

**RESPONDING TO SEXUAL VIOLENCE,  
MODEL POLICY NUMBER TWO FOR FLORIDA LAW ENFORCEMENT:  
NOVEMBER 1999**

**BACKGROUND**

**I. INTRODUCTION**

The Prevention of Domestic and Sexual Violence Section (PDSV) of the Florida Department of Community Affairs (formerly the Florida Governor's Task Force on Domestic and Sexual Violence) received STOP Violence Against Women Formula Grants funds through the Federal Violence Against Women Act (VAWA). The PDSV identified certain purposes for funding, one of which was the development and implementation of more effective law enforcement policies for preventing and responding to sexual violence against women in Florida.<sup>1</sup>

Pursuant to funding requirements, the law enforcement sexual violence model policy was to:

1. Cover specified areas (e.g., training, pro-arrest procedures, sexual violence resource personnel, law enforcement officers as perpetrators);
2. Incorporate previously issued recommendations made by the PDSV on law enforcement efforts to address sexual violence;
3. Reflect consensus among law enforcement, prosecutors, and victim services providers.
4. Be applicable to and recognize the differences between all types of law enforcement agencies found in the state in terms of size, service areas, and other demographics; and
5. Address the needs of underserved populations in the state, including Native Americans, minorities, rural residents, disabled persons, immigrants, the elderly, and other identified underserved populations.

The Florida Law Enforcement Research Coalition (FLERC) sought and was given the opportunity to oversee the development of the original model policy in 1997 under the VAWA Grant Program in Florida. FLERC received additional funding in 1999 to revise the policy. The purpose of FLERC is to link law enforcement agencies and researchers to conduct policy-relevant research and to develop policies.

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<sup>1</sup> The PDSV project also included the development of a model policy for the law enforcement response to domestic violence.

Represented on the Board of Directors of FLERC are the:

Florida Sheriffs Association,  
Florida Police Chiefs Association,  
Florida Department of Law Enforcement,  
Florida Criminal Justice Executive Institute,  
Florida Chapter of the International Association of Law Enforcement Planners,  
Florida State Law Enforcement Chiefs Association,  
Tallahassee Police Department,  
College of Social Sciences at Florida State University, and  
School of Criminology and Criminal Justice at Florida State University.

People who served on the original Model Policy Development Committee included: 24 law enforcement representatives from varied types of agencies (large and small; rural and urban; county, municipal, and state) from all over Florida, 14 victim service providers from all areas of the state, 7 representatives of state attorneys and the statewide prosecutor's office, and 5 academics with expertise in violence and/or law enforcement. This group was aided in its efforts by resource materials collected by FLERC staff (e.g., model policies and codes, departmental policies from Florida and other states). The draft policy was sent to all law enforcement agencies, as well as to victim service providers, state attorneys, and other criminal justice or service providing personnel in Florida. The comments from these agencies, as well as from the PDSV, were considered by the Model Policy Development Committee before a revised, final version of the model policy was submitted to the PDSV for final review and dissemination.

In the spring of 1999, FLERC solicited input on the original policy from various law enforcement agencies, prosecutors, and victim service agencies and organizations. In the summer of that same year a Model Policy Revision Committee met to revise the policy, considering that input. This Committee was smaller in size than the original policy developing group, but with similar representation. The purpose of the revision was to update and improve upon the original policy.

## II. PURPOSE

Pursuant to the policies of the PDSV, as enumerated in its annual reports and its publication *Implementing a Vision: Ending Violence Against Women*, law enforcement agencies requesting Violence Against Women Act Funds in future years should adopt all or parts of the model policies for the law enforcement response to domestic and sexual violence. It was, therefore, the goal of FLERC in developing and revising the policy to produce a policy that would challenge law enforcement agencies to improve their response to sexual violence, but would still be attainable. Specifically, we attempted to develop a document that would:

1. Set forth guidelines to improve the overall police response to sexual violence;
2. Be relevant to both small, rural departments with few personnel and limited resources and large, urban departments with many personnel and greater resources;
3. Respond to the needs of numerous special populations in the state;
4. Represent consensus among law enforcement agencies, increasing the likelihood

- 5. that the policy would be adopted by the broadest range of agencies; Accurately reflect and address the unique challenges law enforcement officers encounter while responding to incidents of sexual violence; and
- 6. Respond to concerns voiced by service providers regarding perceived deficiencies in the law enforcement response to sexual violence.

