


GAINESVILLE POLICE DEPARTMENT

GENERAL ORDER

	TITLE Victim/Witness Assistance		ACCREDITATION CALEA 55.1.1 and 55.1.2; 55.2.2; 55.2.3; 55.2.4, 55.2.5
	PROponent UNIT Criminal Investigations Division		PRIOR REVISIONS 12/16/2002, 10/26/2005 11/09/2011, 3/23/2016 ATTACHMENT: N/A
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I. PURPOSE:

This General Order establishes the Department's responsibilities for providing assistance and referral information to the victims and witnesses of crimes.

II. POLICY:

Pursuant to the victim and witness rights granted in [FSS 960.001](#) (which is entitled the Victim Assistance Act) and [State of Florida Constitution, Article 1, Section 16 Rights of Accused and Victims](#) (referred to as Marsy's Rights) the Gainesville Police Department will provide information, referral, and assistance to the victims and witnesses of all crimes reported to the Gainesville Police Department. Department members shall refer and follow the procedures set forth in General Orders: ADA policy and LEG policy to effectively communicate victim/witness assistance.

III. DEFINITIONS:

Demeanor: Victims and witnesses have often experienced a traumatic event regarding their involvement in a crime, and their contribution to the investigation is often critical to its success. Therefore, Department members shall treat victims and witnesses with fairness, care, and concern.

Information: The Gainesville Police Department shall provide information and referrals regarding the services available to the victims and witnesses of crimes.

Victim: The Florida Constitution defines a victim as a person who suffers direct or threatened physical, psychological, or financial harm because of the commission or attempted commission of a crime. The term victim includes the victim's lawful representative, the parent or guardian of a minor, or the next of kin of a homicide victim.

Every victim is entitled to these rights, beginning at the time of his or her victimization.

IV. PROCEDURE

A. Distribution:

1. Each officer shall be responsible for informing all victims/witnesses of the availability of victim/witness services through the distribution of the below listed brochures [CALEA 55.1.2.a]. When conducting initial criminal investigations, Department members shall issue the following brochures:

i. Rights of Victims and Witnesses in the Criminal Justice System Brochure (GPD Form 240) to the victim(s) and witness(es) of a crime. The contents of this brochure is discussed in Section B.

ii. Victim's Bill of Right's Brochure (GPD Brochure #1027) to the victim(s) of a crime. The contents of this brochure is discussed in Section C. [CALEA 55.1.1]

When a crime is reported over the phone, the member taking the report shall mail the *Victim/Witness Information Brochure* and the *Victim's Bill of Right's Brochure (GPD Brochure #1027)* and note the mailing in the report.

A *Victim/Witness Information Brochure* need not be issued for events that are reported solely for documentation (e.g., information reports).

2. Members shall complete GPD Form 240 Supplement (blue form within the brochure) and have the victim/witness sign the form acknowledging receipt of the brochure. GPD Form 240 Supplement shall be submitted to Records for inclusion with the case in the Records Management System.

B. Content of the Victim/Witness Information Brochure:

The *Victim/Witness Information Brochure* will contain:

1. Available Services: List local agencies (and their contact numbers) that can supply resources and services to crime victims and witnesses, and, when applicable, to surviving next of kin and / or victims' representatives, to include counseling, shelter, legal assistance, or other types of help, depending on the particular circumstances;

This includes the telephone number of the State Attorney's Office Victim Rights Advocate.

2. Crimes Compensation: The provision of the State of Florida's Crime Victims Compensation toll-free number.

3. Single Point of Contact: The designation of, and the phone number for, the Department's designated 'single point of contact' for information and referral regarding victim / witness services.

4. Department Information: Information about how the case will be processed for investigation by the Department. This will include the case report number and a telephone number for the victim or witness to call to report additional case information or to obtain information about the status of the case.

Department members shall notate the information on the back of the brochure.

5. What to Do If Threatened: Advice to victims and witnesses on what actions to take if they are threatened by the suspect;

6. Judicial Process: Information on the various stages of the judicial process and how additional information may be obtained;

7. Role of Victims/ Witnesses: The role (and rights) of the victim/witness to participate in each relevant stage of the criminal or juvenile proceeding; what the victim / witness may expect from the system, and what the system may expect from the victim / witness.

