

Business Better (Season 2, Episode 9): Trauma-Informed Investigations, Part Two: The First Report

Speakers: Jill Steinberg and Katharine Manning

Steve Burkhart:

Welcome to Business Better, a podcast designed to help businesses navigate the new normal. I'm your host, Steve Burkhart. After a long career at global consumer products company BIC – where I served as Vice President of Administration, General Counsel, and Secretary – I'm now Of Counsel in the Litigation Department at Ballard Spahr, a law firm with clients across industries and throughout the country.

Steve Burkhart:

This is episode two of the “Trauma Informed Investigations” series, where we follow a fictitious story to address the legal and human issues that arise in an organization when confronted with allegations of sexual abuse. In today's episode, we discuss how a person who first receives a report of sexual abuse should respond, including effective listening techniques and how that person can support the victim through the disclosure process. We also discuss some best practices for an organization in its initial response to these allegations. Leading the discussion is my Ballard Spahr colleague Jill Steinberg, a Partner in Ballard's Philadelphia Office. Jill is joined by Katharine Manning. Katharine is the author of “The Empathetic Workplace: Five Steps to a Compassionate, Calm, and Confident Response to Trauma on the Job”, and the President of Blackbird DC. She has worked on issues of trauma and victimization for more than 25 years.

Jill Steinberg:

This is Trauma Informed Investigations, a podcast from Ballard Spahr. I'm Jill Steinberg a partner at the firm and I'm joined by Katharine Manning. It's 10:00 AM when we're recording this, so good morning, Katharine.

Katharine Manning:

Good morning.

Jill Steinberg:

Glad to have you again. The intention of this podcast is to examine organizational responses to sexual abuse allegations from the perspective of individuals like us, who've handled these type of matters in the past. For me, I was a prosecutor for many years handling these cases, federal and state, and Katharine is a lawyer and she's an expert on trauma and victims rights. And so, we have a lot of similar experiences almost from different perspectives, and so I think we really complement each other in that way. And, one of the things that we decided to do is to use a hypothetical to facilitate our discussion, but the things that we're talking about in this podcast have wider application to any group, male or female, of any background of any age involving any type of contextual scenario. So, this happens in the context of a school, but again, it's not particular to someone who's school aged or something that happens on a college campus or in a high school.

Jill Steinberg:

And so, we hope that this will have application to anyone who might be listening, confronted with these complex issues. And in episode one, we laid out the fictional facts, which involves a 14 year old at debate camp who is sexually abused by her 30-something year old instructor, who is a decorated former debater and a national debate judge. At the end of the hypo, as we left it, the victim Caroline, she has an 18 year old camp counselor who witnesses Coach Tim and her engaged in a sex act, but that counselor does not make a disclosure. The camp comes to an end and everyone goes home. And now in this episode, we

take the hypothetical one more step and discuss the issues relating to the first disclosure of the abuse and what happens next. So resuming the hypothetical, the camp ends the following week, meaning the following week after the camp counselor sees this sexual act between Tim and Caroline and Caroline returns home to Iowa, the camp ends and folks disperse.

Jill Steinberg:

Her first week back at school, Caroline tells her school guidance counselor that she has had a sexual relationship with Tim. She also discloses that Tim videotaped one of the sex acts. The guidance counselor immediately contacts Caroline's parents who report the incident to their local police department, and that's in Iowa and Edgewood, the college that hosted the debate camp, which is in Wisconsin. And, that's where we're stopping our hypothetical for this episode, and before we jump into our conversation about what's happening here, we wanted to acknowledge that it's probably not the likely path that this takes, that Caroline makes an immediate disclosure to her school counselor, but it's helpful for the purposes of the hypothetical and to talk about what happens next to do it this way, but we wanted to flag that for listeners who might have some experience in this area, that might say, "Well, that's probably not how it's going to come out. It might, but it might not."

Jill Steinberg:

I will say doing internet safety and related type of talks for kids and parents for many years, a lot of times how these things come to light is through almost accidental disclosures, behaviors that are strange, behaviors that the victim might be manifesting that are strange, or sort of secretive behavior on their electronic devices and things like that. So, we just wanted to acknowledge that before we sort of jump into it is that there's a level of awareness that it might take people in the environment to know what's going on and it won't necessarily be this obvious. Do you agree, Katharine?

Katharine Manning:

Yeah, absolutely. I feel like often what happens is there is a parent or somebody discovers images or videos on the phone or overhear something. So, it is the rare kid who has the wherewithal and ability to go directly to an adult, like a guidance counselor and disclose. I do you think it makes sense for the purposes of this discussion because what we wanted to get into more specifically is guidance for the individuals who might be receiving those first reports.