**III. GUIDING PRINCIPLES**

In November of 1995, the American Medical Association stated that sexual assault is a silent, violent epidemic growing at an alarming rate and traumatizing the women and children of our society. Sexual violence historically has been under reported: research indicates that only one in 10 incidents of sexual assault is reported, and as few as one in 100 when the victim is assaulted by an acquaintance. Recognizing the extent and seriousness of the problem of sexual violence, several principles guided the development of this policy. Those principles are discussed below.

- X Sexual violence has a unique and profoundly devastating effect on its victims, and law enforcement officers should consider these effects when working with victims. One emphasis of this model policy is to ensure that the law enforcement system is more accessible to and sensitive to the needs of victims of sexual violence.
- X All victims of sexual violence need and deserve the same service and compassion, whether they are strangers to, acquaintances of, or spouses of the suspects. Provisions in the policy ensure that the law enforcement response to sexual violence is based on the nature of the action taken by the perpetrator, not on the characteristics of either the suspect or the victim or the relationship between them.
- X There are powerful and false myths related to sexual violence in our culture. These include:
  - 1. Women want to be raped.
  - 2. Women ask for it.
  - 3. Only pretty or young women are sexually assaulted.
  - 4. Only women are sexually assaulted.
  - 5. Women shouldn't have or enjoy sexual activity.
  - 6. Sexual assaults are primarily motivated to achieve sexual gratification.
  - 7. Rape, sexual abuse, or incest is just a way of life for women in some environments and cultures.
  - 8. No one can really be sexually assaulted if they don't want to be.
  - 9. Women often fantasize about rape and their stories are a result of deep-seated needs for attention.
  - 10. Most sexual assaults are committed by strangers.
  - 11. Women owe husbands/boyfriends sex in exchange for money/dates, care, etc.
  - 12. Sexual assaults are intrinsically fun or exciting.
  - 13. Women are overly emotional.

The policy seeks to ensure that the law enforcement response is not colored by any of these false and harmful myths.

X Victims experience great pressure not to pursue criminal prosecution of sexual violence. Some of these pressures stem from the following:

1. Fear of retaliation on the part of the abusers;
2. Guilt that they caused the crimes;
3. Fear of loss of social standing when others find out they have been victims of sexual violence;
4. Embarrassment;
5. Fear that others will blame them for the crimes; and
6. Expectation that the system will penalize them and support the abusers.

The policy seeks to ensure that the law enforcement response is such as to encourage victim participation with prosecution efforts.

X Law enforcement officers should tailor their responses to the characteristics and unique needs of the numerous and varied populations in Florida. These special populations include, but are not limited to:

- X Ethnic minorities
- X Inner city residents
- §X Rural residents
- X Migrants and immigrants
- X Non-English speakers
- X Gay men and lesbians
- X Elderly persons
- X Disabled (mentally and physically) persons
- X Homeless persons
- X Children

In addition, particular groups face unique problems; for instance:

- § In rural areas, victims fear a lack of confidentiality in an environment where everyone knows each other.
- X Sexual violence can constitute a major impediment to a young person developing a healthy self-image and maturing into a healthy, normal adult.
- X A victim who has suffered poverty and/or discrimination will already have a heightened sense of victimization and inadequate access to quality health care. As a result, such individuals may have greater mistrust of medical and law enforcement personnel.
- X Loss of virginity in the aftermath of sexual assault may render victims from some cultures "unsuitable" for an honorable marriage.
- X Religious doctrines held by some victims may prohibit a female from being disrobed in the presence of a male who is not her husband or forbid genital examination by a male physician.

- X Elderly victims may not demonstrate the full emotional impact of a sexual assault until after the initial contact with police and medical personnel. Furthermore, they are more physically fragile than younger victims, injuries can be more life threatening, and the recovery process can be far more lengthy.
  
- X Male victims of sexual assault are extremely reluctant to report the crime.

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*"Comments" in this document are not themselves policy, but are intended to provide the rationale or explanation for the policy component they accompany. Such comments are italicized and surrounded by a box.*

**I. PURPOSE**

The purpose of this policy is to establish guidelines for the law enforcement response to allegations of sexual violence. It is the second in a series of policies.

**II. SCOPE**

This policy applies to sexual battery and attempted sexual battery committed against persons 16 years of age and older.

**Comment:** *For the purposes of this policy, sexual violence is defined pursuant to Florida Statute 794.011(H):*

*Sexual battery means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.*

*It is the intent of this policy that the sexual violence definition applies to lesbian and gay couples, adults and adolescents, and male and female victims.*

**III. POLICY STATEMENT**

It is the purpose of this policy to reduce the incidence and severity of sexual violence by building strong cases against suspects, to protect victims of sexual violence, and to provide victims with support through a combination of law enforcement and community services.