8. Keep-Confidential Information: The statutory obligation to advise the victim or the next of kin of a homicide victim that any information gained pursuant to FS Chapter 960, regarding any case handled in juvenile court, must not be revealed to any outside party, except as reasonably necessary in pursuit of legal remedies.

9. Specific Rights: A listing and explanation of victims' and witnesses' rights.

i. If the crime committed against the victim was a sexual battery, information will be including informing the victim he/she will be permitted to review the final report for the case and provide a statement as to the accuracy of the report.

ii. When circumstances warrant, victims, next of kin of homicide victims, victims' representatives, and/or witnesses have the right to:

a. Be Notified of Available Services: Such as transportation, translators, parking, and other services that victim may need and request. [See Sections C2.b.1) and C3]

b. Be Notified by the Appropriate Agency of the Arrest and Release of the Accused: [See Sec. C.6]

c. Attend Proceedings: If not incarcerated, they may be informed, present, and heard when relevant, at all crucial stages of a criminal or juvenile proceeding, to the extent this right does not interfere with the constitutional rights of the accused. This includes:

1).The right to have an advocate present during depositions;

2).The right to not be excluded from any portion of any hearing, trial or proceeding pertaining to the offense based solely on the fact that such person is subpoenaed to testify, unless, upon motion, the court determines such person's presence to be prejudicial.

3). The right to refrain from attending discovery depositions being taken at a correctional facility;

d. Be Informed: If incarcerated, to be kept informed, and to submit written statements at appropriate stages of the judicial process;

e. Be Notified Of Scheduling Changes: If scheduled to attend a criminal or juvenile justice proceeding, they are to be notified as soon as possible by the agency or person scheduling the appearance of any change in scheduling that will affect his/her appearance.

f. Receive Advance Notifications: Of judicial proceedings relating to the prosecution, arrest and/or release (to include community control and work release) of the defendant.

g. Be Free From Intimidation: It is unlawful for any person to:

- 1).** Cause any witness to be placed in fear by force or threats of force;
- 2).** Make an assault upon any witness or informant; or
- 3).** Harm a witness by any unlawful act in retaliation against the said witness for anything lawfully done in the capacity of witness or informant.

h. Have Standing: The right of a victim and the State Attorney, with the consent of the victim, to assert any rights of the victim as provided by law or the Florida Constitution.

i. Submit An Impact Statement: Oral or written, pursuant to FS 921.143 and to receive assistance from the State Attorney in the preparation of such statement.

j. Testify in A Cleared Courtroom: For a victim of a sexual offense, to have the courtroom cleared, with certain exceptions, during his or her testimony, regardless of the victim's age or mental capacity.

k. Be consulted By the State Attorney's Office: For felonies involving physical or emotional injury or trauma, in cases in which the victim is a minor child, or in a homicide, the victim, guardian or family of the victim (respectively) shall be consulted by the State Attorney regarding the disposition of any criminal or juvenile case resulting from such crime. The views of the victim or family shall regard:

- 1).** The release of the accused pending judicial proceedings.
- 2).** Plea agreements.
- 3).** Participation in pretrial diversion programs.
- 4).** Sentencing of the accused.

l. Review Certain Portions of a Pre-sentence Investigation Report: For adult and youthful offenders prior to the sentencing of the accused.

m. Request A Change In Schools: If the victim or any sibling of the victim attends or is eligible to attend the same school as that of the offender, the appropriate agency shall notify the victim's parent or legal guardian of the right to attend the

sentencing or disposition of the offender and request that the offender be required to attend a different school. *Note: The Governor's Office interprets the intent of the statute to apply to juveniles in public schools.*

n Request And Receive Restitution: The right of the victim to request and receive restitution, to be notified that the court has ordered it, and to receive information on how to enforce the court's order.

o. Be Notified Of An Escape Of A Criminal Defendant: Includes victims, material witnesses, parents or legal guardians of a minor who is a victim or witness, or immediate relatives of a homicide victim.

The State Attorney shall make every effort to ensure prompt notification.

p. Request HIV or Hepatitis Testing of the Defendant: If a person charged with an offense that involves:

1). The transmission of body fluids, the court (upon the victim's request) will order such person to undergo testing, and positive results for human immunodeficiency virus (HIV) infection or hepatitis will be shared with the victim.

