

WEST PALM BEACH POLICE DEPARTMENT

IV-3 SEXUAL BATTERY INVESTIGATIONS

EFFECTIVE: 01/01/2005

CALEA Standards: N/A

CFA Standards: 18.15

I. POLICY: Sexual violence investigations will be actively pursued by the West Palm Beach Police Department. The response will not vary on the basis of the characteristics, status or profession of the victim or suspect or the nature of the relationship between the victim and suspect. High priority will be assigned to ensure victim safety and referral to appropriate services. The intent of this policy is to reduce the incidence of sexual battery, protect victims, provide them with support through a combination of law enforcement and community services, and promote officer safety.

II. DISPATCH PROCEDURES:

A. Due to the complex nature of this type of call, Dispatch Operations personnel and officers answering the initial complaint must determine whether the complaint is a “freshly reported” incident or an incident which the victim or reporting party has not immediately reported.

1. “Freshly reported” incidents will be dispatched as high priority calls (Code 2 or Code 3). Calls deemed to be delayed will be dispatched as routine calls (Code 1).

B. Even if the sexual violence is no longer in progress, the call will still be handled as a high priority in accordance with the criteria prescribed in SOP III-4 for purposes of assisting the victim and preserving evidence.

C. Dispatch Operations personnel will ascertain:

1. The medical condition,
2. The needs and location of the victim,
3. The location and time of the incident,
4. A description of the suspect,
5. Whether the suspect is still present, and, if not,
6. The direction and mode of suspect's travel.

D. The victim should be advised by Dispatch Operations personnel not to:

1. Change clothes,
2. Wash or shower,
3. Use the bathroom,
4. Drink anything,
5. Comb hair, and/or
6. Disturb anything about the scene.

E. Dispatch Operations personnel will ascertain whether the victim has special needs. Dispatch Operations personnel will inform the officer of the special need and attempt to make the appropriate resources available to the officer.

- F. Dispatch Operations personnel should never ask the victim whether she or he plans to cooperate with prosecutorial efforts.
- G. Whenever possible and appropriate, Dispatch Operations personnel will stay on the phone with the victim to provide assistance and comfort until an officer arrives.
- H. If the victim requests an officer of a different gender after the responding officer arrives on scene, one will be dispatched, if available.
- I. Dispatch Operations personnel will not cancel the law enforcement response to a sexual battery complaint even if the cancellation request is made by the victim. The dispatcher will advise the officer of the request.

III. INITIAL RESPONSE AND VICTIM SUPPORT:

- A. The initial responding officer(s) will administer first aid if necessary, request medical support, and protect the crime scene.
- B. Since the victim will often report the crime from a location other than the actual crime scene, the officer will determine the location of the actual site of the crime scene.
 - 1. Determine if the victim was in a vehicle with the suspect either prior to or after the incident.
 - 2. Efforts should be made immediately to locate and secure these other crime scenes.
 - 3. Officers investigating delayed calls will document all facts of the case in the initial report of the incident. When there is evidence to collect, a CSI will respond and collect all that is relevant. An investigator will follow-up on the case.
- C. A Crime Scene Investigator (CSI) should be called.
- D. When an interpreter is required, he or she should not be affiliated with the victim or the suspect.
- E. After ascertaining that a sexual battery occurred, the officer will notify a supervisor.
 - 1. The supervisor will notify Dispatch Operations and request the on-call investigator respond.
- F. The officer will conduct a preliminary interview with the victim to establish the facts of the reported crime.
 - 1. This initial interview will be limited to those matters necessary to identify the victim, suspect, witnesses, and physical evidence.
 - 2. If there is a request that the interview be conducted by an officer of a different gender, a supervisor should be notified to approve the request and make the necessary change.
 - 3. Requests for the presence of victim support persons during this interview should be honored, if practical.
- G. When appropriate, the officer or on-scene investigator will request the victim consent to an initial forensic physical examination, emphasizing its importance for her/his physical well-being as well as the investigative and apprehension efforts.
 - 1. Prior to transport, the victim should be advised it may be necessary for clothing to be taken as evidence and she or he should bring a complete change of clothing.
- H. The officer or on-scene investigator should, along with a CSI, conduct a walk through of the scene with the victim prior to taking photographs and collecting evidence.

I. When the victim is unwilling to cooperate with the investigation prior to the arrival of the investigator, a supervisor must respond and have the victim complete the "Waiver of Prosecution" form.

IV. CSI INITIAL RESPONSIBILITIES:

A. The CSI will collect or ensure the collection of evidence. This will include, but not be limited to:

1. Taking photographs of the scene and impounding any evidence (e.g., items touched by the suspect, bed sheets, weapons, etc.).
2. If the victim has changed her or his clothing since the incident, the CSI will impound the clothing worn at the time of the incident handling the clothing in such a way as not to cross contaminate the clothing.

V. INVESTIGATOR'S INITIAL RESPONSIBILITIES:

A. The investigator will respond to the scene, medical facility, or headquarters and request a rape crisis counselor/victim advocate respond to the scene.

