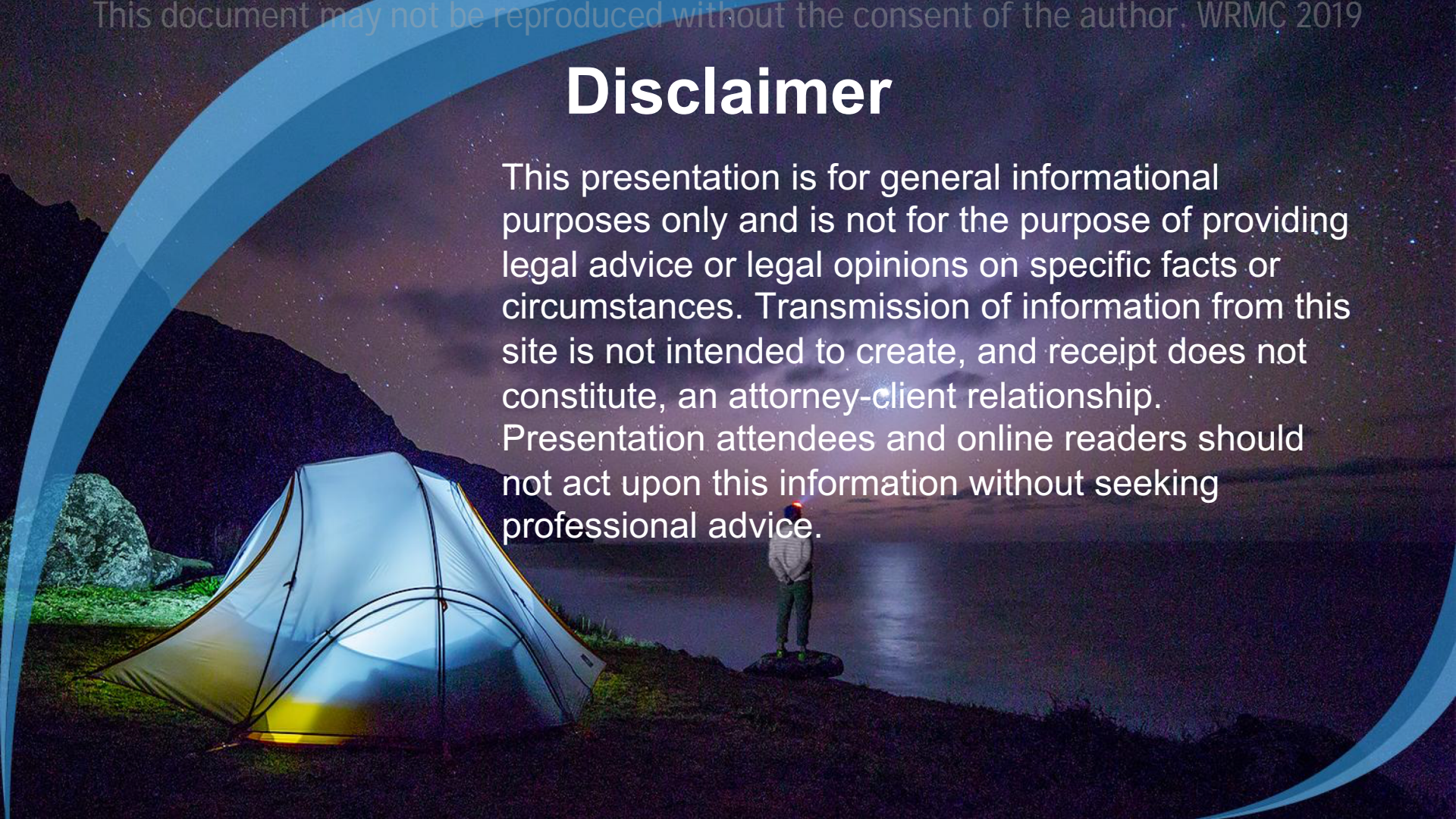


# Responding to Sexual Assault Claims from a Proactive and Reactive Perspective

- 
- ❑ Doug Stevens, Caplan & Earnest
  - ❑ Dave Dennis, Rustic Pathways & Resilient Solutions, LLC

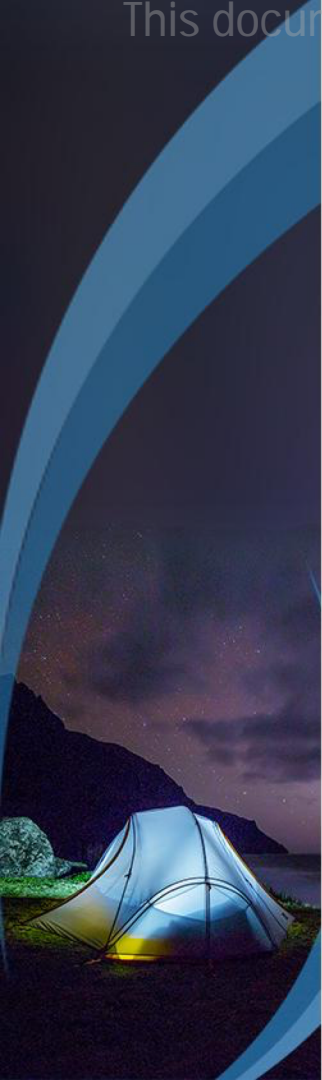
# Disclaimer

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# Agenda

- Why is this conversation important?
- Proactive & protective considerations for organizations
- Case Study Example & Process
  - Victim support
  - Incident Investigation
  - Communication Strategy
- Case Study Workshop



# Sexual Violence In America

**321,500**

Average # of rape & sexual assault survivors in the U.S. annually.