Sexual violence investigations shall be actively pursued by law enforcement and the law

enforcement response to sexual violence shall not vary on the basis of the characteristics, status or profession of the victim or perpetrator (including status of victim or perpetrator as an employee of the law enforcement agency), or the nature of the relationship between the victim and perpetrator. High priority shall be assigned to ensuring victim safety and referral to appropriate services. Consistent with this, the following policy components are adopted.

#### IV. DISPATCH PROCEDURES

***Comment:*** *Because dispatch serves a vital function in providing an immediate, effective police response to sexual violence, this policy includes a significant number of dispatch-specific elements. These elements were included to ensure that incidents are handled at this stage in such a way as to:*

*Ensure the safety of the victim and provide necessary aid and support to the victim;  
Preserve evidence;  
Facilitate apprehension of the suspect; and  
Provide at the scene the tools necessary for effective communication with all victims.*

*Communications personnel should receive the training necessary to implement these policy provisions.*

- A. Call priority: Even if the sexual violence being reported is no longer in progress, the call should still be handled as a high priority in accordance with the criteria prescribed by generally applicable departmental procedures for purposes of assisting the victim and preserving evidence.
- B. Communications personnel will ascertain the medical condition, physical safety, needs and location of the victim; location and time of the incident; description of the suspect; whether the suspect(s) is still present and, if not, direction and mode of the suspect's travel.
- C. The victim should be encouraged by communications personnel to preserve evidence by not: (1) changing clothes, (2) washing, (3) using the bathroom, (4) drinking anything, (5) combing hair, or (6) disturbing anything about the scene.
- D. Communications personnel will ascertain whether the victim has special needs (including, but not limited to situations in which the victim is hearing impaired or does not speak English) or requests a female officer. Communications personnel will inform the officer of the special need and will attempt to make available to the officer (at the scene or via phone) the appropriate resources. (Whenever possible, the interpreter resource should be unaffiliated with the victim and the perpetrator.)

***Comment:*** Communications personnel can facilitate effective communication by the police with the victim by arranging for translation resources. Each jurisdiction should attempt to identify translation resources which could be used for this purpose (e.g., develop a list of bilingual or multilingual volunteers). It is important that, whenever possible, the responding officer use interpreters who are unaffiliated with the victim and the perpetrator so that objective interpretation is probable.

- E. Communications personnel shall never ask the victim whether s/he plans to prosecute, or make reference to future court proceedings.
- F. Whenever possible and appropriate, the communications personnel will stay on the telephone with the victim to provide assistance and comfort until a patrol unit arrives on the scene.
- G. For 9-1-1 or other emergency call hangups where call location information is available, communications personnel should always try to call back AND dispatch a unit, as well.
- H. Dispatchers shall not cancel the law enforcement response to a sexual violence complaint regardless if the request is made during the initial call or a follow up call. However, the dispatcher shall advise the officer of the request.
- I. Victim's suspected substance use or impairment shall not be a consideration when dispatching an officer.

***Comment:*** It cannot be assumed that a request to cancel a law enforcement response means that the situation is controlled and that the victim is no longer in danger. In fact, the victim may be in even graver danger than when s/he first requested assistance and may have been coerced or forced to request cancellation. Therefore, it is important that law enforcement proceed with their response despite requests for cancellation.

- J. If the communications department has policies separate from those of the agency with which it is associated, this policy component should be incorporated into those policies.

***Comment:*** In the event that a law enforcement agency contracts with another entity to provide communications and dispatch services, the model policy components regarding dispatch and communications should be incorporated into such contracts.

## **V. INITIAL RESPONSE/INVESTIGATION AND VICTIM SUPPORT**

To guide the law enforcement response to sexual violence, the department should provide to its officers the Sexual Violence Reference Cards available from FLERC which provide a summary of the sexual violence policy and provide other relevant information (e.g., the locations and

numbers of local victim service providers).

***Comment:*** Consistent with one of the guiding principles of this policy as well as with Florida case law, the officers will not treat victims differently based on the victim's characteristics, the suspect's characteristics, or the relationship between the victim and suspect. This encompasses the expectation that marital rape be handled with the same diligence and sensitivity as other sexual violence investigations.

Regardless of the relationship between the victim and suspect, the responding officer, investigating officer, or other appropriate law enforcement personnel shall:

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

***Comment:*** Attending to the victim's medical and emotional needs and preserving the evidence at the crime scene should be the first priorities. Note, however, that the responding officer must be sensitive to how his/her behaviors may be, in fact, additional intrusions into the psychological and physical space of an already violated victim.

