s perception of the defendant’s personal moral code; and the prosecutor’s perception of how a jury would view the defendant as a person. The victim also plays a role. Juries are more likely to convict when they sympathize with the victim. However, the decision primarily lies with the case itself – whether the investigation conducted was solid. How does the prosecutor know whether an investigation was solid? Through the report.

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<tr>
<th>1 min</th>
<th>Why Does a Prosecutor Not Charge an Inmate/Resident?</th>
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<tr>
<td></td>
<td>Why Does a Prosecutor Not Charge an Inmate/Resident?</td>
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<tr>
<td></td>
<td>• Bad investigation</td>
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<td></td>
<td>• Little likelihood of obtaining a conviction</td>
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<td>• Victim is not sympathetic</td>
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<td>• Overworked</td>
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<td>• Witness availability and cooperation</td>
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<td>• Inmates/residents are already in custody</td>
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There are many reasons a prosecutor may choose not to prosecute a case, many of which an investigator cannot control. These include the prosecutor’s workload, and – as we just discussed – expectations that he or she may have about the jury’s perception of and response to the victim. Many juries are not sympathetic to convicted criminals, and many prosecutors may not see the need to prosecute a case against a perpetrator who is already in prison. In any case, if the investigation conducted was not up to par, the prosecutor will not prosecute it. How does the prosecutor judge an investigation? Through the report.

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<tr>
<th>1 min</th>
<th>Writing the Final Report</th>
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<td>Writing the Final Report: Outline</td>
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These are the key areas to any report: the introduction, the summary of the initial allegation(s), the list of people interviewed, the list of documents reviewed, the synopses of the interviews, any relevant definitions and standards, and the conclusion.

Introduction

- Short.
- Concise/ specific.
- Sets up the reason for the report.
- May list a summary of allegations.

What is in the introduction? The introduction justifies the investigation. The summary of allegations may actually be included in this introduction. Be concise, and be specific.
Here’s an example of an introduction. Note that it is three sentences long. It states what was alleged in the first two sentences, with specific details around what, when, and where, and it provides information on the agency’s immediate response.

A report that is organized chronologically is easier for a reader to understand, whether that’s your supervisor, the administrator determining appropriate sanctioning, or the prosecuting attorney. Chronological order is often a better choice for formatting than writing by category (e.g. all interviews, then all documentation, then all videos, etc.). This is because the reader can compile their knowledge in the same way the investigator did and, presumably, come to the same conclusions. Officers (like first responders) should write their reports in a similar format.
Here’s another example of an introduction. It states how the investigator received the report of the incident, and it quotes that report to explain what happened, when it happened, and where it happened. Again, it provides the immediate follow-up, and it refers the reader to appropriate supplementary information.

Next, detail your next steps. These may include reading officer reports, reviewing inmate/resident files, and reviewing videos or other evidence. To reiterate, if you didn’t write it in the report, it didn’t happen. If you review the inmate/resident’s mental health history, but find nothing applicable to the investigation, include that step in the report anyway. Certain steps may seem elementary for you, but not
all audiences will have your knowledge or have the time to ask you whether you took that step. Additionally, it can end up making you look incompetent on the stand if the defense attorney asks what else you didn’t bother to include in the report.

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<th>1 min</th>
<th>Content Examples</th>
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<td>Content Examples</td>
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<td></td>
<td>◆ On February 6, 2011 while in the shower in the CHD unit, Offender Johnson was sexually assaulted by Offender Callie Brown #129213.</td>
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<td>◆ Johnson was in the shower when Brown snuck over, entered Johnson’s shower and said &quot;show me what you did to your 12 year old victims&quot;. She made me perform oral sex.&quot; Johnson stated she did not resist. ..........</td>
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Consider how you present your information. Only use quotation marks if it’s exactly what was said. Entire cases can hinge on an inaccurate quotation.