**16 - 24**

Ages 16-19, 4x more likely to be survivors of rape or sexual assault.

Ages 18-24 are 3x more likely to become survivors.

**7 in 10**

The fraction of rapes committed by someone the survivor knows.

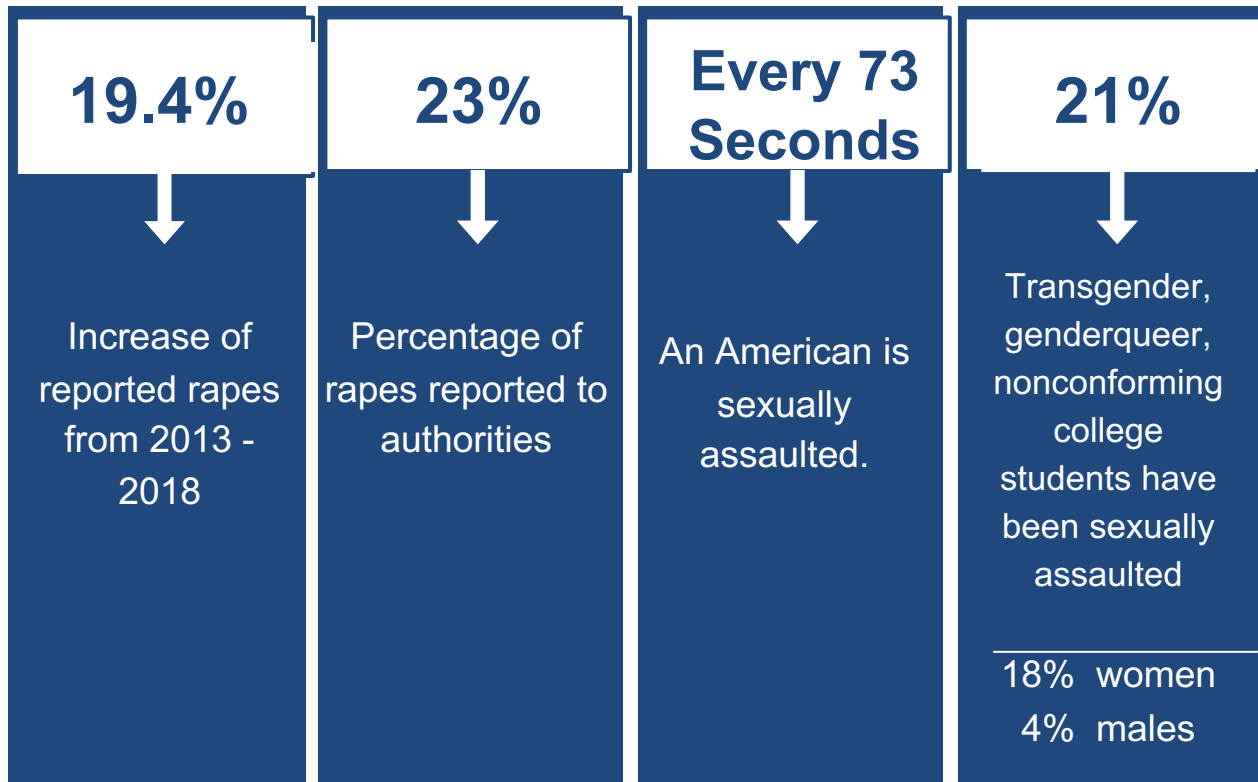
**2-10%**

The percentage of false rape reports.

**94%**

The percentage of survivors who experience symptoms of PTSD within 2 weeks of event.

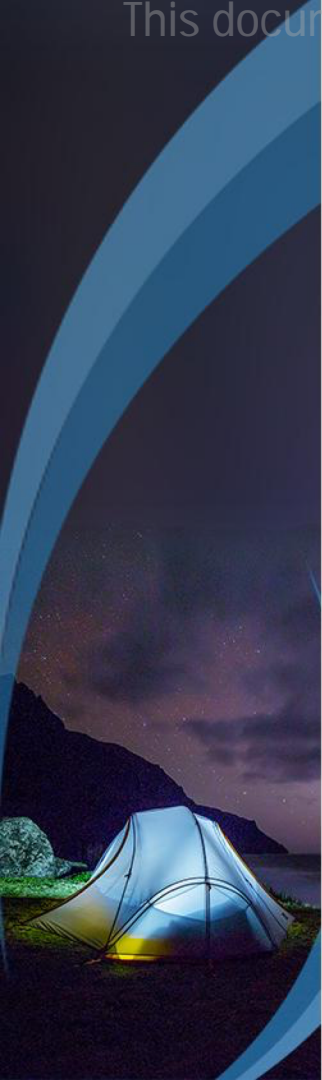
# Sexual Violence In America



# Highest Risk Facing Industry

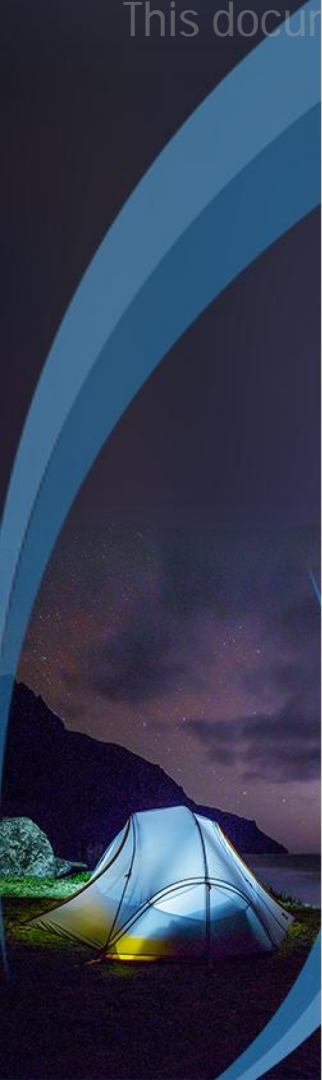
- Sexual misconduct vs. activity-based claims
  - 2014-2019: 50+k participants
  - Sex-related accusations (unwanted or involving minors)
    - 7 student/student
    - 4 student/staff
    - 1 staff/staff
    - 3 student/vendor
    - 5 student/outsider (local)
  - Activity-based claims = **0**
  - On-par with other businesses in the industry