- B. Determine the location of the actual crime scene, since the victim will often report the crime from a location other than the main crime scene. It should also be determined if the victim was in a vehicle with the assailant either prior to or after the assault. Efforts should be made immediately to locate and secure these "other" crime scenes. A crime scene specialist should be called if necessary and if on staff.

***Comment:*** Sexual violence can occur in many different types of locations, some of them mobile, some of them distant from where the victim is found. Accurate determination and securing of the crime scene as early as possible is essential to a successful case.

- C. Request that a rape crisis counselor/advocate, if available, report to the scene, the medical facility to which the victim is being transported, the law enforcement agency, or other specified location.

**Comment:** *A victim advocate is capable of providing essential emotional and other support. Accordingly, the policy requires linking an advocate with the victim as soon as possible, either at the scene or health care facility. Agencies should determine which are the available and appropriate services in their jurisdictions, with priority being given to rape crisis centers, where available. Rape crisis centers provide four types of services to their communities:*

1. *24-hour crisis intervention response to rape victims when the victim arrives at a hospital/Rape Treatment Center or calls a 24-hour telephone Hotline;*
2. *Advocacy and follow up services to victims;*
3. *Long term counseling and/or support groups for victims to deal with the psychological and/or relationship difficulties that continue after the initial assault or referral to such services; and*
4. *Public education and specialized training for other professionals regarding rape issues.*

- D. Together with the rape crisis counselor/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.

**Comment:** *Victim trust and confidence in law enforcement will be essential to successful prosecution. Thus, obtaining such trust should not be perceived as social work outside the purview of law enforcement.*

- E. 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, if possible. Similarly, requests for the presence during this interview of victim support persons should be honored, if practical.

**Comment:** *The policy suggests that the initial interview be quite limited in scope and duration because a victim is frequently still traumatized and thus, unwilling and unable to provide useful information.*

- F. Locate suspect and conduct a preliminary interview.
- G. Collect or ensure the collection of physical evidence. This will include, but not be limited to: taking photographs of the scene and impounding the evidence (e.g., items touched by suspect; bed sheets, if applicable; and weapons). If the victim has changed his/her clothing since the assault, law enforcement shall impound the clothing as evidence.

***Comment:*** Pictures of private areas of the victim's body should not be taken at this point. These pictures should, instead, be taken during the medical examination by the persons performing the examination.

*Ideally, the victim will have not changed clothes or bathed. If s/he has, it is critical to impound the clothing s/he was wearing during the attack. Frequently, clothing contains the most important evidence in a case of sexual battery. The reasons for this are twofold:*

*Clothing provides a surface upon which traces of foreign matter may be found, such as the assailant's semen, saliva, blood, hairs and fibers, as well as debris from the crime scene. While foreign matter can be washed off or worn off the body of the victim, the same substances often can be found intact on clothing for a considerable length of time following the battery.*

*Damaged or torn clothing may be significant. It may be evidence of force and can also provide laboratory standards for comparing trace evidence from the clothing of the victim with trace evidence collected from the suspect and/or the crime scene.*

- H. 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 apprehension efforts. An officer or a rape crisis counselor/advocate should transport or accompany the victim to the health care facility. 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 that, therefore, s/he should bring a complete change of clothing.

***Comment:*** Officers should request that the victim consent to the initial forensic physical examination, emphasizing that the examination will be important for the victim's physical and emotional welfare, as well as for procuring evidence for the case. The victim should not go to the health care facility alone; either an officer or a sexual violence counselor should accompany the victim for safety, as well as for emotional support. Law enforcement should instruct dispatchers to notify personnel at the treatment center that the victim is en route and the nature of the call, so a separate waiting room can be prepared. Further, the victim should then be escorted through the most discreet entrance to the facility and taken directly to the examination room.

- I. If a physical examination is conducted, request that medical or other appropriate 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 incapacitation of the victim, the officer must request that a grey-top vial of blood be drawn and a urine sample obtained for drug testing purposes. The officer should request that the victim sign a release of medical records form (allowing for the release of only those records which pertain to the sexual assault).

Following the Attorney General's protocol, the officer shall sign a sexual battery claim form.

***Comment:*** *An inconclusive medical exam does not mean a sexual battery did not occur.*

- J. If a physical examination is conducted, impound as evidence the exam kit and process it in accordance with department procedure.

***Comment:*** *Officers should be familiar with the standard medical protocol so their behaviors and requests are consistent with that protocol. For instance, the Attorney General's protocol specifies that law enforcement personnel shall not be present during the medical exam and that pubic hairs should not be taken as evidence. