Campus Sexual Assault

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http://oag.ca.gov/campus-sexual-assault
Trends Across US

• Many campuses under investigation by USDOE

• Public scrutiny of both campuses & law enforcement

• Confusion about relationship between campus disciplinary proceedings & criminal prosecutions

• Persistent low reporting & prosecution rates
Trends in CA

- **Affirmative Consent**: Defined as “affirmative, conscious, and voluntary agreement to engage in sexual activity” which “must be ongoing” throughout a sexual activity and can be revoked at any time.
  - Each person involved is responsible for ensuring AC.
  - Things that do not = consent: “Lack of protest or resistance”; “silence”; “dating relationship”; “the fact of past sexual relations.”
  - Not a valid excuse if accused believed there was AC due to accused’s “intoxication or recklessness” or due to complainant’s intoxication, incapacitation, sleep/unconsciousness, etc.

- Required policies/procedures to ensure disclosure to & coordination with law enforcement
Overview of CA AG Initiative

• Goals
  ❖ Foster Greater Campus/LE Collaboration
  ❖ Increase Reporting, Improve Response & Prosecution

• Bulletin – January 2015
  ❖ Explain new CA laws in context of federal laws
  ❖ Encourage greater collaboration

• Model MOU – May 2015
  ❖ Create a “plug-and-play” option

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Model MOU

- Partnership with University of CA, DAs & PDs

- Goals
  - Create “plug-and-play” option
  - Cover as many obligations as possible in one doc
  - Fill in details of White House MOU for CA
  - Foster best practices

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Model MOU Highlights

- Extensive information given to victim re: rights
  - Right to a rape kit at no cost to the victim.
  - Right to participate or not participate with LE.
  - Right to engage anonymously with LE using a pseudonym.
  - Right to have a support person present at any interview by LE authorities, district attorneys, or defense attorneys.

- Detailed rapid response plan
- Strong training commitments
- Accountability provisions re: data collection, etc.
- How-To Guide provides bonus material

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Ongoing Challenges

- Student privacy – disclosure to law enforcement cannot include PII without victim consent
- Confidentiality/privilege issues
- Clery warnings & law enforcement
- Campus law enforcement vs. local law enforcement & timing of coordination between institutions

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