


GAINESVILLE POLICE DEPARTMENT

GENERAL ORDER

	TITLE Sexual Battery/ Sexual Violence Investigations		ACCREDITATION CALEA 42.1.2; 42.1.4; 42.2.1(a-d); 42.2.2 (a-h); 42.2.3
	PROponent UNIT Criminal Investigations Division (CID)		PRIOR REVISIONS 07/14/09, 09/05/13
ATTACHMENT:			
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I. **PURPOSE:** The purpose of this order is to instruct members on the proper and sensitive handling of crimes involving sexual violence, and to identify the resources available to support the victim and the investigation.

Note: This order is not intended to address child victims of sexual violence, which victims must be addressed with different procedures due to their age and the mandates of relevant State Statutes.

II. **POLICY:** It is the policy of the Gainesville Police Department to thoroughly investigate crimes involving sexual violence using a trauma informed approach and with sensitivity to the special needs of victims and witnesses. Members' responses shall not vary on the basis of the characteristics, status or profession of, or the nature of the relationship between, the victim and perpetrator.

III. PROCEDURE

A. **Florida Statutes:** Sexual violence may include the following crimes. This list may not be all-inclusive:

1. Criminal Offenses Involving Sexual Violence: Applicable and related Florida State Statutes may include Chapter 794, Sexual Battery; 800.04, Lewdness; Indecent Exposure; 825, Abuse, Neglect, and Exploitation of Elderly Persons and Disabled Adults; and Chapter 787, Kidnapping; False Imprisonment. If the crime involves a domestic partner, officers shall also be guided by FSS 741, Domestic Violence.
2. Public Records Exemption [FSS 794.03; 119]: It is unlawful to publish or broadcast information identifying sexual offense victims.
3. Payment of Initial Exam [FSS 960.28 (2)]: The victim of a sexual assault may not be required to pay, directly or indirectly, the cost of an initial forensic examination.

B. **Complaint Taker Responsibilities:** *[Combined Communications Center personnel approved this procedure]* The Combined Communications Center is operated by the Alachua Sheriff's Office and has their own policy and procedures.

C. Initial Response, Investigation, and Victim Support [CALEA 42.2.1.a] The responding officer, investigating officer, or other appropriate law enforcement personnel shall:

1. Respond to the scene; administer first aid, if necessary; request medical support, if necessary; and protect the crime scene.

EMS should be called to the scene only when the need for medical attention is immediate (victim was beaten, stabbed, etc.). The victim will usually be treated at the hospital, where, if possible, all medical review should take place to preserve as much evidence as possible.

2. Sexual violence crimes are sometimes reported from a location other than the location of incident. Determine the exact location of the actual crime scene, and any additional 'scenes', such as a vehicle, wooded area, or other location(s) an assault or component of the crime occurred or may have occurred. [CALEA 42.2.1.c]

- i. Immediately secure, or ensure the security of, all related crime scenes/areas.

- ii. Request that crime scene personnel respond.

- iii. Ensure that all related items of evidence are identified, photographed, and collected.

3. Request via the Combined Communications Center to have a Victim Advocate from the Alachua County Office of Victim Services and Rape Crisis Center (certified) respond to the victim's location. A Victim Advocate is on-call 24 hours a day, 7 days a week. The Victim Advocate will explain the services available to the victim through the Alachua County Office of Victim Services and Rape Crisis Center.

4. Always use a trauma informed approach.

- i. Allow the victim to regain as much control as possible.

- ii. Attempt to gain the victim's trust and confidence by showing empathy, patience and respect for personal dignity and using language appropriate to the age, educational level and emotional condition of the victim.