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<td>◆ On 2/8/11, Investigator Brad Perry downloaded and saved five videos from CHD. The videos were from the previous evening of 2/7/11. I reviewed the institution videos. (Exhibit 5, videos).</td>
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<td>◆ The first video started at 1747 hours and shows Offenders Johnson and Brown going back and forth between their cells and appear to be preparing food items and sharing with other offenders. (15 minute video clip).</td>
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Provide detail about what you did and why you did it. Here, the report recorded the date that the videos were downloaded, the times covered by the video, and what the video showed. Note that the language used when describing the video is “appeared to” – don’t make declarative
statements unless you’re certain. It’s always better to qualify.

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<th>1 min</th>
<th>Outline of Possible Rule Violation</th>
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<td>- Policy 5010R-A states that <em>Offenders are not to participate in sexual contact of any kind.</em></td>
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<td></td>
<td>- Policy 5010R-A states that <em>Staff are prohibited from having sexual contact of any kind with offenders.</em></td>
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For administrative cases, make sure you know what policy is being violated, and include that in your report. An investigator doing administrative or internal affairs cases should know their agency policies better than most anyone in the institution.

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<th>Example of Steps</th>
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<td>- Your Interview Report of interviews with the victim, staff and witnesses.</td>
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<td></td>
<td>- Your Interview Report of interviews with a suspect.</td>
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<td></td>
<td>- Your review of alibi or video or phones.</td>
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<td></td>
<td>- Steps you requested a peer to do -i.e: monitor mail or phones.</td>
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Include everything you do in a report – your interviews, the follow-up steps you take to review alibis, and anything you may ask another person to do for you.
This content is written in the third person by the investigator. He/she includes detailed steps taken and the reasoning for his/her steps. Note that he/she identifies why the education director was brought in: Past experience gave the investigator reason to suspect something was not authentic about the phone call.

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This is a piece from the same report, but written in first person. As you can see, the report is quite detailed regarding the content of the interview. Again, be careful with quotations.

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<th>Content Example</th>
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The report is concise and to the point, communicating the necessary pieces of information without confusing the reader.

**Content Example**

- At first, Olson adamantly denied any physical contact with Sparks. Later, Olson admitted and said, "I've been inappropriate." Olson then admitted Sparks has touched him in the genital area, underneath his underwear. Olson admitted he had put his penis in her mouth. Olson also admitted kissing Sparks. Olson stated this took place in his office.
- I terminated the interview and contacted New York City Police.

It’s important to remember that your reports must include only what you observed, not your opinions on those observations. For example, if someone is constantly late, you may believe that person is irresponsible. However, as an investigator, it is not your place to draw that conclusion. The report should simply state facts.

The content examples provided above included both third and first person writing styles. Agency policy is for reports to be written in...
Ensure reports state observations, not the conclusions drawn from those observations. Including conclusions rather than observations is another opportunity for a defense attorney to criticize you on the stand.

Here’s another example of where a report should include fact rather than conclusions drawn from those facts.
Your report should contain comments made by your suspect and any rebuttals to those comments. How do the suspect’s and victim’s stories fit together? Whose story has the most corroborating evidence from witness statements and other evidentiary means?

Someone reading your report should be able identify as many of the steps you took as possible. Any documentary evidence you have should be included as attachments. However, the attachments should not be the original evidence; pull the documents and make copies. The originals should always stay in the evidence locker.
An investigator needs to do all of these things in their investigation – then he/she needs to accurately and clearly demonstrate these actions in a report.

- A logical sequence was followed
- Physical evidence obtained legally
- Victim, suspect, and witnesses effectively interviewed
- Suspect legally interrogated
- All leads thoroughly developed and investigated – vet your information and people
- Complete, accurate and objective reporting

Review your report after you’ve written it. Does it make sense? Try to avoid making mistakes involving spelling and grammar. If something is unclear, you’ll have to go back and write addendums for clarification. Be clear the first time around. You never want to add an addendum to your report if you can avoid it.