2). A victim of a specified sexual offense(s) who is/was under the age of 18 at the time of the offense, or is/was a disabled or elderly adult, the court, upon request of the victim or the victim's parent or legal guardian, shall order the person to undergo HIV or hepatitis testing *regardless of the transmission of bodily fluids during the offense.*

3). If requested by the victim, he/she has the right to receive information regarding the results of the testing within two weeks of the court receiving the results.

q. Public Records Exemptions [CALEA 55.1.1.b]:

1). For specific crimes, there is an exemption per FSS 119.071(2)(j)1. prohibiting the disclosure of information to the public that reveals the victim's home and work telephone numbers, home and work addresses, and personal assets not otherwise held confidential under the Public Records Law is available.

2). Additionally, for a victim of specified sex crimes and/or child abuse, any information that may reveal the victim's identity is exempt from release to the public.

3). For victims of domestic violence, an application may be made to the Attorney General's Office for inclusion in the address protection program.

r. Assistance With Notification of Employers / Creditors: The law enforcement agency and State Attorney's Office will assist in notifying employer(s) and / or creditor(s), as applicable, regarding victims' / witnesses' circumstances.

s. Prompt Return of Property: The right of the victim to a prompt return of property unless there is a compelling need for law enforcement to retain it.

t. Prompt and Timely Case Resolution: In order to minimize the period during which the victim must endure the responsibilities and stress involved, to the extent this right does not interfere with the constitutional rights of the accused.

C. Content of the Victim's Bill of Rights "Marsy's Rights" Brochure:

The *Victim's Bill of Rights "Marsy's Rights" Brochure* will contain:

1. Fairness and Respect

To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment, and abuse, throughout the criminal or juvenile justice process.

2. Protection from the Defendant

To be reasonably protected from the defendant and persons acting on behalf of the defendant.

3. Victim Safety Consideration in Setting Bail and Release Conditions

To have the safety of the victim and the victim's family considered in fixing the amount of bail and release conditions for the defendant.

4. The Prevention of the Disclosure of Confidential Information[CALEA 55.1.1.b]

To prevent the disclosure of confidential information or records which could be used to locate or harass the victim or the victim's family, or which could disclose confidential or privileged information of the victim.

Should a victim exercise their Rights under Article 1, Section 16 of the Florida Constitution "Marsy's Law", the right to prevent the disclosure of information or records that could be used to locate or harass them or their family, or which could disclose confidential or privileged information about them, department members shall:

i. Members are to specifically instruct victims that the Gainesville Police Department will comply with their requests as far as the statute allows, but that information is available from other sources and, therefore, may be released through those sources.

ii. The department member shall ensure the victim signs GPD Form 240 Supplement and indicates the request for prevention of disclosure of information or records that could be used to locate or harass the victim and/or family, or which could disclose confidential or privileged information about the victim.

iii. When completing the report, the investigating officer shall check the "Restricted" block in Mobile Field Reporting, under "Related Names".

iv. Notate the victim's invocation at the bottom of their report. This includes: Mittimus (arrest and booking report), Sworn Complaints, Notice to Appear, Civil Citations (juvenile and adult), traffic crash forms related to a criminal offense, and Offense Reports.

v. If a victim invokes their Right to prevent disclosure of their information and a Department Member is issuing an offender a Notice to Appear or Civil Citation the following procedures shall be followed:

- a. The victim's information shall be redacted from the copy issued to the offender. When using the electronic Notice to Appear, department members shall use the name "Marsy's Law" in RMS for the name section.
- b. The Victim's name shall not be used in the NTA or civil citation narrative.
- c. When using a paper (not electronic generated) Notice to Appear or civil citation, the department member shall issue the offender's copy without the victim's name writing "Marsy's Law" in the victim's name section.

vi. The Records Division shall redact reports as indicated.

5. Conference with the Prosecution and Notice of Pretrial Disposition

To reasonable notice of and to reasonably confer with the prosecuting agency, upon request, regarding, the arrest of the defendant if known by the prosecutor, the charges filed, the determination whether to extradite the defendant, and, upon request, to be notified of and informed before any pretrial disposition of the case.

