

Palm Beach County Sexual Assault Response Team (SART)

Sexual Battery Investigations General Orders for Law Enforcement

The primary objectives of the SART are to improve the treatment of survivors, case outcomes, efficiency and protection of the community by creating a victim centered response.

The primary objectives for a law enforcement officer in any sexual assault case are to: protect victims of sexual violence, by identifying information that supports the facts of the case, identifying and preserving evidence, identifying the offender, developing probable cause to support the arrest and prosecution of the offender, providing victims with support through a combination of law enforcement and community services, and promoting officer safety.

Sexual violence investigations shall be actively pursued and the law enforcement response to sexual violence shall not vary on the basis of the characteristics, status, or profession of the victim, or the nature of the relationship between the victim and perpetrator. Florida law Statute 794.052 requires emergency facilities to provide a forensic rape exam at no cost to the victim. If a rape victim chooses not to report or cooperate with law enforcement, the victim will be referred for assistance to Palm Beach County Victim Services & Certified Rape Crisis Center (PBCVS), 833-7273 or toll free 1-866-891-7273.

Since many sexual assault victims will experience their first real contact with a law enforcement officer following the assault, the law enforcement officer should be cognizant of their emotional well being, and should take all reasonable steps to alleviate the negative impact of the investigative process. The officer(s) should remain mindful that law enforcement is but one component of SART, a Multidisciplinary Team, in which the team concept is crucial in ensuring a *victim centered* approach to the investigation.

The victim centered approach means that the needs and interests of victims are of central concern to system personnel as they respond. For a law enforcement officer this means:

1. Enhancing cooperation between the law enforcement agency and community organizations that may assist the victim(s) including the PBCVS & Certified Rape Crisis Center.
2. Giving victims choices and options whenever possible.
3. Demonstrating sensitivity by using non-judgmental questions, comments, and body language.
4. Avoiding premature judgments. Victims may wait days, weeks, months or even years before reporting their assault.
5. Facilitating communication within the law enforcement agency and among members of the PBC SART. Regular meetings for members involved directly with sexual assault response and investigation will be scheduled to review cases.

The following policy and procedures have been developed by PBC SART members:

A. COMMUNICATIONS PROCEDURE

1. Call Priority: Even if the sexual violence being reported is no longer in progress, the call should still be handled as a high priority for the purposes of assisting the victim and preserving evidence.
2. If the attack was within the last 120 hours (5 days) the victim should be advised not to:
 - a. Change clothes
 - b. Wash or bathe
 - c. Use the bathroom
 - d. Eat or Drink anything
 - e. Comb hair, or
 - f. Disturb the scene
3. Ascertain the medical condition, needs and location of the victim; location and time of the incident, description of the suspect; whether the suspect is still present and, if not, direction and mode of the suspect's travel.
4. Determine if the victim has special needs (including, but not limited to situations in which the victim is hearing impaired or does not speak English). Inform responding officer(s) of the special need and attempt to make available to the officer (at the scene or via phone) the appropriate resources. Whenever possible, an interpreter should NOT be affiliated with the victim and perpetrator.
5. Never ask the victim whether he/she plans to cooperate with prosecution.
6. Whenever possible and appropriate, stay on the telephone with the victim to provide assistance and comfort until a patrol unit arrives on the scene.
7. Do not cancel the law enforcement response to a sexual violence complaint regardless of whether the request is made during the initial call or a follow-up call. However, advise the responding officer of the request.

B. INITIAL RESPONSE/INVESTIGATION AND VICTIM SUPPORT

1. Regardless of the relationship between the victim and the suspect, the responding officer or investigating officer shall:
 - a. Respond to the victim's location, administer first aid or request medical support, if necessary; and protect the crime scene if this is the location of attack.
 - b. Since the victim will often report the crime from a location other than the main crime scene, determine the location of the actual crime scene. It should also be determined if the victim was in a vehicle with the suspect either prior to or after the assault. Efforts should be made immediately to locate and secure "other" crime scenes. A crime scene investigator shall be called if necessary.
 - c. All pertinent information (i.e. suspect information) should be disseminated as soon as practical.
 - d. Request that a PBCVS rape crisis advocate report to the scene, the medical facility to which the victim is being transported, the department, or other specified location. Helpline number, 833-7273, toll free 1-866-891-7273.
 - e. Together with the rape crisis advocate, attempt to gain the victim's trust and confidence by showing understanding, patience, and respect for personal dignity and using language appropriate to the age, educational level and emotional condition of the victim.

- f. Conduct a preliminary interview with the victim to establish the facts of the reported crime. This 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. If there is a request that the interview be conducted by an officer of another sex, this request should be honored whenever possible.
- g. If the victim is a minor, comply with applicable statutes and regulations.
- h. Collect or ensure the collection of physical evidence. This will include, but not be limited to: victim's clothing worn at time of assault; swabbing areas the perpetrator touched such as arms, neck; taking photographs of the scene; and impounding evidence (e.g., items touched by the suspect; bed sheets, weapons, etc.).
- i. If the sexual assault occurred during the last 120 hours, request, as appropriate, that the victim consent to an initial forensic examination, emphasizing its importance for his/her physical well-being as well as the investigative and apprehension efforts. Advise the victim that the exam site, The Butterfly House, is located adjacent to the Wellington Regional Medical Center and is exclusively designed for their care and comfort.
- j. Law enforcement will arrange or provide transport for the victim to The Butterfly House, or if in need of immediate medical attention, to the nearest hospital. Prior to being transported to the treatment facility, the victim should be advised that it may be necessary for clothing to be taken as evidence, and if possible he/she should bring a complete change of clothing. The Butterfly House will have clothing and personal care items available.
- k. If a forensic examination is conducted, request that the Sexual Assault Nurse Examiner (SANE) or appropriate medical personnel take photographs and provide written documentation of the victim's injuries. If the officer suspects that the offender may have administered a drug or the victim states that a drug was administered which caused the mental and/or physical incapacitation of the victim, the officer must request the SANE or medical provider collect blood and urine sample for drug testing purposes by using the PBSO DFSA kit. If not available, request two grey-top tubes to be used for collection of blood and a small cup with a secure lid for a urine sample. The SANE or medical provider will obtain victim's signature for release of medical records, allowing for the release of only those records which pertain to the sexual assault.
- l. If a forensic examination is conducted, impound as evidence the exam kit, DFSA kit if used and any other evidence collected during the exam.
- m. Delayed reports: If it has been more than 120 hours since the sexual assault occurred, the victim may seek medical assistance from a health care facility. Request that at PBCVS Rape Crisis Advocate report to the scene, medical facility, the department or other specified location, give victim the option of a non-acute medical/forensic exam provided at The Butterfly House. During this exam, the victim will be medically examined and evaluated for injuries. The SANE will create a medical forensic record, but forensic evidence may or may not be collected. If the victim's clothing worn during the time of the assault is still available as is, collect and place with other evidence.

- n. Provide the victim with the Sexual Battery Victims Rights and Services brochure as required by law (chapter 794, F.S.).
- o. Do not initiate discussion of a complaint withdrawal until the victim has spoken with an advocate.
- p. Follow these procedures regardless of the relationship between the victim and suspect.

C. INITIAL RESPONSE: REPORT WRITING

1. The officer(s) responding to a sexual battery complaint shall prepare a written report and forward it consistent with department policy and procedures. Florida law allows victims to read the final law enforcement report of the crime.
2. The officer shall not disregard a complaint due to:
 - a. Assertion by the suspect that consensual sex occurred;
 - b. Chemical dependency or intoxication of the parties;
 - c. Marital status; sexual orientation; race; religion; profession; or cultural, social, or political position of either the victim or the suspect;
 - d. Disability status of the victim (including physical, sensory, cognitive, or emotional disability);
 - e. Current or previous relationship between the victim and suspect;
 - f. His/her belief that the victim will not cooperate with criminal prosecution or that the arrest may not lead to a conviction;
 - g. Occurrence of the incident in a private place;
 - h. Disposition of previous police calls involving the same victim or suspect;
 - i. Sexual or criminal history of the victim;
 - j. Lack of physical resistance;
 - k. Manner of the victim's dress or behavior;
 - l. Victim request that the suspect use a prophylactic device; or
 - m. Assumptions about the tolerance of violence by cultural, ethnic, religious, racial, or occupational groups.
3. The officer will document the allegation under the appropriate crime classification per Florida State Statutes unless it is a Non-Reporting case which must be a non-crime report.
4. Maintaining high objectivity, the officer should ensure that all elements of the crime are included in the report. The report should include:
 - a. Documentation of all verbal and written statements;
 - b. Documentation of names, addresses, phone numbers and statements of all witnesses. All information which could 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.S.;
 - c. Documentation of alternative addresses and other location identifiers in case the victim changes location (for instance, names and addresses of key victim contact persons);
 - d. Information regarding the relationship between victim and offender;
 - e. Documentation of all evidence;
 - f. Documentation of injuries (visible or complaint of pain);
 - g. Documentation of unusual or suspicious behavior and fetishes on the part of the suspect; and

- h. Reference to all related reports.
- 5. The officer can make objective observations as to the victim's behavior and conditions, if relevant. However, personal opinions as to the credibility of the victim shall not be included in the report.

D. FOLLOW-UP INVESTIGATION

- 1. A supervisor shall review the initial report and a detective should be assigned to conduct the follow-up investigation when needed. All procedures set forth in this policy shall be adhered to regardless of the relationship between the victim and the suspect.

The investigating officer shall proceed as follows:

- a. Read and review the original report and all supporting documents, plan the follow-up investigation, confer with supervisors concerning the intended investigative plan, coordinate the execution of the plan with necessary personnel and equipment needed to implement the plan, and maintain ongoing communication with the victim and/or rape crisis advocate as appropriate.
- b. Interview the victim. Arrange for the rape crisis advocate to be present for the victim's support and follow-up services. The Butterfly House is equipped with audio and visual recording equipment available to all investigating officers.
- 2. If there is a need for a more in-depth victim interview, determine the victim's emotional and physical ability to submit to this interview and schedule it as these factors allow. Coordinate interview with the victim's rape crisis advocate.

During the interview, the investigator shall:

- a. Employ a comfortable setting that affords privacy and freedom from distractions, attempting to obtain all necessary information at this time;
- b. Explain the need for obtaining detailed information concerning the crime to include details of the sex act, the suspect's modus operandi, clothing, means of restraining the victim and the use or availability of weapons, any words used or instructions given to the victim, including requests made during the assault, dialect, marks, scars, tattoos, deformities or other unusual physical features or body odors of the suspect, any body features noticeable only when the suspect was unclothed, any fetishes of the suspect, and any witnesses, participants or accomplices who may be identified or described by the victim.
- c. Document the victim's actions and expressions of fear in response to the attack to include the type of resistance offered, the nature of any acquaintance with the suspect to include any prior intimate relationships, the physical condition of the victim and the state of mind of the victim during the attack.
- 3. Encourage the victim to cooperate with the investigation and prosecution of the case, emphasizing the importance of prosecution for public safety. Inform the victim that there is a multi-disciplinary team working together on his/her behalf. Apprise the victim of future investigative and prosecutorial activities that will or may require involvement and cooperation, but refrain from making any other comments about the prosecution of the case.
- 4. Work with the State Attorney's Office to develop the case and keep the victim's rape crisis advocate informed of case progress.
- 5. Refer requests for victim protection orders when appropriate to the rape crisis advocate to assist victim.
- 6. Expeditiously interview witnesses or any other persons having information on the case, as necessary and without revealing any personal information about the

victim to these persons.

Note: Use of a polygraph examination or other truth-telling device with victim:

“No law enforcement officer, prosecuting attorney, or other government official shall ask or require an adult, youth, or child victim of an alleged sexual battery as defined in chapter 794 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.” F.S. 960.001(1) (t).

7. If the suspect is known:
 - a. Construct a photo line-up, and contact PBCVS for an advocate
 - b. Review criminal history
 - c. Review open sex crime cases
 - d. Confirm identity and address
 - e. Consider appropriate time, place and setting of the suspect interview; and
 - f. Interview the suspect.
8. If the suspect is unknown:
 - a. Follow leads to establish the identity of the suspect b.
Construct a composite and place an alert, if possible
 - c. Confer with other agencies and intelligence sources for leads; and
 - d. Submit information to the Violent Criminal Apprehension Program (VICAP) when program criteria are met.
9. Physical evidence:
 - a. Elimination standards should be taken from all appropriate persons.
 - b. Determine if the suspect's blood, hair, and saliva are needed for completion of lab analysis.
 - c. If probable cause exists to obtain blood, hair or saliva from a suspect, or to obtain an item of physical evidence from a location in the control of the suspect, apply for a search warrant to obtain the necessary evidence prior to the case being filed; or
 - d. Collect blood, hair and saliva from the suspect with consent of the suspect; or
 - e. If the suspect does not consent, seek to obtain a court order for the collection of blood, hair and saliva from the suspect after the case has been filed.
 - f. Blood, hair, and saliva collection should be accomplished in accordance with guidelines published by FDLE and/or the FBI and/or best available practices.
 - g. Only authorized and licensed personnel should collect blood. Hair and saliva samples from a suspect should be collected by trained members.
10. Review evidence to determine the need for other forensic procedures such as, but not limited to:
 - a. Serology and DNA typing
 - b. Microscopic analysis
 - c. Firearm and ballistic procedures
 - d. Fingerprint procedures
 - e. Alternate light source
 - f. Photography
 - g. Handwriting analysis
 - h. Chemical testing
 - i. Forensic dentistry
 - j. Trace evidence

E. SUPPLEMENTAL FOLLOW-UP REPORT

1. In the supplemental follow-up report, the investigating officer shall document the steps of the investigation. This will include documenting interviews and any other tasks performed pertinent to the investigation.
2. The officer should complete the victim notification form if there is a known suspect and this form has not yet been completed.