**VENDOR  
VETTING HAS  
A PROCESS!**

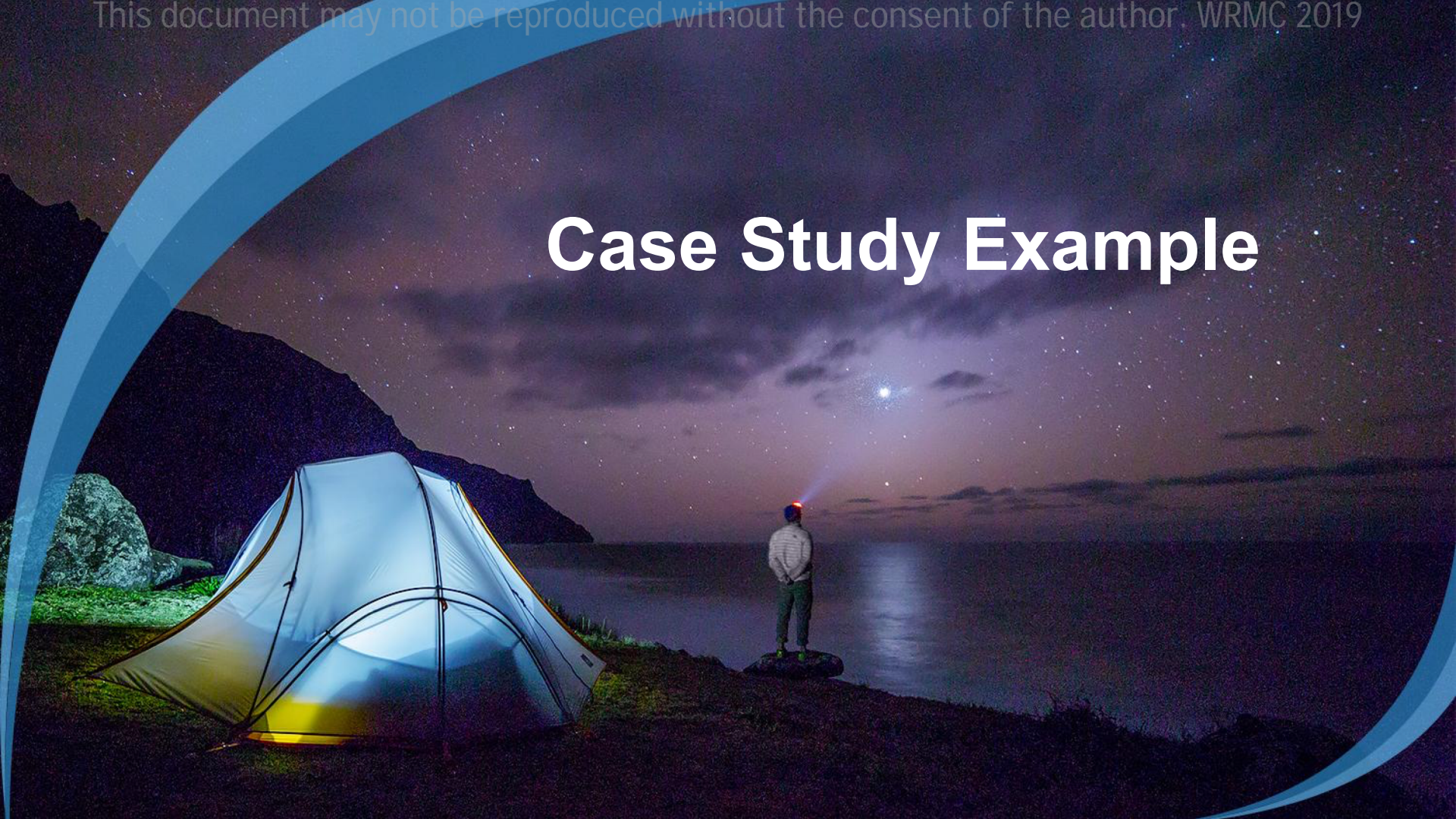


# Business Prevention Practices

- Employment screening
  - Criminal/sex offender background checks (national, state, county)
  - Interviews, reference, & social media checks
- Company policy(s) & FOLLOW THEM
  - Code of conduct
  - Child protection
- Monitoring systems (survey & feedback forms)
- Reporting hotlines
- Vendor Vetting (activities, accommodations, etc.)
- Sexual Assault & Molestation Insurance



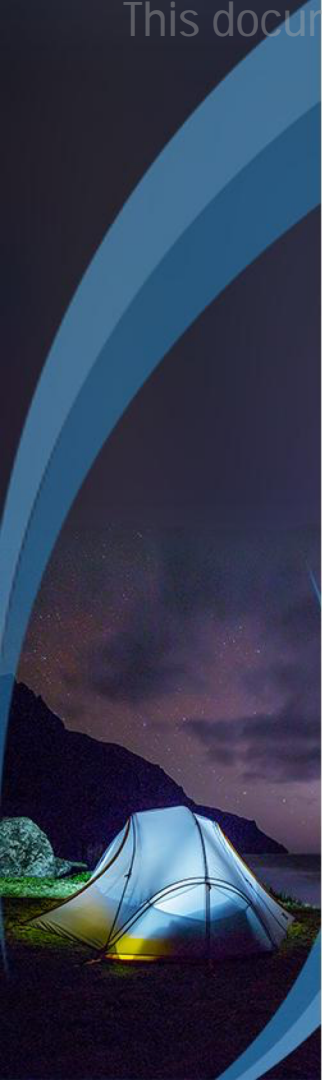
# Case Study Example





# Case Scenario Example

- Rafting company hires seasonal staff & provides employee housing.
- Staff commonly spend after-hours together, typically at a bar = “team bonding”
- After heavy drinking one night, two male guides leave together.
- Later, male #1 returns to his room and tells his roommate about unwanted act with male colleague.
- Encouraged by roommate, male #1 reports “assault” to manager. Wants to remain private but wants to prevent future actions of aggressor.



# Response Actions

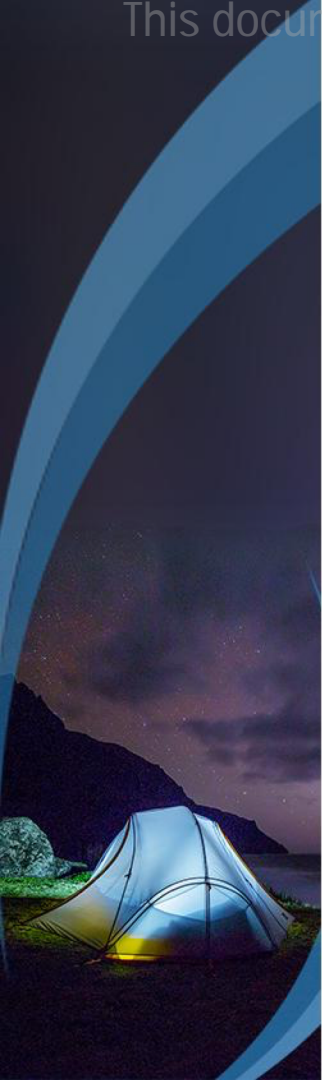


# Response Actions - Initial Steps

1. Ensure immediate safety
  - a. Remove from immediate danger
  - b. **Be present** & create safe space
2. Address physical and medical needs
3. Emphasize *Care, Compassion, & Control*
  - a. I *care* about the situation. You're my #1 priority.
  - b. I *understand* you're confused, scared, angry, vulnerable, etc.
  - c. I can *help* (police, hospital, counselor, embassy, etc)
4. Confidentiality guidelines and retaliation prevention
  - a. Establish point of contact and next steps.



**SURVIVOR  
SUPPORT**

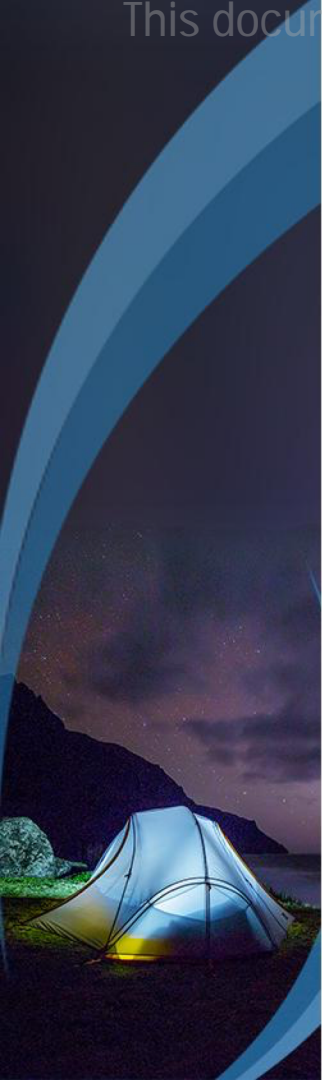


# Response Actions - Survivor

1. Call on established male & female responders within organization
2. Health needs (STD prevention, medical attention, etc)
3. Attempt to gather details - do not press for information.
  - a. Who was involved?
  - b. What exactly occurred or was said?
  - c. When did it occur?
  - d. Where did it occur?
  - e. How did it occur?
    - i. Open-ended ?s
    - ii. Be sensitive to situation
  - f. Are there any witnesses (before or after) or did you tell anyone about this?



**INVESTIGATION**

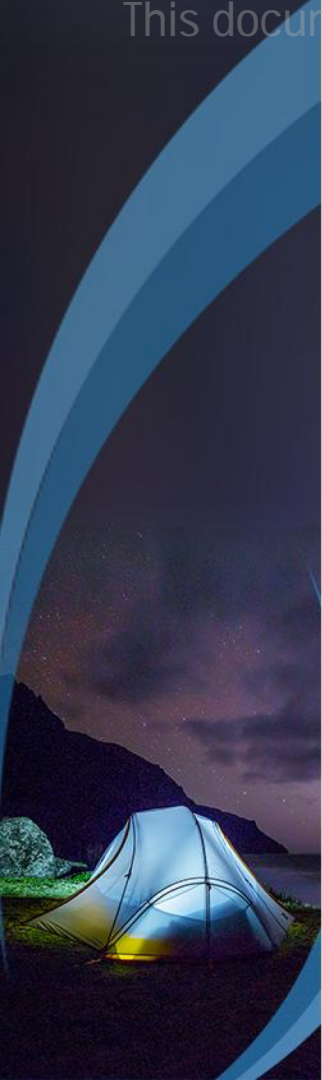


# Response Actions - Assaulter

1. Attempt to gather details. Remain fair/neutral.
  - a. What happened or was said?
    - i. “I’ve been alerted to…”
    - ii. “You were seen / heard…”
  - b. What is your response to accusations?
    - i. If claiming false or misleading accusations, “why would that happen?”
2. Temporary removal from situation, paid suspension during investigation.
3. Reminder of confidentiality and retaliation policies.
  - a. Code of conduct appropriateness
  - b. Point of contact for additional information and follow up.



**INVESTIGATION**

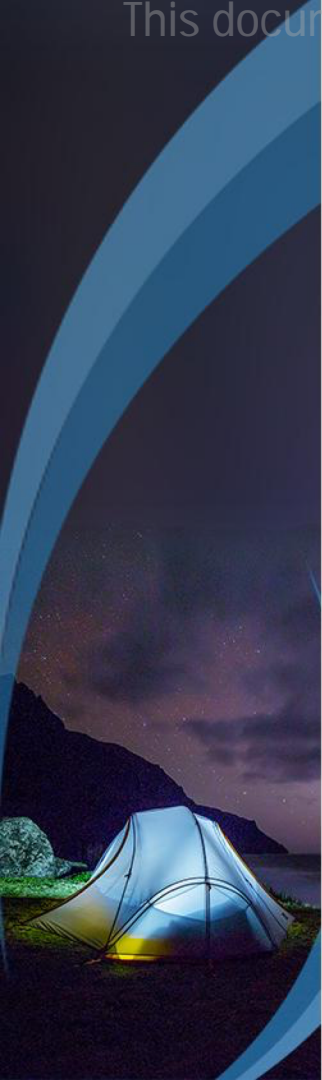


# Response Actions - Legal

1. Medical care
  - a. Sexual assault is likely not covered by Worker's Comp
2. Police & mandatory reporting
3. Securing evidence
  - a. Sexual Assault Kit
  - b. Documentation (responder role)
4. Preventing future interaction/harm
  - a. Employment status
  - b. Employee housing vs. alternate accommodations
    - i. preserving safety
    - ii. preventing retaliation



**LEGAL  
OBLIGATIONS**

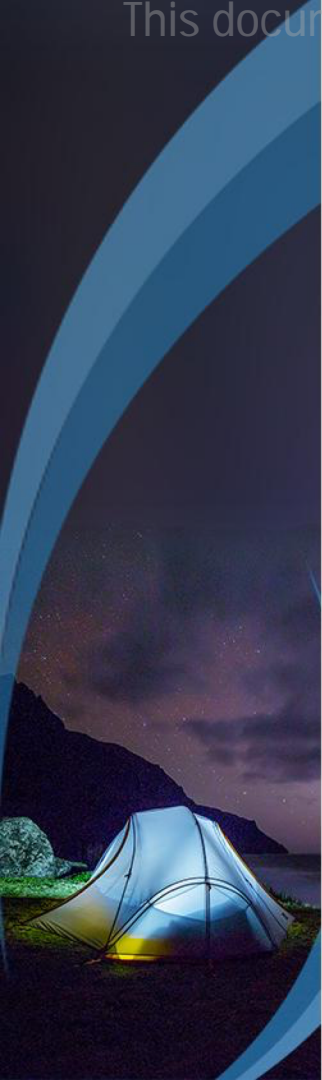


# Response Actions - Communications

1. Who are the stakeholders needing information?
  - a. Survivor, witnesses, assaulter, organizational culture
2. What would legal team advise is communicated?
3. Insurance & legal
  - a. Duty to report ASAP
4. Ensure misinformation doesn't spread
5. Public Relations firm

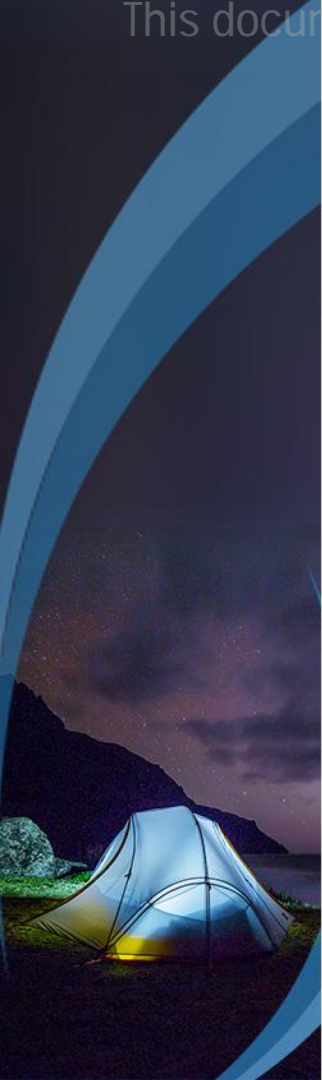


COMMUNICATIONS



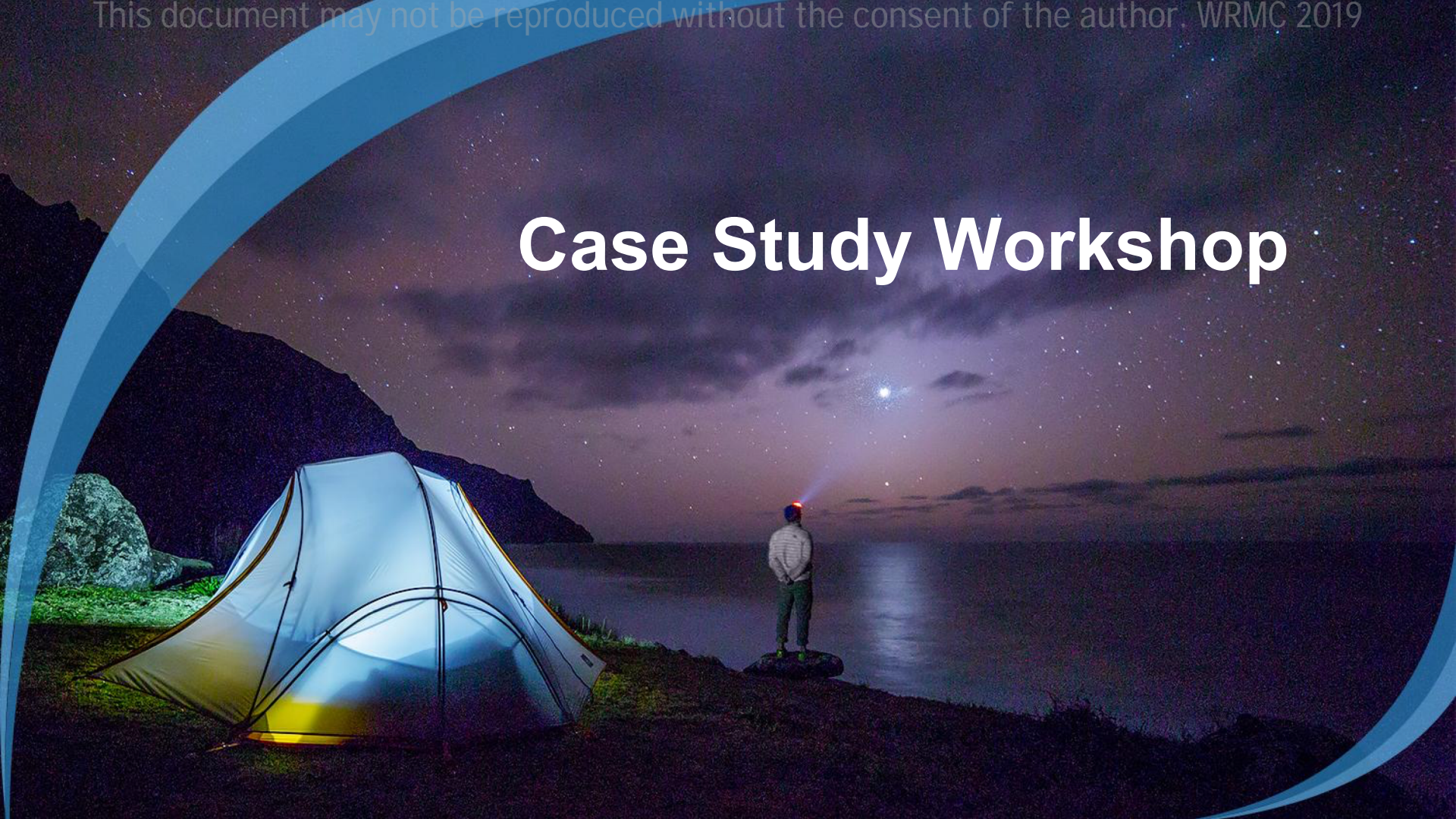
# Post-Incident Actions

- Ongoing support for survivors
- Clear & intentional communication without bias
- Focus on human safety, not solely business protection.
- Determine adjustments (future trips, response plans, company policies, etc.)



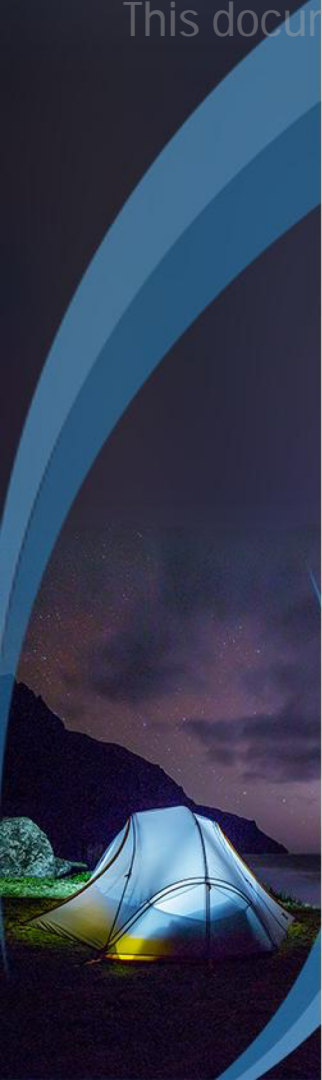


# Case Study Workshop



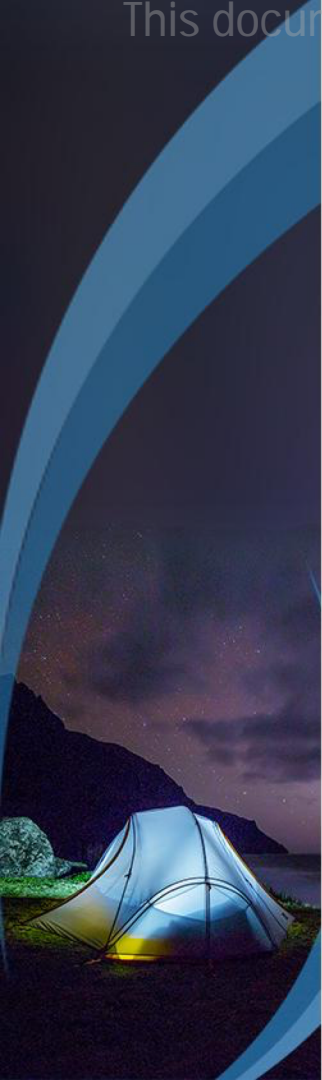
# Breakout Groups

- 6-8 per group. 3 response categories
  - Participant support
  - Employee investigation
  - Communication response
- *Goal: List the initial steps and potential actions that ABC Company should take.*
- Step 1: Action-planning
- Step 2: Updates provided, group share



# Case Scenario

- ABC Company (tour operator) discovers Instagram post from Betsy, former participant aged 17.
  - *“Horrible experience, don’t ever travel with ABC Company! The Trip Leader assaulted me.”*
  - 25+ “likes”
- Trip ended the week prior to Instagram post. No incident reports from trip.
- Betsy’s survey form was rated “Excellent”

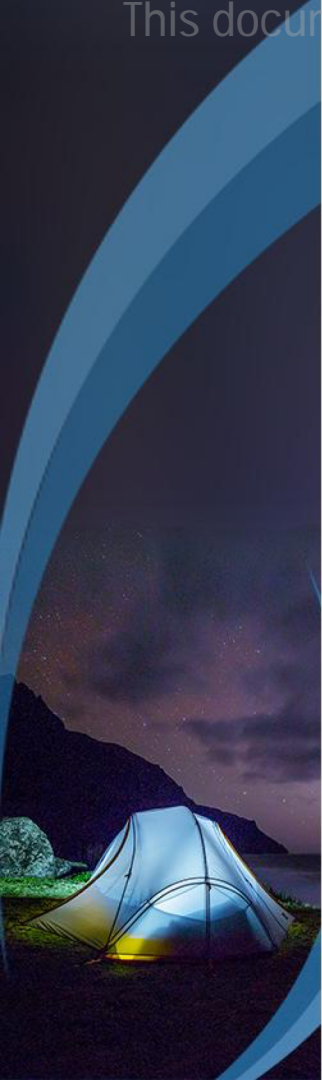


# Information Gathering - Participant

- ABC Company contacts Betsy and parents.

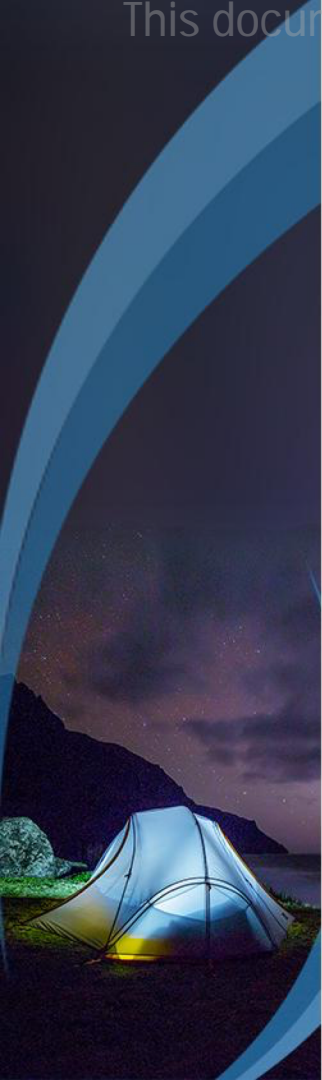
*“On the last day of the trip, we kissed while on a sunset walk. We met again later that night and hooked up a bit. I wanted to stop but he wouldn’t. He forced himself on me and we had sex. I didn’t want to but didn’t know what else to do.”*

- Betsy admits to talking with others from the group who are now supporting her emotionally.



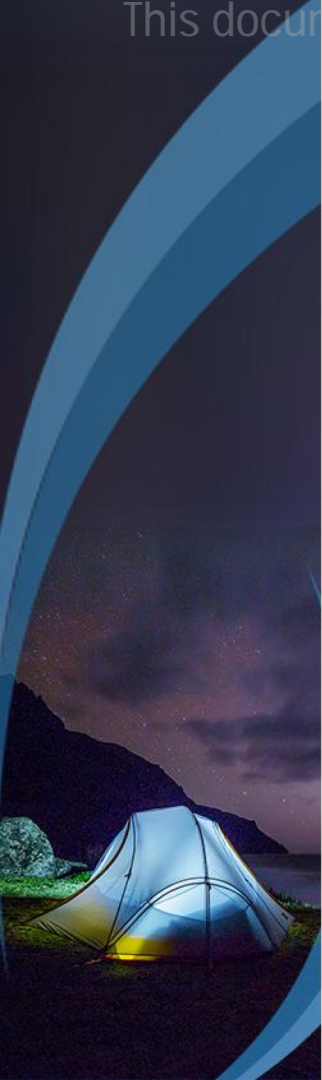
# Information Gathering - Leader

- Trip Leader has worked with ABC Company for 3 years.
- He's signed all company policies including the Employee Handbook (includes harassment and zero-tolerance participant intimacy policy).
- He's satisfied all annual screening & training requirements.
- No recorded history of inappropriate activity.



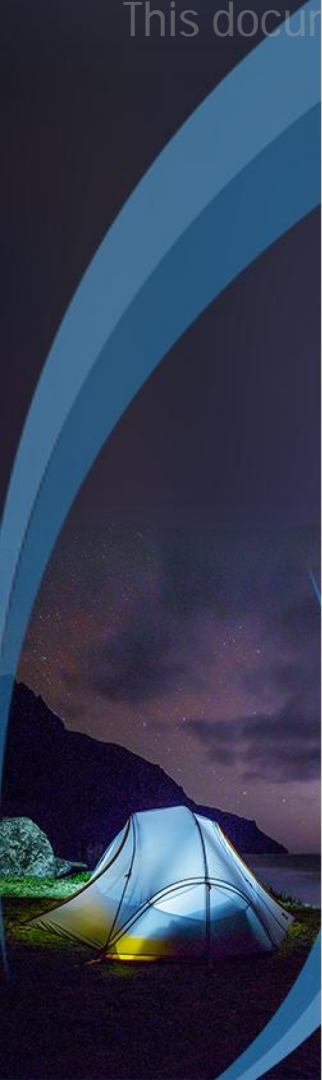
# Group 1: Participant Support, Pt1

- How does ABC Company support the participant?
  - Are there any health/safety/security needs?
  - How do you prevent a future occurrence?
  - How do you build trust and rapport with the survivor and her family?
- What needs to be clarified as part of the investigation?
  - How would this occur?



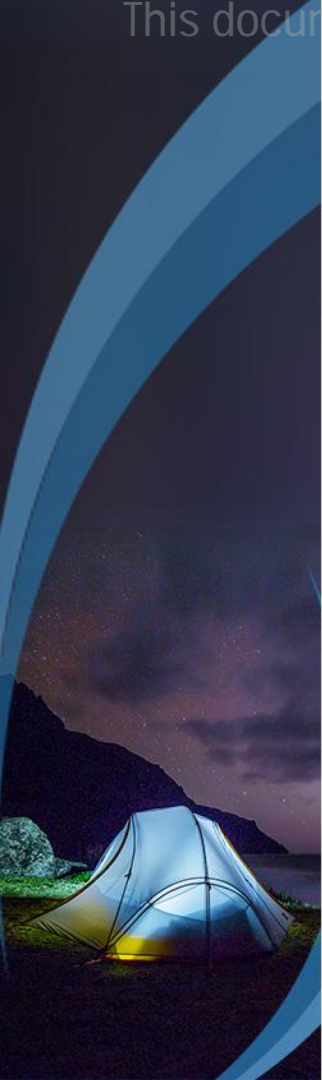
## Group 2: Employee Investigation Pt1

- Gathering details - how?
- How would you prevent retaliation or outreach to Betsy?
- Are there any health/safety/security needs?
- History: are there any prior accusations or signs/trends that this was a possibility?
- What's the TLs employment status during investigation?



# Group 3: Communications Pt1

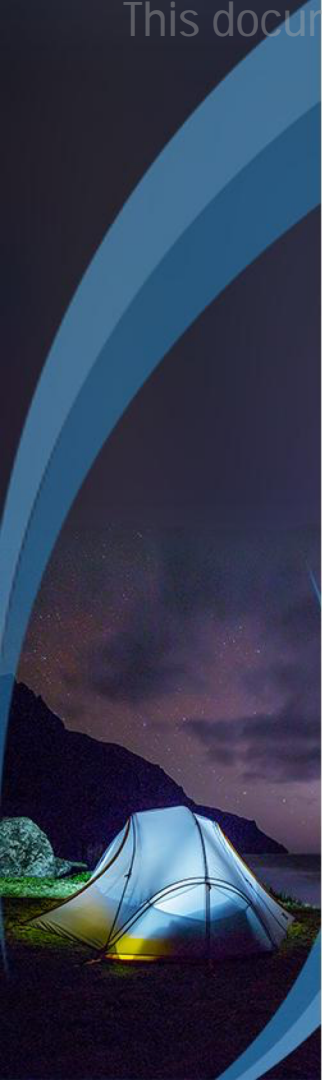
- Who are the stakeholders needing information?
- How would you communicate with these groups? What do you tell them?
- How to manage social media posts?
  - Can you control misinformation? How?
- What information is shared to stakeholders (by category)





# Additional Considerations

- Legal obligations
- Insurance coverage
- Brand reputation (PR firm is a possibility)
- Remain neutral and unbiased (difficulty in removing emotions)
- Know your response team
  - Allow members to decline participation
- Be prepared to provide evidence of prevention measures. If it's not documented, it doesn't exist.

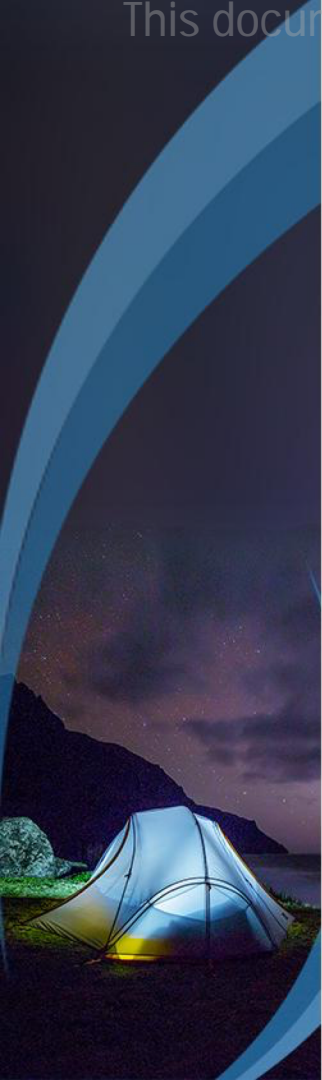


# Group Share & Open Discussion



# Action Items & Takeaways

- Dialing in prevention techniques
  - Vetting of employees & vendors & students
  - Policies - clearly understood and firm
- Investigation process & evidence preservation
  - Immediate action
  - Prioritize safety, security, preventing secondary issues
  - Understand mandatory reporting guidelines
- Insurance and legal
  - What is included, what's excluded in your policy(s)? Know your types of risks.
  - Are you engaging enough with your advisors?



# Q&A / Open Discussion