B. The investigator, in conjunction with the rape crisis counselor/victim advocate, will attempt to gain the victim's trust and confidence by demonstrating understanding, patience, and respect for personal dignity and using language appropriate to the age, educational level, and emotional condition of the victim.

C. When a physical examination is conducted, the investigator and/or CSI will provide written documentation of the victim's injuries and request that medical or other appropriate personnel take photographs of the injuries that are apparent.

1. If the investigator suspects, or the victim states, that a drug was administered which caused mental incapacitation of the victim, the officer will request a grey-top vial of blood in addition to any other vials being drawn and a urine sample obtained for drug testing analysis. Various tests require vials with different color tops to properly preserve specific samples. Officers/ investigators must be specific when giving their reasons for having a sample tested to ensure proper collection procedures are utilized.

2. The investigator will request the victim sign a release of medical records form (allowing for the release of those records pertaining to the sexual battery).

D. When a physical exam is conducted, the investigator or CSI will impound the exam kit as evidence.

E. The officer will provide the victim with the "Legal Rights and Remedies- Notice to Victims" brochure as required by law.

F. The investigator will not initiate discussion of a complaint withdrawal. If the victim does not wish to prosecute or continue the investigation, the investigator will have the victim sign a "Waiver of Prosecution" form.

G. The investigator will assist in making arrangements for transportation of the victim to a site in the local vicinity at the end of the investigation, if necessary.

VI. INITIAL RESPONSE AND REPORT WRITING:

A. The primary officer(s) responding to a sexual battery complaint will prepare a written report of the incident.

B. The officer(s) will not disregard a complaint due to:

1. Assertion by the suspect that consensual sex occurred;
2. Chemical dependency or intoxication of the parties;

3. Marital status, sexual orientation, race, religion, profession, or cultural, social, or political position of either the victim or suspect;
4. Disability status of the victim (including physical, sensory, cognitive, or emotional disability);
5. Status of the suspect as a law enforcement officer;
6. Current or previous relationship between the victim and suspect;
7. His or her belief the victim will not cooperate with criminal prosecution or the arrest may not lead to a conviction;
8. Occurrence of the incident in a private place;
9. Disposition of previous police calls involving the same victim or suspect;
10. Sexual or criminal history of the victim;
11. Lack of physical resistance;
12. The manner of the victim's dress or behavior;
13. The victim requested the suspect use a prophylactic device; or
14. Assumptions about the tolerance of violence by cultural, ethnic, religious, racial, or occupational groups.

C. The officer will maintain a high level of objectivity and ensure that all elements of the crime are contained in the report.

VII. FOLLOW-UP INVESTIGATION:

A. An investigative officer will be assigned to conduct the follow-up investigation and all procedures set forth in this policy will be adhered to regardless of the relationship between the victim and suspect.

B. In the course of the follow-up investigation, the investigator will:

1. Read and review the original report and all supporting documents, plan the follow-up investigation, coordinate with the necessary personnel and obtain the equipment needed to implement the plan, and maintain ongoing communication with the victim and/or rape crisis counselor/advocate, as appropriate.
2. Determine the need for a more in-depth victim interview. Determine the victim's emotional and physical ability to submit to a second interview and schedule it as soon after the incident as these factors allow. A support person (e.g., rape crisis counselor/ advocate) may be present at the victim's or investigator's request.
3. Employ a comfortable interview setting that affords privacy and freedom from distractions so that all necessary information may be obtained.
4. Explain the need for obtaining detailed information concerning the crime to include:
 - a. Specific details of the sex act,
 - b. The suspect's modus operandi,
 - c. The suspect's clothing,
 - d. Means of restraining the victim and the availability, threat or use of weapons,
 - e. Any words or instructions given to the victim by the suspect, including requests or utterances made during the incident,
 - f. Accent, marks, scars, tattoos, deformities, and/or any physical features noticeable only when the suspect was unclothed,

- g. Any fetishes of the suspect, and
- h. Any witnesses, participants, or accomplices who may be described by the victim.

4. Document the victim's actions and expressions during the course of the interview to demonstrate fear in response to the attack, the type of resistance offered by the victim, the nature of any acquaintance with the suspect to include any prior relationships, the physical condition of the victim, and the state of mind of the victim during the attack.

5. 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.

6. Encourage the victim to cooperate with the investigation and efforts to prosecute the case, emphasizing the importance of prosecution for public safety.

7. Apprise the victim of future investigative and prosecutorial activities that will or may require cooperation, but refrain from making other comments about the prosecution of the case.

8. Refer the victim to a rape crisis counselor/advocate if one has not already been assigned.

9. Assist the prosecutor's office to develop the case.

10. Refer requests for victim protection orders, when appropriate.

C. The use of truth verification tests, such as the CVSA, with victims is strongly discouraged.

D. The investigator will expeditiously interview any witnesses or any other person(s) having information about the case without revealing any personal information about the victim to these persons.

E. If the suspect is known, the investigator will:

1. Construct a photo line-up, if appropriate,
2. Review the criminal history of the suspect,
3. Review open sex crime cases,
4. Confirm the identity and address of the suspect and other involved persons,
5. Consider the appropriate time, place, and setting of the suspect interview, and
6. Interview the suspect.

F. If the suspect is unknown, the investigator will:

1. Follow leads to establish the identity of the suspect,
2. Construct a composite and place an alert, if possible,
3. Confer with other agencies and intelligence sources for leads, and
4. Submit information to VICAP (Violent Criminal Apprehension Program), when program criteria are met.

VIII. PHYSICAL EVIDENCE:

A. Determine if the suspect's hair, blood, saliva, and/or other body fluids are needed for completion of lab analysis.

1. If probable cause exists to obtain hair, blood, saliva, and/or other body fluids from a suspect or to obtain an item of physical evidence from a location in control of the suspect, apply for a search warrant to obtain the necessary evidence, preferably prior to the case being filed.
2. Collect hair, blood, saliva, and/or other body fluids with consent from the suspect prior to the suspect's first appearance.
3. Blood, hair, saliva, and/or other body fluids collection should be accomplished in accordance with the guidelines published by FDLE and/or the FBI.
4. Only licensed and authorized personnel should collect blood and/or other body fluids. Hair and saliva samples from a defendant should be collected by trained personnel of the same gender as the defendant.

B. Review evidence to determine the need for other laboratory procedures such as, but not limited to:

1. DNA typing/serology
2. Micro analysis,
3. Firearm and ballistic procedures,
4. Fingerprint procedures,
5. Laser technology,
6. Photography,
7. Handwriting analysis,
8. Chemical testing, and
9. Forensic dentistry.

IX. SUPPLEMENTAL FOLLOW-UP REPORTS:

- A. The investigating officer will document the steps of the investigation. This will include documenting interviews and any other tasks performed pertinent to the investigation.
- B. The officer should complete a "Victim Notification" form if there is a known suspect.
- C. The officer should share information related to the investigation with other departments as warranted.

X. ARREST PROCEDURES:

- A. Once the investigation is complete, the investigating officer should do one of the following if probable cause exists and a defendant is identified:
 1. Make a probable cause arrest;
 2. Obtain a warrant; or
 3. Direct file or make a *capias* request to the State Attorney's Office.
 4. 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.
- B. If there is doubt that probable cause exists, the case should be referred to the State Attorney's Office for review.

C. If all investigative leads are exhausted and the suspect is not identified, the case should be filed "inactive". Cases will remain on file and available to be reactivated within the time limitation set forth in Florida Statutes. Periodic review of all unsolved cases should be accomplished for additional investigation by investigators assigned to investigate sex crimes.

D. If there is no arrest, the case will be reviewed by the next level of supervision. The victim will be notified that there will be no arrest and the reason(s) for not making an arrest will be documented in a supplemental report.

XI. OFFICER INVOLVED SEXUAL BATTERY CASES:

A. Responsibilities of officer(s) responding to the incident:

1. Immediate action will be taken to ensure the safety of the victim.
2. The responding officer(s) will follow the procedure as previously outlined in this policy.
3. The investigating officer(s), upon discovery the suspect is a law enforcement officer, will request a supervisor respond to the scene.
4. The responding officer(s) will conduct an investigation under the direction of the supervisor. Should it be necessary to make an arrest, the supervisor will assist in effecting the arrest.
5. Should the incident involve a member of this police department and the investigation warrants an arrest, the supervisor will have the responsibility of effecting the arrest.
6. The appropriate Division Commander in the arrested officer's chain of command will be notified immediately by the arresting supervisor.

B. If an arrest is made, applicable Departmental policies related to duty status/assignment, suspension, etc. will be followed.

C. If a criminal investigation is required, applicable Departmental policy should be followed. This investigation will be completed before the subject officer can be interviewed by department personnel for any administrative investigation associated with the event.

D. If the relationship between the victim and suspect fits the criteria for domestic violence, see SOP III-9.

E. Any officer who witnesses or otherwise has firsthand or well founded knowledge of a sexual violence incident involving another officer in the Department must report that incident to the supervisor in his or her chain of command.

F. When a sexual battery arrest is made on a law enforcement officer from another agency, the employing agency will be notified of the arrest as soon as possible during the contact

XII REFERENCES:

- F.S.S Ch. 794- Sexual Battery
- SOP # III-4 Law Enforcement Response
- SOP # III-9 Domestic Violence Investigations
- SOP # IV-2 Criminal Investigations
- SOP # IV-12 Victim/Witness Guidelines
- SOP # IV-22 Internal Affairs Function
- R&R # 2.7 Off-Duty Responsibilities

Delsa R. Bush, Chief of Police

Original issue: 06/01/1999
Revised: 01/01/2005
I.D. # 1337

History: SOP # changed to IV-3 on 01/01/2005
Old SOP #: 18.05
Revision Dates: 01/01/2005

Job Title Task Files: Supervisor, Detective, Crime Scene Investigator, Dispatch Operations