F. ARREST PROCEDURES

1. Once the investigation is complete, the investigating officer should do one of the following if probable cause exists and a defendant is identified:
 - a. Make a probable cause arrest,
 - b. Obtain a warrant, or
 - c. Direct file or make a capias request to the State Attorney's Office.
2. If the case is complete, but the suspect is not identified, the case should be filed as "inactive." Cases will remain on file and available to be reactivated within the time limits set forth in Florida Statutes. Detectives should accomplish periodic review of all unsolved cases for additional investigation.
3. If there is no arrest, the case file shall be reviewed by the next level of supervision. The victim should be notified that there will be no arrest and the reason(s) for not making an arrest should be documented in the supplemental report.

G. RELEASE OF INFORMATION

F.S. 794.024 Unlawful to disclose identifying information.

- (1) A public employee or officer who has access to the photograph, name, or address of a person who is alleged to be the victim of an offense described in this chapter, chapter 800, s. 827.03, s. 827.04, or s. 827.071 may not willfully and knowingly disclose it to a person who is not assisting in the investigation or prosecution of the alleged offense or to any person other than the defendant, the defendant's attorney, a person specified in an order entered by the court having jurisdiction of the alleged offense, or organizations authorized to receive such information made exempt by s. 119.071(2)(h), or to a rape crisis center or sexual assault counselor, as defined in s. 90.5035(1)(b), who will be offering services to the victim.
- (2) A violation of subsection (1) constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

H. VICTIMS' RIGHTS AND SERVICES

F.S. 794.052 Sexual battery; notification of victim's rights and services.

- (1) A law enforcement officer who investigates an alleged sexual battery shall:
 - a. The F.S. 636: Sexual offence evidence kits (SAKs) collected during a law enforcement investigation must be submitted to the laboratory within 30 days after receipt by the law enforcement agency, or within 30 days of a request being made by the victim or their representative. The request can be made to law enforcement or the medical provider.
 - b. Assist the victim in obtaining medical treatment, if medical treatment is necessary as a result of the alleged incident, a forensic examination, and advocacy and crisis-intervention services from a certified rape crisis center.
 - c. Advise the victim that he or she may contact a certified rape crisis center from

which the victim may receive services. (Refer victim to PBCVS Rape Crisis Center 833-7273; 1-866-891-7273).

- (2) The law enforcement officer shall give the victim immediate notice of the legal rights and remedies available to a victim on a standard form developed and distributed by the Florida Council Against Sexual Violence in conjunction with the Department of Law Enforcement. The notice must include the resource listing, including telephone number, for the area certified rape crisis center as designated by the Florida Council Against Sexual Violence. (Distribute the Sexual Battery brochure.)
- (3) As of 2011: FS 794.052 (1) – A law enforcement officer who investigates an alleged sexual battery shall: (c) – 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. VICTIM INFORMATION AND NOTIFICATION EVERYDAY (VINE)

Department of Corrections offers a toll-free automated inmate information and notification service. VINE Service is free service and available 24 hours a day, seven days a week. Anyone may call the toll-free number 1-877-VINE-4-FL (1-877-846-3435), and receive an inmate's current location and tentative release date. You may also register to receive an automated notification when an inmate is released, transferred, escapes, is placed in a work release facility, transferred to another jurisdiction, returned to the department's custody, or dies while in custody. The VINE Service is anonymous and confidential.

J. TRAINING

FDLE: "Criminal Justice Standards & Training Commission Florida Officer Mandatory Retraining Requirements: Florida Officers Must Complete 40-Hours every 4-Years to Maintain Certification (Reported no later than June 30 of the expiring year).

Although sexual assault is not listed specifically as one of the requirements set by FDLE, it is recommended that PBC Law Enforcement Officers receive training that may include:

1. Use and application of current Florida and Federal statutes as they relate to sexual violence;
2. PBC SART Procedures and updates;
2. Dynamics of sexual violence;
3. Physical evidence unique to sexual violence cases;
4. Duties and responsibilities of law enforcement in response to sexual violence calls and assisting victims.

Periodic or roll call training should address the components of this policy and legal/legislative updates related to sexual violence. The PBCVS Rape Crisis Center and members of the SART will provide victim centered training.