6. Notice of and Presence at Public Proceedings

To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other post-conviction release proceedings, and to be present at all such proceedings.

7. Appearance at Court Proceedings and Expression of Views

To be heard, upon request, at any proceeding, including any delinquency proceeding, involving a post-arrest release decision, plea, sentencing, post-conviction release decision, or any proceeding in which a right of the victim is at issue.

8. Speedy Trial and Prompt Conclusion of the Case

To a speedy trial and a prompt and final conclusion of the case and any related post-judgment proceedings.

9. Provision of Information to the Probation Department

To provide information to a probation department official conducting a pre-sentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant.

10. Receipt of Pre-Sentence Report

To receive, upon request, the pre-sentence report when available to the defendant, except for those portions made confidential by law.

11. Information About Conviction, Sentence, Incarceration, Release, and Escape

To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant, and the release of or the escape by the defendant from custody.

12. Restitution

The right to full and timely restitution in every case and from each convicted offender for all losses suffered, both directly and indirectly, by the victim as a result of the criminal conduct.

13. The Prompt Return of Property

To the prompt return of property when no longer needed as evidence

14. Notice of Parole Procedures and Release on Parole

To be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender.

15. Clemency and Expungement

The right to be informed of clemency and expungement procedures, to provide information to the governor, the court, any clemency board, and other authority in these procedures, and to have that information considered before a clemency or expungement decision is made; and to be notified of such decision in advance of any release of the offender.

16. Information About These Rights

To be informed of the rights. A victim, the retained attorney of a victim, a lawful representative of the victim, or the prosecuting attorney upon request of the victim, may enforce the above rights in any trial or appellate court with jurisdiction over the case as a matter of right. The court shall act promptly on such a request.

D. Referrals for Services - Single Point of Contact: The assigned front desk department member is the designated 24-hour-a-day “single-point of contact” for information and referral regarding resources available to victims and witnesses of crimes. The assigned officer will:

1. Provide information (via phone or in-person) regarding services and resources available from the Gainesville Police Department. [55.2.1.a]

Those services could include crime prevention security surveys, assistance with release of property, and/or referral to the Department’s Victim Advocate.

2. Inform victims and witnesses of local services and resources available outside the agency. [55.2.1.b]

For the administration of comprehensive services, persons should be referred to the Alachua County Office of Victim Services and Rape Crisis Center.

3. The Gainesville Police Department website (Gainesville.pd.org) also has Victim/Witness assistance available 24 hours a day, 7 days a week.

E. Crime Victim Advocate Program Guidelines: Victim Advocates are assigned to the Investigations Bureau, and are available to assist victims and/or family members regarding

violent and other crimes, and can assist with interviews and other special needs situations, when appropriate. Some of the services a Victim Advocate can provide are crisis counseling, victim's rights, accompaniment to court, assistance filing a protective injunction application, assistance applying for victims' compensation, and transportation (on a limited basis).

1. Members should contact the Victim Advocate's Office at (352)393-7676 directly for assistance and to coordinate a response.
2. If the Department's Victim Advocates are unavailable, members can contact the Communications Center to summon the person on-call in the Alachua County Office of Victims Services and Rape Crisis Center.
3. Department members shall notify the victim advocate of any special needs which may include interpreter services.

F. Providing Victim Services / Assistance: While members are expected to be accessible and responsive to the needs of victims and witnesses, the services of the Department's Victim Advocates shall be utilized, whenever possible, to assist in providing specialized services to victims and witnesses.

1. Specific Assistance: Victims and/or witnesses may need certain services, such as transportation, translators, or information on where to park and where to go for certain judicial proceedings.
 - i. Employees are encouraged to utilize interpreters, translator services, and other resources if needed. Employees shall refer to General Order LEP and ADA.
 - ii. Normally, the Department's Victim Advocate or the State Attorney's Office of Victim Services provides information on these services. However, if a Department member is asked, he/she shall ensure the victim/witness is provided the assistance he/she needs.
2. Follow-Up Assistance by Officers: During the follow-up investigation, officers shall make themselves accessible to victims and witnesses, and shall make every attempt to answer their questions, address their concerns, and explain the procedures involved in the investigation and prosecution of their cases, while at the same time maintaining the integrity of the investigations.
 - i. Any doubt about the release of information shall be directed to the case detective / detective supervisor or the member's immediate supervisor, depending upon the purview of the investigation.
 - ii. Department members conducting follow-up investigative activity (e.g., line-ups, interviews) with victims and witnesses should conduct this activity at the convenience of the victim and witness.
3. Addressing Threats: When a suspect threatens a victim or witness, and it is determined the threat is credible, the involved officer(s) shall take whatever police actions are reasonable and appropriate to alleviate the threat or danger. Depending on the circumstances and information, those actions may include:

- i. Notifying supervisors, detectives, the crime analyst, and other operational personnel in order to provide information about the potential risk to the victim/witness.

When indicated the information shall be distributed by Crime Analysis bulletin, and/or BOLOs.

- ii. When elements of a crime exist, effect an arrest, when possible, or walk a warrant through to expedite the arrest process.

The warrant process shall be coordinated through the member's supervisor and the case detective, if one is assigned.

- 4. Providing personal, business and residential safety information and options for assisting the victim / witness in being more secure (such as notifying the phone company regarding threatening phone calls, relocating to a safer place, obtaining a security system, etc.)

When indicated, an immediate request to Crime Prevention personnel for a security survey may be made.

- 5. Providing increased patrols, scheduled checks, and/or surveillance when indicated.

- 6. Release of Property: The assigned member shall assist the victim in determining the status and release of [the victim's] property being held by the Department.

Property and Evidence Section personnel, in consultation with the member and the State's Attorney's Office, shall ensure, when feasible, that property belonging to victims and witnesses is promptly and expeditiously returned. (See General Order 84.1)

G. Notification to Victims: By statute, 'victims' to be notified include the victim, the victim's parent, guardian or lawful representative, if the victim is a minor, and the next of kin of a homicide victim.

- 1. Arrest Notification: Pursuant to FSS 960.001, Department members will ensure victim notification when they make an arrest in the relevant case, whether the arrest is immediate, contemporaneous to the on-scene investigation, or as a result of a follow-up to the investigation.

- i. Arresting officers/detectives will be responsible for victim notification regarding all arrests with the exception of warrant arrests; or for ensuring (for major crimes involving abuse / violence) responsibility for notification is turned over to the Victim Advocate.

- ii. Arresting officers will document such notification in their *Incident/Investigation Reports*.

- 1). Members who are unable to contact the victim shall state the attempts made and the reason(s) the contact was unsuccessful.

2). Referrals made to the Victim Advocate shall be documented in the narrative portion (body) of the incident report / supplement, indicating who was contacted / responded.

3). Victim notification regarding warrant arrests made by members of this agency shall be handled by the law enforcement agency that initiated the charge(s).

2. Release Notification: When an officer investigates a crime or makes an arrest for one of the below listed crimes, the officer will ask the victim, the victim's parent, guardian or lawful representative, if the victim is a minor, or the next of kin of a homicide victim, if he/she wants to be notified of the arrest of suspect(s).

i. The crimes regarding which the victim must be given a choice to be notified of arrests:

- 1). Homicide (FSS 782),
- 2). Attempted Murder (FSS 777),
- 3). Sexual Offense (FSS 794),
- 4). Attempted Sexual Offense (FSS 777),
- 5). Stalking (FSS 784.048),
- 6). Domestic Violence.

ii. If the victim chooses to be notified of arrest(s), the officer will electronically toggle/select Y for yes under Mobile Field Reporting, Mittimus/Sworn Complaint, Arrest Charges, Victim Notification.

iii. Records Section personnel shall process victim notification according to the selection on the report.

H. Confidentiality: Department members will ensure victim and witness confidentiality to the extent consistent with state and federal law. The confidentiality of records and files will normally be determined by an ongoing review of the public information law and Department policies and procedures as they relate to the release of information.