Jill Steinberg:

Exactly, and this is something that you talk about at length in your book, *The Empathetic Workplace*, which as I said in the last episode is fabulous. It puts into words things that I've experienced that I was not as articulate in expressing to people, and now I'll just give them your book. And, you talk a lot about how it is as the listener hearing from people who have been through traumatic events and you're are talking about it in the context of a workplace, but of course it has application in lots of different contexts, which is exactly how we hope this podcast lands.

Jill Steinberg:

And so, in the context of this hypothetical scenario, you have the 14 year old victim who makes the disclosure to the school counselor, and you talk a little bit about from the person who's listening, in this case, the school counselor, how it is that person should go about responding and I don't necessarily mean responding with words, but you talk about in your book something called the laser method, and I think the first parts of that are really applicable here. So, maybe you can talk a little bit about that method and how the counselor would engage that here.

Katharine Manning:

Absolutely. So first off, I just want to acknowledge that it is really hard to hear these kinds of reports. So, I don't want to talk about this in a completely dry way, as if like... Obviously, there's just steps to follow and we just follow those steps and everything is fine. If you hear a child talking about something that sounds like abuse, that is very, very stressful, and suddenly you may find it difficult to concentrate, you may think, "All I want is for this to stop and please somebody else deal with this." That's all perfectly normal. This is an upsetting situation. So, recognize that having a human response of stress is completely

normal. The way that that could affect you is when we get a stress response we get a flood of adrenaline. So, suddenly we're like a little bit fidgety, maybe playing with our pen or we can't stop looking at the door, just want to walk around.

Katharine Manning:

And, the other thing that can happen is our part of our brain that is associated with complex thinking and rational decision making gets dialed down just a little bit. This is a normal stress response. This our sort of stress center of our brain, which is called the amygdala is telling us right now you don't need to be focused on reading some sort of complex article, you need to protect yourself from this stressful situation. So, it just dials down our rational thinking a little bit, which makes it really hard for us to focus. So, there are a few things that we can do in that moment to help us stay present and calm because what we don't want is to communicate to somebody who's come to us for help that we don't want to hear from them, and if somebody starts telling me something and I'm instantly playing with my pen and looking out the door, that's going to communicate to them that I don't want to hear what they're saying.

Katharine Manning:

So a few things like one, just take a deep breath, try to stay calm yourself. In particular with kids, kids are so good at reading us and our emotions and they want so much to please us. So, they will be looking for any evidence in our demeanors and the things that we say that we want something different from them than what they're doing. So, if they start telling us something and we do just a really sharp intake of breath, or we say back in a sharp way, what did you say, they are going to notice that and they are going to think, "Oh, this person doesn't want to hear this. I better clam up." So with kids in particular, it's really, really important that we are mindful of our demeanor and we create an environment that's safe and makes them feel comfortable in sharing what they have come to us to share.

Katharine Manning:

So with that, then the laser method, as you mentioned, is really five steps. So step one is listen, and I'll talk in a minute about what listening is like, what's active listening. Step two is acknowledgement. Three is sharing information. Four is empowering with resources, so giving them a place to go next. And, step five is return, which is both literally returning to the person, checking in, seeing how they're doing, and then also is a return to ourselves, managing our own response and self care. Just to return to that step one for a minute on listening, there are a few things we can do to create an environment where people feel comfortable talking. One is ask questions, let them know that we want to hear from them. So, what happened then? Tell me more. Another is a technique called looping, which is literally just repeating back some of the words they've said.

Katharine Manning:

If they say, "And, then I just felt really unsure what to do." You can repeat back, "Gosh, it sounds like you must have felt really unsure about what to do." That can be very validating for people just to hear that you are listening to them and repeating back. It shows that you are with them. Another thing is to watch your body language. It's really common when we are experiencing stress to start to adopt a defensive stance, so arms crossed, legs crossed. I've even seen people literally turn around in their seats and face the wall behind them, just to avoid looking at the person entirely because it's a difficult thing that they're hearing. So, just watch your body language. You want to have an open, neutral expression, facing them head on, and then the final thing I want to mention is clarification.

Katharine Manning:

So, sometimes when people are telling us something and they aren't sure if this is going to be something that we want to hear or we will be okay hearing, they will glide over parts and that can sound something like, "And, then things went on from there," and usually what happens is they'll put a statement like that and then they'll keep talking. Then things went on from there and then the next morning, blah, blah, blah. So, what I do is I just make a little note, things went on from there, and then when they're finished talking, I say, "Thanks, and at one point you said, when you were talking about Thursday night, you said things went on from there. Can you tell me a little bit more about that?"

Katharine Manning:

You're just inviting them to share more information. You're letting them know that it's okay and that they don't need to protect you from what it is that actually happened. It's okay to share that information with you. Now, Jill, I do want to make a clarifying point here because we're talking about a situation where someone is disclosing a child sexual abuse. This is something where there is likely to be a need for an investigation civilly and possibly criminally. So in that instance, there may be a need for us to actually pause. This might be a moment where we don't want to listen. Would you agree?