5. Conduct a preliminary interview with the victim to establish the facts of the reported crime.

- i. Initial questioning should be limited to those matters necessary to identify the victim, suspect, and witnesses, and to describe and locate the suspect, witnesses, and physical evidence. Limit the use of the "why" question as it tends to move blame and shame back to the victim. [CALEA 42.2.1.b]

- ii. If the victim initiates a request, preferring to talk to an officer of another gender (rather than that of the present officer), this request should be honored, if possible.
 - iii. Similarly, requests for the presence of victim support persons (friend, significant other, etc.) during this interview should be honored, if practical.
 - iv. Once an initial investigation is complete, notify the Criminal Investigations Division.
- 6. Generate initial, as well as subsequent, broadcasts with 'BOLO' information so that the chances of apprehending the suspect increase. Department members should complete a BOLO via the GPD aggregator internal website.
- 7. Locate witnesses and conduct interviews. Canvas the area for video surveillance. [CALEA 42.2.1.b.d]
- 8. When possible, locate the suspect(s) and conduct interview(s). [CALEA 42.2.1.d]
- 9. Request, as appropriate, that the victim consent to an initial forensic physical examination, emphasizing its importance for his/her physical well-being as well as the investigative and suspect apprehension efforts.
 - i. Transport the victim to the emergency room of Shands at the University of Florida.
 - a. Prior to transport, advise the victim to bring a complete change of clothing, as it is likely that the clothing he/she is wearing will be collected as evidence (whether or not it was worn at the time of the crime). [CALEA 42.2.1.c]
 - b. If a medical emergency indicates that a victim requires transport by ambulance, brief the ambulance crew regarding the circumstances.
 - c. If an unusual circumstance prohibits transport by an officer, and ambulance transportation is not indicated, the crime victim advocate may be able to assist with transporting the victim.
 - ii. Ensure that the victim is escorted into the receiving facility in a discreet manner.
- 10. If a physical examination is conducted, the forensic nurse practitioner, when available, should attend to the victim.
 - i. Request that medical or other appropriate personnel take photographs and provide written documentation of the victim's injuries.
 - ii. Ensure that a sexual assault kit is utilized.

- iii. If there is a possibility that a drug was administered to perpetrate the crime, the officer must request that a grey-top vial of blood be drawn and a urine sample obtained for drug testing purposes.
- iv. Following the Attorney General's protocol, the officer shall sign a Sexual Battery Claim Form (to verify that the medical exam was for an official investigation).
- v. Collect the sexual assault exam kit as evidence, noting all persons in the collection and chain of custody of the evidence.

This kit, as well as any other evidence, shall be submitted in accordance with the procedures outlined in GO 84.1.

- vi. At the request of the victim or the victim's parent, guardian, or lawful representative, a victim advocate from a certified rape crisis center shall be permitted to attend any forensic medical examination.
- vii. After the medical exam, transport (or ensure transportation for) the victim to the location of his/her choice within the local vicinity.

Consult a supervisor if the location is a significant distance outside the City for permission to transport or request assistance from another agency to transport.

- 11. Provide the victim with the Crime Victims' Rights brochure as required by Florida Statute 960.001 and Victim's Bill of Rights Brochure.
- 12. Provide the victim with the Sexual Battery Victim's Rights and Services brochure developed by the Florida Council Against Sexual Violence and FDLE, as required by Florida Statute 794.052 and in compliance with the "Walk in Their Shoes Act".
- 13. Due to the trauma of the crime, the victim may not be in a position to make important decisions; therefore, do not initiate discussion of, or accept, a complaint withdrawal or Sexual Assault Case Suspension Form, nor have the victim sign a waiver of prosecution form.

D. Initial Response – Incident/Investigation Report: The officer(s) responding to a report of sexual violence shall complete an Incident/Investigation Report. Supervisors shall forward the report to the Criminal Investigations Division. Officers shall adhere to the following: [CALEA 42.1.2 & 42.1.4].