1. Public Records Exemption:

i. For specific crimes, an exemption prohibiting the disclosure of information to the public that reveals the victim's home and work telephone numbers, home and work addresses, and personal assets not otherwise held confidential under the Public Records Law is available upon written request by the victim. NOTE: For these areas, the victim's identity is NOT included in the information exempted. This exemption is available to victims of:

- a. Aggravated Battery,
- b. Aggravated Child Abuse,

- c.** Aggravated Stalking,
- d.** Domestic Violence.
- e.** Harassment – Harassing/Obscene Telephone Calls,
- f.** Sexual Battery

ii. If the victim wants their information exempted from public record, the officer shall ensure the victim signs GPD Form 240 Supplement and indicates the request for exemption. When completing the report, the investigating officer shall check the “Restricted” block in Mobile Field Reporting, under “Related Names”. If Mobile Field Reporting is not working, the investigating officer shall document the choice to exercise their right of Public Records Exemption in section 6: ADD of the written report.

a. Members are to specifically instruct victims that the Gainesville Police Department will comply with their requests as far as the statute allows, but that information is available from other sources and, therefore, may be released through those sources.

b. If exemption is requested by the victim, the Record Section shall redact reports as indicated. If the Exemption is documented in the report narrative, then it shall be forwarded to the Records Section to serve as instruction not to release certain victim information.

iii. Members will instruct victims (or a responsible representative in the case of a child) of the following crimes that their names and any other information which could lead to determining their identities are required by law to be confidential, and therefore, exempt from release to the public:

a. Applicable crimes:

- 1).** Sexual battery,
- 2).** Child abuse, and/or
- 3).** Lewd and lascivious acts on or in the presence of a child.

Victims of these crimes may still specify their desire to withhold personal asset information

Members may contact the PIO if clarification is needed concerning what is releasable.

b. Informants: Witnesses who are classified as informants may have their names kept confidential during the investigation.

During discovery proceedings, some informants’ names may have to be released.

The decision to release will be dictated by case law and local judicial practice.

2. Article 1, Section 16 of the Florida Constitution “Marsy’s Law”, gives victim’s the right to prevent the disclosure of information or records that could be used to locate or harass them or their family, or which could disclose confidential or privileged information about them. The procedures set forth in section C-4 shall be followed.

I. Social Service Referrals: The Victim Advocates will provide appropriate referrals to community social service agencies for the victim/witness and act as a liaison when appropriate. [CALEA 55.2.1.b] In addition the advocate will maintain relationships with victim/witness efforts of other agencies and organizations for the purpose of ensuring that agency referrals of victims/witnesses to outside sources are based on accurate knowledge of the services offered by those sources. [CALEA 55.1.3.d]

J. Administration:

1. Public Information Officer Responsibility: The Public Information Officer will assist in informing the public and media about the agency’s victim/witness assistance services through the agency website [CALEA 55.1.1.c].

2. Supervisory Responsibility: Supervisors shall ensure members under their supervision are complying with the policies and procedures contained in this General Order by the following methods, which are not all-inclusive:

i. Ensuring the “restricted” block regarding arrest notifications is checked in the investigative reports.

ii. Ensuring *Victim/Witness Information Brochures* and *Victim’s Bill of Rights Brochures* and are properly distributed.

iii. Ensuring the officer completed GPD Form 240 Supplement properly and is submitted to Records.

iv. Ensuring proper actions have been taken when a victim or witness has been threatened and/or injured.

v. Ensuring victims who may have been severely traumatized receive proper follow-up contact and service.

vi. Ensure the victim’s request for arrest notification and information to be kept confidential are documented in the additional section Incident/Investigation Report, Sworn Complaints, and Arrest Mitts.

vii. Ensure the victim’s request for information to be kept confidential is notated in Notice to Appear, civil citations and traffic crash forms related to criminal offense.

viii. Ensure that documents issued to an offender such as NTAs and civil citations do not have the victim’s name or information and instead have the name “Marsy’s law” in the name section.

K. Training: The Training and Education Division, in coordination with the Alachua County Office of Victim Services and Rape Crisis Center, and/or the Department’s assigned Victim

Advocate, will periodically, and in compliance with State statute, schedule in-service or roll-call training for members who work with victims of crime.

Field Training Officers shall also review, with new police and police service technician recruits, the statutory rights and proper treatment of victims and witnesses of crimes.

By Order of

*Signed Original on File in the
Accreditation Unit*

**Tony R. Jones
Chief of Police**