Jill Steinberg:

I think maybe what I would say is that the counselor in this situation should take account of where she is in the process and what her role is at this point. At the point where it is clear that there's going to be additional investigatory activity, which is what would happen here most likely because you're talking about child sexual abuse, I think that person needs to do everything that you're talking about of course, recognizing his or her role in the situation as it is likely to go forward. And you're there to listen, acknowledge and share and do all the things that you talked about, but not really delve into the level of detail that perhaps is going to be required by others, and you gave a lot of examples of open-ended questions and I agree with that and that's actually how we're trained as prosecutors because most of our examinations are direct examinations.

Jill Steinberg:

And so, we are basically just saying, okay, here's the date, here's the time, here's the location, what happened? And so, that's a very natural thing for somebody like me who's trained to do this, but I've noticed for other people that's actually quite difficult, and I think some of it relates to people just wanting to get the conversation over. So, they want to plant the conclusion into the question and you're like, "Oh, so that was a traumatic event for you, wasn't it?" And so, you're trying to get to the end of the conversation. I think some people are trying to help maybe facilitate the conversation, so they're planting ideas, answers and conclusions into it. And so, I think it's important for the person in the situation, in this case the counselor to be asking open-ended questions to facilitate the communication, avoid anything that might be an indicator of blaming the victim.

Jill Steinberg:

Even though I feel like this has been in the popular dialogue for a long time, it still happens, asking questions like why, talking about alcohol or substance use, why did you accept these gifts, or anything like that, whether it's the tone of what we're saying, or the suggestion of the question, really avoid those things. And, that relates to what the role is of the person at that point. Your role in this situation is you're basically the initial intake and then you're the emotional support. You're not the investigator. There will be an investigator who comes along, whether within the college, for example, or in this case in a police department or multiple law enforcement agencies, and so you're helping everybody involved by knowing where you are in this larger process.

Katharine Manning:

Absolutely, and in terms of if you are in this position and somebody begins to tell you something that you realize, oh my goodness, this is definitely going to be something that is going to need to be reported on, that this is probably going to have to be investigated by the police, your goal is not to shut them down and say, "No, no, no, I can't hear this." Really what you're trying to do is make sure that you're not asking somebody to go through a lengthy recitation that can be emotionally difficult with you when they're going to have to do it all again later to another person who has more authority to do the investigation.

Katharine Manning:

So, you don't want them to have to repeat the story. Things can often be confused when there are multiple tellings. So, you just want to make sure that if you have gotten to the point where you think this is something that is going to need to be investigated in a fuller way than I have the authority to do, you get that onto the next phase as quickly as you can, and the way that I would suggest doing this, again, is you don't just stop Caroline like, "Shush, shush, shush, I can't hear anymore." What you want to do is first acknowledge, so that's the next step in this larger process.

Katharine Manning:

So, Caroline, thank you so much for telling me this. I think this is something where we're going to need to talk to some additional people. I don't want you to have to go through telling me all the details of everything that happened right now. What I want to do first is just thank you so much for sharing this with me and see if there's anything that I can do for you right now. Is there anything you need? So, make sure she doesn't think, "Oh gosh, I've messed up by telling this person this information," and really just focus on acknowledgement and let me linger there for a minute. So, often when somebody tells us something that is challenging, we do a pretty good job of staying with them. I think most people are pretty good at the listening piece of it, but where we fall down is the second step, which is acknowledgement.

Katharine Manning:

Often when somebody finishes their story, we want to jump right to here's what happens next, let me give you this resource you need, I know exactly what you need to do. Before we get there, we have to acknowledge that they have just shared with us something hard, something that maybe makes them feel vulnerable or embarrassed, something that may have been emotionally difficult or draining for them. So, what we want to do is knowledge that they have shared this with us, and that can be very, very simple, but that acknowledgement to my mind is really the fulcrum of the whole conversation.

Katharine Manning:

So, an acknowledgement can be as simple as thank you for telling me that, or that sounds really hard or scary or whatever it sincerely sounds to you, or you can say, I'm sorry, and I want to focus a little bit on this I'm sorry for a second because there is a little bit of nuance to it. So, I wish that there were more words than sorry in our language. I'm sorry it's raining. We can say that and that's not taking any responsibility or I am sorry he did that to you is a very different statement, or I am sorry that I did this to you, so those are three different apologies. They're all using the same word, but they mean very different things.