- 1. Do not disregard a complaint due to:
 - i. Assertion by the suspect that consensual sex occurred;
 - ii. Chemical dependency or intoxication of the parties;
 - iii. Marital status; sexual orientation; race; age; religion; profession; or cultural, social, or political position of either the victim or suspect;

- iv. Disability status of the victim (including physical, sensory, cognitive or emotional disability);

Officers will note these conditions, as they may indicate an increase in the degree of crime committed.

- v. Status of the suspect as a law enforcement officer, criminal justice, or other professional;

- vi. Current or previous relationship between the victim and suspect;

- vii. Belief that the victim will not cooperate with criminal prosecution or that the arrest may not lead to a conviction;

- viii. Occurrence of the incident in a private place;

- ix. Disposition of previous police calls involving the same victim or suspect;

- x. Sexual or criminal history of the victim;

- xi. Lack of physical resistance;

- xii. Manner of the victim's dress or behavior;

- xiii. Victim request that (or actual occurrence of) the suspect use a prophylactic device; or

- xiv. Assumptions about the tolerance of violence by cultural, ethnic, religious, racial, or occupational groups.

- 2. Identify the crime according its statutory elements. Do not precede it with the word "alleged".

- 3. Ensure that all elements of the crime are included in the report. The report should document information regarding the following:

- i. All verbal or written statements (including excited utterances);

To be most effective for prosecution, information regarding such statements must be very specific, should note verbatim quotations when possible, and include precise content and context in addition to quotation marks where appropriate.

- ii. Names, addresses, phone numbers, and statements of all witnesses.

Any information that can be used to identify the victim (e.g., name, date of birth, address, occupation and place of employment, vehicle license number) shall remain confidential in accordance with Chapters 794 and 119 F.S.

- iii. Alternate / additional addresses and locations at or through which the victim may be reached (for instance, names and addresses of key victim contact persons);
- iv. Information regarding the relationship between victim and offender (stranger, ex-boyfriend/ex-girlfriend, etc.);
- v. How the suspect approached the victim (grabbed on street, broke in home, etc.) and whether [and what kind of] weapons were involved,
- vi. Suspect's characteristics: the suspect's clothing, odors, speech, dominant hand, etc.
- vii. Unusual or suspicious behavior and fetishes on the part of the suspect;
- viii. All evidence, photographing and processing of crime scene, including chains-of-custody;
- ix. Injuries (visible or complaint of pain); and weapons used, when applicable.
- x. Victim's relevant emotional and physical conditions.
 - a. The officer can include objective observations as to the victim's behavior and conditions (was crying, hysterical, in shock, etc.).
 - b. The officer shall not include personal opinions regarding the credibility of the victim or the meaning of the observed behaviors and conditions (such as: the victim made several inconsistent statements).
- xi. Reference to all related reports (by case number and agency, if different).
- xii. Members shall not obtain written statements from victims of any sexual battery. (Also see G.O. 42.2)

E. Follow-Up Investigation: If an on-scene arrest is NOT made, a detective shall be assigned to conduct the follow-up investigation and shall adhere to all procedures set forth in this policy. [CALEA 42.2.3 & 42.1.4]] The detective shall proceed as follows:

- 1. Initiate the Follow-up: After reading and reviewing the original report and all supporting documents, he/she shall initiate the follow-up investigation. [CALEA 42.2.2.a]
- 2. Determine the Need For (and Conduct) a Follow-Up, In-Depth Interview: Determine the victim's emotional and physical ability to submit to a follow-up interview and, as these factors allow, schedule it as soon as possible after the incident.[CALEA 42.2.2.b]
 - i. Honor the victim's request to invite a support person (e.g., rape crisis counselor / advocate), if possible.

- ii. If a second interview is conducted, the detective shall attempt to obtain all necessary information at this time. He/she shall:
 - a. Employ a comfortable setting that affords privacy and freedom from distractions.
 - b. Explain the need for obtaining the details of the crime, the detective shall use a trauma informed approach to the interview, which may include the use of the Forensic Experiential Traumatic Interview (FETI) technique. This interview may be audio or video recorded.
 - 1). Details of the sex act;
 - 2). The suspect's modus operandi;
- iii. Document the victim's state of mind during the attack, and any actions and expressions in response to the attack, as well as the physical condition of the victim.
- iv. Determine the relationship of the suspect and victim (strangers, acquaintances, ex-boyfriend-girlfriend, etc.).
- v. Review the victim's account of the event in order to clarify any discrepancies with earlier accounts and to elaborate on issues of significance to the prosecution.

No law enforcement officer, prosecuting attorney or government official shall ask or require a victim of a sexual battery or other sexual offense to submit to a polygraph examination or other truth-telling device as a condition of proceeding with the investigation of such an offense. The refusal of a victim to submit to such an examination shall not prevent the investigation, charging, or prosecution of the offense.
- vi. Encourage the victim to cooperate with the investigation and prosecution of the case, emphasizing the importance of prosecution for public safety (he/she is a valuable witness).
- vii. Apprise the victim of future investigative and prosecutorial activities that will or may require involvement and cooperation (such as line-ups, interviews, depositions, court appearances, etc.) but refrain from making other comments about the prosecution or potential outcome of the case (e.g., "the case is a solid win", "he'll be put away forever", "the case is very weak", etc.).
- viii. Refer the victim to a rape crisis counselor/advocate, if one has not already become involved in the case.
- ix. Refer requests for victim protection orders, when appropriate.

3. Maintain Contacts and Investigative Liaisons: As appropriate, maintain ongoing contact with the victim and / or rape crisis counselor / advocate. Work with the case supervisor and the State Attorney throughout the investigation.
4. Conduct Appropriate Interviews: Interview witnesses or any other person(s) having information on the case.[CALEA 42.2.2.c]

No personal or identifying information shall be revealed about the victim to these persons.

5. Obtain / Collect Physical Evidence: After the crime scene is processed, and the details of the crime are known, the following steps shall be taken:

- i. With a known suspect, determine if his/her blood, hair, and saliva are needed for completion of lab analyses.

- a. Obtain consent, when possible, to obtain these items from a suspect;

- b. If no consent is given, ensure that information is complete for a court order / search warrant to be obtained.

- 1). Blood, hair, and saliva collection should be accomplished in accordance with the guidelines published by FDLE and/or the FBI and/or the best available practices.

- 2). Only authorized and licensed personnel should collect blood.

- 3). Hair and saliva samples from a defendant should be collected by trained personnel of the same gender as the defendant.

Keep accurate and thorough records of the chain of custody of evidence. [CALEA 42.2.2.d]

- ii. Determine if other items of evidence may exist and take steps to secure them.

To obtain an item of physical evidence from a location in the control of the suspect, either obtain consent, or apply for a search warrant. [CALEA 42.2.2.d]

- iii. Review evidence to determine the need for other forensic procedures.

- iv. Per FSS, all sexual assault kits must be sent to the FDLE lab or other authorized lab within 30 days of receipt. (This excluded any kits collected as a result of a non-reporting sexual battery or in the rare circumstance a case is unfounded prior to the receipt of the kit).

- F. **Supplemental Report:** In the supplemental follow-up report, the detective shall document the steps of the investigation, including interviews and any other tasks performed pertinent to the investigation. [CALEA 42.2.2.h]

The detective should share pertinent information related to the investigation with other law enforcement agencies, as warranted and appropriate (e.g., teletype reference for possible serial-type incident). This includes determining suspect's involvement in other crimes [CALEA 42.2.2.f] and checking suspects' criminal histories [CALEA 42.2.2.g]

G. **Charging Procedures:**

1. Arrest: Once the investigation is complete, the detective should do one of the following if probable cause exists and a defendant is identified: [CALEA 42.2.2.e].
 - i. Make a probable cause arrest or obtain an arrest warrant.
 - ii. Ensure the victim is contacted regarding the charge/arrest. The notification to the victim shall be documented in the original or supplemental report.
2. Referral to SAO: [CALEA 42.2.2.h]
 - i. If there is doubt as to whether probable cause exists, the case should be referred to the State Attorney's Office for review.
 - ii. If probable cause exists but the investigation is going to be lengthy (e.g., due to scientific testing), the case should be referred to the State Attorney's Office for consideration of speedy trial factors.
3. Unidentified Suspect: If the case is complete, but the suspect is not identified, the case should be filed "inactive."
 - i. Cases will remain on file and available to be reactivated within the time limitation set forth in Florida Statutes.
 - ii. Periodic review of all unsolved cases should be accomplished for additional investigation by detectives and/or officers assigned to investigate sex crimes.

This review is particularly important to compare modes of operation in subsequent cases or those cases identified by other means [i.e. if another agency has similar case(s), late reports.
4. No Arrest: If there is decision not to make an arrest, the decision, and the case file, shall be reviewed by the next level of supervision.
 - i. The victim shall be notified that there will be no arrest and the reason(s) for not making an arrest. The notification to the victim shall be documented in the original or supplemental report.

- ii. The case will be reopened immediately when additional information becomes available that would further the investigation.

H. Officer-Involved Sexual Violence Cases:

1. Responding to a Call:

- i. If the Combined Communications Center receives a call for assistance at a scene where an officer is alleged to be a sexual violence offender, the responding officer shall ensure that a supervisor is, or will be, responding, and shall handle the investigation in a manner consistent with the policies used in all sexual violence cases.
 - a. The supervisor shall respond to the scene
 - b. The supervisor shall ensure that notification is made to the GPD Command Staff by the Combined Communications Center, via the paging system.
 - ii. If an arrest is made, applicable departmental policies related to duty status /assignment, suspension, etc., will be followed.
 - iii. If a criminal investigation is required, applicable departmental policy shall be followed.
 - iv. If the relationship between the victim and suspect fits the criteria for domestic violence then appropriate departmental policy will be followed.
- 2. Duty to Report:** Any member who witnesses or otherwise has firsthand or well-founded knowledge of a sexual violence incident involving another member in the department, the witnessing member must make a timely report of the incident to a supervisor.
- 3. Notification to Employing Agency:** If a member makes a sexual violence-related arrest of a law enforcement officer from another agency he/she shall inform his/her supervisor, who shall personally notify, or direct the arresting officer to notify, the employing agency of the arrest, the specific charge and the time of the arrest, prior to the end of the working shift during which the arrest was made, or as soon as possible thereafter.

I. Procedures for Non-reporting Sexual Battery Kit Collection:

- 1. Hospital's responsibility:** Medical personnel will complete the Sexual Battery Kit and collect any additional evidence that is brought in by the victim. Once the exam is complete, the hospital will call the Combined Communications Center to have an officer dispatched to collect the Sexual Battery Kit. A patrol supervisor may request to have a member of the Forensic Crime Unit (if available) respond to the hospital to collect the evidence. The hospital will provide the location of the offense to the Combined Communications Center.
- 2. Patrol Officer's Responsibility:**

- i. The officer will respond to the hospital to collect the Sexual Battery Kit, hospital checklist, and any additional evidence provided.

NOTE: Officers shall confirm the location of the offense with medical personnel to ensure they only collect sexual battery kits for incidents that occurred within the City Limits of Gainesville. The Sexual Battery Kit for any incident in which the location is unknown or outside the City Limits of Gainesville will be collected by the Alachua County Sheriff's Office.

- ii. Do not question medical personnel, the victim, or the Victim Advocate about the incident.
- iii. Do not obtain the victim's information or attempt to speak to the victim.
- iv. The officer does not have to contact a Victim Advocate.
- v. Complete an Incident/Investigation Report, to include:
 - a. Use the new offense identifier in the pick list titled "Non-reporting Sexual Battery Kit";
 - b. Include the name of the reporting party (RP) and record the nurse or staff member who turned over the Sexual Battery Kit. Include the address and phone number of the medical facility.
 - c. Complete a brief narrative. For example: "I responded to SHANDS in reference to the retrieval of a Sexual Battery Kit from a non-reporting victim. (Name of RP) turned the kit and associated evidence over to me. The Sexual Battery Kit is tracked by the Master Incident number assigned by the Alachua County Combined Communication Center (CCC). I placed the Sexual Battery Kit and/or other evidence into evidence."
 - d. **IMPORTANT:** The hospital staff (complainant) is issued an incident number by the Alachua County Communication Center (CCC) upon calling. You must insure the incident number matches the paperwork of the hospital facility. It is the only way to associate the evidence to a victim should the victim contact GPD at a later date to pursue an investigation.

A medical reference/patient number is no longer required.
 - e. When listing the evidence on the Property Voucher, indicate the Sexual Battery Kit is for a "Non-reporting Sexual Battery." Put the incident number in the OAN block on the Property and Evidence Voucher and the Property Section of the report for tracking purposes.

- 3. **Patrol Supervisor's Responsibility:** Approving supervisors DO NOT need to forward these reports to the Criminal Investigations Division.

J. **Designated Sexual Violence Detective(s)**: The Commander of the Investigations Bureau should, within the Criminal Investigations Division, designate one or more detectives to deal with the complexities of sexual violence cases. The assigned member(s) may be exclusively assigned, or function as part of a team.

1. **Duties and Responsibilities**: The assigned supervisor / designee over the designated detective(s) should:

- i. Monitor the agency's compliance with the sexual violence policy (through report review, liaison with the victim advocate, etc.);
- ii. Liaison with the Department's Victim Advocate to ensure proper referrals have occurred;
- iii. Liaison with local victim support providers, hospitals and state attorneys to promote successful investigations, apprehensions, prosecutions, and the well-being of sexual assault victims;

2. **Compliance with the "Walk in Their Shoes Act" (FSS 794.052)**: This states that law enforcement officer(s) who investigate an alleged sexual battery shall, prior to submitting a final report, permit the victim to review the final report and provide a statement as to the accuracy of the final report.

- i. The initial report of an alleged sexual battery is not considered the final report as it related to the "Walk in Their Shoes Act" and the investigating Patrol Officer does not need to permit the victim to review the report or obtain a statement as to its accuracy. Patrol Officers conducting the initial investigation of an alleged sexual battery should complete and submit their report following current reporting procedures.
- ii. For the purposes of the "Walk in Their Shoes Act", the final report shall be drafted by the Sex Crimes Detective investigating the case and indicate the final disposition of the case (cleared by arrest, exceptionally cleared, etc.).

K. **Training**:

1. Persons within the Investigations Bureau who are specifically designated to conduct sexual violence investigations should receive advanced competency based training.

Particularly valuable would be courses on sex crimes investigations and sex crimes interviews and interrogations.

2. All sworn personnel should receive timely legal/legislative updates and information on current trends and intelligence pertaining to sexual violence.

L. **Dissemination of Policies and Laws**:

1. **Policies:** The agency shall ensure that the information contained in this policy is disseminated to all agency personnel, as well as to the State Attorney's Office and local victim service providers.
2. **Laws:** The Legal Advisor is responsible for identifying and disseminating, in a timely manner, information on legislative changes.
 - i. Legislative / legal updates may also be accessed via the Department Intranet, the Internet, or via the Criminal Justice Network.
 - ii. Personnel (field officers, detectives, supervisors and middle management, etc.) dealing directly or indirectly with sexual violence cases should conduct periodic reviews to identify pertinent legislative changes, and ensure that the relevant provisions are being followed.

By Order of

*Signed Original on File in the
Accreditation Unit*

**Tony R. Jones
Chief of Police**