Katharine Manning:

At this point, when somebody has come to us with an initial disclosure, it's hard because we don't know a ton about what has happened. We've heard one person's story, and in particular, if you are in a role of fact finding, so if you are for instance, an HR person at a company and somebody comes to you and says, "Bob has been sexually harassing me for the last six months." At that point, you don't know anything other than this one person's disclosure, what they have said to you. If you say, "I'm so sorry that Bob did that to you. What a jerk, we're going to get him fired," the problem with that is you don't know exactly what happened. You've only heard one person's side of the story and there's a few problems. One is it's not fair to Bob. Obviously, Bob deserves to have a full investigation.

Katharine Manning:

In addition, it's not fair to the person who came to you to disclose because if your investigation later reveals that Bob has been out of the country for six months without access to the internet and he couldn't possibly have done the things that she has just told you, you're now going to have to go back to her and say, "I'm so sorry, the investigation did not bear out the facts as you laid them forth," and it ends up being something that breaches trust with that individual. So, you don't ever want to get ahead of yourself by apologizing for something that you had no responsibility for, that you don't actually know enough to sustain. So, what you can do always though is, "I'm so sorry for everything you're going through. It sounds like it's been a really hard couple of weeks and I'm so sorry about that." Those kinds of things. Just make sure that what you're apologizing for you can sincerely apologize for.

Jill Steinberg:

It's a good point, and you point to some things in your book that I've seen myself, I'm sure I've even done it myself at some point or another and how it is we sort of quiet our own discomfort, the things that we do when we're in a scenario where someone is making this type of disclosure and one of those things is sharing our own stories if someone shares something with us. We react and say, "Oh, I was in that situation." You talk a little bit about that. Why is it that that's not a good idea?

Katharine Manning:

For a couple reasons sense. One is it pulls focus. So, instead of sitting with the person and holding space for them, it pulls focus to our own experience or the experience of somebody else we know, and instead of just sitting with the person who is in a painful place, it's saying, "Let me instead talk about how either I or somebody I know got to a better place." And, I think when people do it's because they want to create a more hopeful future, picture a more hopeful future for the person, but in that moment, that's actually not what they need. What they need is somebody who's willing to sit with them in the painful place that they're in. So, one is that it pulls focus. The other is that we have to recognize that our experiences are never going to be the same as an anybody else's.

Katharine Manning:

Even if, for instance, my brother died of the same form of cancer at the same age as the person I'm talking to, my experience with that is going to be different than theirs. I think the example I give in the book is a pretty mild one just to illustrate the point, which is, if you're talking to somebody who just bought a house and they say, "Oh God, we finally bought our house and what a process that was, I'm really glad it's over." And you say, "Oh my gosh. I know exactly what you mean."

Katharine Manning:

The problem is though, so say you bought your house 10 years ago and it was a very different market at that point. You put in a couple of offers, one of them was accepted and the whole thing was resolved within six weeks, but for them, they have put forth multiple offers above the asking price. They've gotten all the way up to closing and it fell through. For them, this was a very different experience than your experience of it, and what we have communicated by saying, oh I've been through it too, is you can stop talking now because I already understand, but you don't in fact understand because your experience was different from theirs. Instead, just let them talk. I know that there are a lot of people who feel like this is a really powerful thing to say and they really, really want to.

Katharine Manning:

So, I will just say that if you are ever in the position where it's a friend, one, I would never do it in a work environment. I've dealt with sexual harassment, and part of the problem with that is you are creating the impression that you're going to be their advocate if you're not. Going back to that hypothetical with somebody comes forward and says, "Bob has been sexually harassing me for six months," if you say, "Gosh, I've had some experience with that myself," that person is going to think you are now their advocate when you're not. You work for the company and you're a fact finder and you are not their advocate. So, you're creating a wrong impression, but if you are talking to a friend and the friend says something like, "I wanted to share that I was abused as a kid by my father."

Katharine Manning:

And, you similarly were abused by your father as a kid, and you feel like I want to open up to this person, I want her to understand that I have a similar experience, the way that I would recommend doing that is getting all the way through to the end of the conversation and then saying... So, you've listened into their whole story, you've acknowledged, you've talked with them about what it is that they need and how you can help them. Then toward the end, you can say, "Listen, I know this is hard. I went through something similar myself," and just leave it there. So, you're not pulling focus at that point, you're not short circuiting the conversation, but you are opening up and letting them know that you have had a similar experience in case they want to ask you about your own experience and some things that may have been helpful for you.

Jill Steinberg:

That's a really great advice, and I've certainly noticed throughout all the work that I've done is that even if a factual scenario seems similar, the way that a person reacts to that situation might be dramatically different. And, although we might think that we've been through the same thing and it might be that if you take the physical action or the environmental situation that

we've all undergone and make them analogous, how we all were respond to it could be dramatically different based on a number of different things.

Jill Steinberg:

And, this will probably be something we talk a little bit about when we talk about trauma in the brain, is there are so many different factors, some of which are just baked into us and some of which are environmental that can change how it is that we react to trauma, even if that trauma's identical. I'm sure there are people who were involved in the response to 9/11, I was not one of those people, who saw individuals respond to... Visually seeing the same exact thing or experiencing the same exact event, but have reacted in a dramatically different way. Is that your response also working with victims of crime for as long as you have?

Katharine Manning:

Yeah, absolutely. Things can affect us differently based on our life experience, our makeup, just who we are and even just how we're feeling that day. So, understand that different reactions to the same experience are really, really normal, and just try to meet the people where they are, and also to recognize that it is okay for you to have an emotional response to things. We talked about this a little bit earlier, but hearing some of these stories can be really challenging. So, let me share just a few little techniques if you are in a situation where somebody's sharing something with you and you realize you're beginning to have an emotional response. One is always to breathe, take a deep breath, it kind of slows down your heart rate and can help calm you down.

Katharine Manning:

The other is to name your feeling, just acknowledge it to yourself. I'm feeling really sad, I'm feeling angry, I'm frustrated that she's gone through all of this, just naming your feeling can help you feel more in control of it. People say name it to tame it. The next thing is what's called a grounding technique and that is to engage one of your five senses. So, notice the smell of coffee in the next room. Look across the room and count the number of pictures on the wall. Put your hand on the desk in front of you and feel, is it smooth or is it rough? That just helps ground you in the present moment, and again, can be very calming.

Katharine Manning:

And, then the final thing is know it's always okay to take a break. It's important that we take a break rather than forcing ourselves through an interaction where we're starting to have an emotional response. Just say to the person, "Caroline, thanks for telling me all of this. I'm going to go get a quick drink of water. Would you like one?" Walk away, maybe breathe some fresh air, look at cute pictures on your phone, something that will actually help you take a real break before you walk back into that room.

Jill Steinberg:

The next step in the process that you've talked about is sharing information, and I think going so from the acknowledging step to the sharing step, I think this might be a good bridge is one of the no-nos that you talk about in terms of acknowledging is immediately rushing to problem solving, but of course, the next step is actually being productive and sharing information. So I guess, take us over that bridge from, the no-no in the acknowledgement step of rushing to problem solving versus being helpful and sharing information.

Katharine Manning:

Absolutely, one of the things that I've seen in my work with crime victims is that one of the hardest things about being a victim is the loss of control. You are driving home from work and you get hit by a drunk driver and suddenly you're spending the next six weeks in the hospital and you didn't do anything wrong, that's really, really hard. We want to feel in control of our lives, we want to believe that our actions determine our outcomes, and sadly, that is often not true. So, that can be one of the

things that is most difficult to reconcile when something horrific has happened to us. So, one of the things we can do to support people is help them regain some measure of control by providing information to them. Certainly in my work with crime victims, anything we could tell them about the crime itself, if we knew some information and were able to share it, letting them know what we can share, giving information about process, what is the process going to be going forward, letting them know even what we can't share.

Katharine Manning:

So, this was a very common issue in the criminal justice system. Obviously, it's important that we want each witness' memory to be their own, so we can't share what we've heard from other witnesses or information we've gathered from other sources. So, we can't provide a lot of information on facts that we've uncovered in the investigation, but what we can share is the fact that we cannot share that, and that is actually helpful because it's showing we're not hiding the ball because we don't trust them, or we don't care enough about them. We are limited in what information we can share, and that's because we want to ensure that the process is fair to everybody and that we get the most accurate result, and that means that everybody's memory has to be their own. So, even sharing what we don't know or can't share can be helpful.

Jill Steinberg:

I agree, I think transparency is helpful, even if it's the answer that person wouldn't find ideal, just the fact that you've given that person the time and an explanation that they can wrap their head around makes a good bit of sense. And, certainly as you get into the criminal justice process, there are even more sources of frustration for victims. We're at a very preliminary stage in terms of this hypothetical and it's two people talking, but as the process starts to unfold and there are so many more players and it gets confusing and the individual has to talk to people over and over and over again, it can go on for years.

Jill Steinberg:

The levels of frustration increase, and then of course start to come into conflict, if that's even the right word, with then the rights of a criminal defendant if ultimately the case becomes a criminal case, and how it is that plays out and the victim's world. And so, I think communicating is so important throughout the entire process and when things are frustrating and sometimes illogical, as the person who is wronged, just being that resource for them and giving them that information I think gives them a sense that they're being supported, even if it's not the answer they want.

Katharine Manning:

Absolutely, and I also want to add one thing about how to share information. So, when somebody is in the midst of a difficult experience, it can be hard for them to process information. So, I often feel like when I'm talking to a victim, they're hearing about 30% of what I'm saying. So, what I try to do, a few things to mitigate that, one is speak clearly, so short, clear sentences. Repeat yourself, again, because I think they're hearing about a third of what I say, I generally aim for saying the same thing three times, and then finally following up in writing if there's something that they need to do or know, in particular, for some reason, anything that involves numbers. There's a date by which you need to file this, or here's the phone number, even if they seem to be hearing and processing everything you're saying, it's still worthwhile to follow up in writing.

Jill Steinberg:

I agree, and we'll get into this a little bit later, and in later episodes is knowing the role of everybody in the process. The school counselor is ultimately going to be there as a source of support and not an investigator. There are other people who will come into the process and have investigative roles, and those people will not necessarily be a representative of the victim. The victim might choose to have her own representative, and there might be litigation that she might initiate, but there are so many processes that are going on in and around the situation and it can get confusing to the participants, where do I fit? Who's my advocate? Who's on my side? And so, I think part of the communication is letting them know that a lot of stuff is going to be happening, and where is it that you fit into the process and who is your advocate and ally, and who are the other people who are in the situation and will ultimately, potentially be of aid to you, but they might not necessarily be your advocate or representative.

Katharine Manning:

Absolutely, and in that vein, one of the things I think is important for us to be aware of for ourselves and communicating to others is our status as mandatory reporters. If you are somebody who works at a school or in healthcare, law enforcement, social services, you are likely a mandatory reporter. There are some states where every adult is a mandatory reporter. So, if you don't already know whether or not you're a mandatory reporter, just google it, google your state plus the words mandatory reporter and the rules for your state will come up and they'll let you know if you are a mandatory reporter. If you are a mandatory reporter and you receive evidence that indicates that the child is being abused and you fail to make that report, you can be subject to a criminal liability. So, it's really important that you understand your responsibilities and that you fulfill them.

Katharine Manning:

For sure, a school guidance counselor would be a mandatory reporter. I am a professor at American University. I'm a mandatory reporter even for the adults who are students at AU because of my role at this school. So, the school makes me a mandatory reporter for incidents that pertain to the college. So, understand what your responsibilities are and communicate those to the person. So, I actually do it at the beginning of every semester, the very first class, as I'm going over the syllabus. I say to the students, "Understand that as a professor of this university, I'm a mandatory reporter, and therefore there is some information that if you share with me, I am not going to be able to keep it private. I will be required to make a report on."

Katharine Manning:

So, make sure that first you have a good understanding what is required of you, and then that you communicate that in a way that the person can understand. So, if you're talking to a child, maybe say, "Listen, there are rules that make sure that children are protected and those are going to require me to talk to some people about some of the things that you've been through. So, I just wanted you to understand that I will be sharing some of the information that you've shared with me because everybody wants to make sure that you are safe."

Jill Steinberg:

That's a great point. First because it fulfills the legal requirement, so of course that's important, but also because, again, it helps lay out what these boundaries are and where everyone's role is in the process, so the victim doesn't feel a sense of betrayal. You're putting your trust in this person to make a disclosure and now you're going to repeat it, and so you have to set out the parameters in which that conversation has to occur. And, I think we do people a disservice by thinking that if we keep it to ourselves we're somehow helping them, and I agree with you what you said about empowering victims and letting them make informed choices, and by knowing what those parameters are, I think that gives them the information they need to figure out how to move forward.

Jill Steinberg:

And so, you're talking about mandatory reporting and I think that's a great way to launch into, what does the counselor do at this point? What's the plan of action. And as we've hinted at, there are going to be a lot of things that will occur very, very quickly now that this report has been made, and I think a lot of people will characterize it as overwhelming, and it can be overwhelming to a lot of different people in the process. And, from studying institutional responses to these sort of events, there are a number of public reports, there are news reports about how various institutions have handled these things and sometimes handled them badly, one of the things that happens is that there's a lack of clear accountability and responsibility in various organizations.

Jill Steinberg:

There are a lot of people who might be in the mix, but no one who's clearly responsible in taking ownership. And so from the school counselor's perspective, and from this high school's perspective, the events didn't happen there, but their student is a victim. And so, they need to understand their role in the process and have a single point of contact. Who's going to communicate it out and receive information. To me, that is one of the most important things, and when you look at where

other endeavors fail, I think this is one of the places where it starts to fail is a lack of a single point of contact and clear accountability. And from the school counselor's perspective, of course, that's limited because of the nature of what's happening, but I think it's really important. And, I think the other thing that you see in looking at these failures is the lack of an immediate escalation.

Jill Steinberg:

And it might be true here, because again, the perpetrator isn't an employee of that school and that school probably doesn't feel responsible in a sense for what happened, but as it gets to the college level where this event occurred, or the school that might employ this coach, those type of considerations sometimes are more important to certain people and decision makers than the fact that this sexual abuse occurred. There's a lot of concern that people have about reputational interest, and we talked a little bit in the last episode about concern that people have about putting voice to allegations of sexual abuse if they think in their mind they're not sure if it happened and that's legitimate. At the beginning, of course, you don't know, as you said, it has to be investigated, but sometimes people have a more dominant concern about putting voice to something like this if perhaps it isn't yet vetted.

Jill Steinberg:

But of course, you have to put voice to it and you have to report it and investigate it to know if it's happened. And if you look at Penn State, that was a criticism, that's probably a tame way of describing it, that the reputational interests of the school dominated over actually looking into what it is that happened. And so, I would say an immediate escalation and a clear point of contact and a plan are some of the most important tools that a person needs in this situation to figure out where to go next, and I think you talked a little bit about communicating to the victim about resources, and I think one of the important things with respect to the victim and her family is helping them understand what's next and what the timeline might be.

Jill Steinberg:

Sometimes these things take a long time to work themselves out and folks might think it's going to happen a lot faster and it could be months and sometimes even years that the process plays out. And so, I think one of the things that we have to do is once we have a plan, we have a point of contact, we have immediate escalation is that we set expectations and circle back. And, that's one of those things that, again, you just see over and over again is victims of these of events, because I think they're broad, these type of events, they sometimes just are out there. They don't know what's happening, nobody's communicating with them, and as a result, I think A, things go more poorly in terms of outcomes for everybody involved, including the victims, but you get situations like we've seen recently where people go to the media and I wouldn't say don't go to the media, I wouldn't discourage somebody.

Jill Steinberg:

But from an organizational perspective, you probably want to have the situation vetted and investigated and get to a conclusion before it ends up on Twitter. And when you lose the confidence of the people in this environment, they'll go to the media because they feel like they don't have someone who's solving the problem or addressing the problem in a meaningful way within the organization, and then the final thing I'll say, because I want you definitely to pipe in on your point of view, is making sure that you're taking an assessment of the other safety issues that might be at play and the listeners might think, well, you mean the victim and that's certainly true. It's likely at this point the victim is not going to be exposed again to this debate coach because she's made a disclosure to her counselor and the counselor has told her parents, and that evidence is an acknowledgement on her part that this relationship is something she doesn't want to have and she wants to create physical separation, every kind of separation from the abuser.

Jill Steinberg:

So, I think in this situation you might not have a safety situation for the victim. You might, I think it has to be assessed, but there are issues to consider in turn of third parties. Has the coach had similar contact with others? Which an investigation will tell you, but you might know that this person is still coaching, is still traveling, is still serving as a camp counselor. What is the

situation with respect to the abuser? Because you want to have a safety first perspective in my mind, and the first thing is make sure there are no more victims period, end of story. So, it might not be this victim that you're dealing with directly, but it might be somebody else. There are also witnesses potentially if it starts to leak out that this coach is under investigation or might be under investigation, is this person going to try and talk to or influence other people?

Jill Steinberg:

That's something that you want to think about, and then something a lot of people don't think about, but certainly I've had experience with as somebody who's prosecuted these cases, is sometimes the individuals who are suspected and in fact have committed these offenses will engage in self-harm, so commit suicide, things like that. And sometimes people say, "Well, why should we care? This is a bad person." Well, a lot of people, and if you look at the Jeffrey Epstein case, that's a perfect example, a lot of people actually want to see justice done, and that means a person being living, and that means going through a criminal justice or other investigatory process, a civil lawsuit, whatever it is. And so, that's something that you have to take into account. And of course, this is too much for the school counselor to do, but that's why it's so important to have immediate escalation and to immediately engage people who really know what they're doing in order to make a plan and to execute it in a way that's effective.

Katharine Manning:

Such great points, Jill. Thank you for all that, just a few things I wanted to add on to what you've said. In our hypothetical, just going to your safety point in our hypothetical, the victim and abuser are not in the same state. He doesn't have access to her anymore in an immediate sense, physical access to her as far as we can tell, but there can be instances where the abuser is somebody in the home. And so, if you are in the situation where you receive a report and you understand that the child is in immediate danger of being subject to further abuse, that is a time where you really have to pick up the phone immediately. Call law enforcement or the local social services, and there will be immediate action to get the child interviewed and figure out, is it safe for the child to return to the home or not?

Katharine Manning:

So, I just wanted to bring up that possibility. Also, as you mentioned, we have to be worried not just about the child in front of us, but about other children as well. Most abusers are serial abusers. So if the person is abusing one child, it is highly likely that there are others who have been abused as well. And then finally, just on the point of self-harm, just to flag it of course, we also should be watching out for the victim engaging in self-harm as well. Even if the victim seems completely calm and fine in front of you, make sure that those around the child, the parents or guardians, are keeping an eye on them and also make sure that they know that there are resources available to them. They are not trapped. Everybody should be aware of the Crisis Text Line, which is 741741, 24/7 availability of a crisis counselor.

Jill Steinberg:

That's a great point. Even sometimes if the person doesn't look like they're in active or evident distress, sometimes they very much can be, and on occasion you find that when there are longer term relationships involved between the abuser and the child that the abuser or the child will reach out to the other person because they do have this long standing relationship of quote, unquote trust, which has sort of been, of course, created by the abuser and this sense of reliance and this bond between them. And, sometimes you'll see communication between the two. So, it could be things are perceptively fine and all of a sudden they're not fine, which of course means you need to immediately address the issue with the victim, but you also need to make sure that those lines of communications are cut and that you're monitoring those things if it's a situation with the child and a parent, or if it's an adult victim and there's law enforcement involved to have that conversation with the person that we can't tell you what to do.

Jill Steinberg:

It's probably not a good idea to communicate with this person. If this person tries to communicate with you, please tell us because we want to capture that, and also it can be a violation of various rules for that person to be communicating with the

victim. So, there are lots of tools. There are sort of emotional support tools that need to be applied, but there are also potential legal tools that can be applied and frankly can be helpful as you're looking at the investigation of the case going forward. I wanted to close the episode with this idea that you talk about in your book and it's something I think we all aspire to, which is how we support people without judgment because I think we have a lot of situations where victims feel like even if people don't evidence that in their words and behavior, they feel somehow judged or responsible for what it is that's been happening.

Jill Steinberg:

And, I think as these investigations get it bigger and bigger and you have all these players, everybody's running around doing whatever it is they're doing. People feel increasingly judged and isolated, and I'm wondering as we go throughout the process, you've talked about some of the tools in that moment as the counselor is listening to the story, what is it that you can do as the counselor as the process is continuing to continue to reinforce and support the victim as some of this stuff starts to sort of spiral I guess?

Katharine Manning:

Yeah, thanks for that. I think it's really important for us to remember how frightening this can be and overwhelming for somebody who has made a report. It feels like something horrific happened. You made the brave step of coming forward and telling somebody and now all of these wheels are put in place and this can feel like very little control of the process. So, if you are somebody who can be a support for the person, checking in with them regularly, just to see how they're doing, do they need referrals to therapy, it could be maybe they need support around alcohol or drug use, or other kinds of help that they need, just being somebody that they can turn to throughout the process, and as we are doing that, one of the things to remember is while we have an important role, it is a limited one.

Katharine Manning:

So, I want to talk for just a minute about boundary setting. There can be a temptation sometimes when we see somebody who's going through something horrific to just want to swoop in and rescue them. We just want to fix it, we're going to make it better. I'm going to not only give you the referral for a really great therapist, I'm going to make the first appointment, and I'm going to drive you there and wait outside and hear how it went and make the follow up appointment for you. I understand where that comes from, trust me. I felt the exact same inclination sometimes. The problem with that is a couple of things really. One is we never really have the clearest view of what it is that the person needs in that moment. It could be they're not ready for therapy, maybe they're not in the right place for it.

Katharine Manning:

Maybe they don't have the time, they don't have the money, this is just not the right answer for them right now. If we push that on them, they might do it out of guilt and out of a sense of responsibility to us, but it's not going to be as effective, and it's going actually create a wedge between us and them because now they're going to feel bad that they're not following our advice and following through on the resource that we've provided them. Another thing is we can run ourselves ragged this way. It's important that we not take responsibility for somebody else's healing. They have their own journey to walk. We can't walk it for them. We have to recognize that while our role is important in providing them with resources, this is really their journey to walk and we have to let them walk it.

Katharine Manning:

They'll do a better job because they know what they need better. It's also really empowering for them to be able to take those steps. I know it can be hard to see somebody in pain and not be able to fix it for them, but I will just tell you as somebody who has worked with crime victims for more than 25 years that where they are right now in this moment in front of you is not where they're going to be in six weeks or six months or six years, and I have been amazed at the incredible things that victims are able to do to heal themselves and really to heal the world. They do incredible things in the world when we give them the space that they need to heal.

Jill Steinberg:

Ooh, I love that. I want to end the podcast with that bit of positivity. So, I hope folks will take that bit of positive news at the end of what was otherwise maybe not a podcast full of good news. Take the good part and then tune in to our next episode where we're going to be talking about trauma in the brain and have a phenomenal guest participant to talk about issues of trauma in the brain.

Steve Burkhart:

Thanks again to Jill Steinberg and Katharine Manning. Make sure to visit our website, www.ballardspahr.com where you can find the latest news and guidance from our attorneys. Subscribe to the show in Apple Podcasts, Google Play, Spotify, or your favorite podcast platform. If you have any questions or suggestions for the show, please email podcast@ballardspahr.com. Stay tuned for a new episode coming soon. Thank you for listening.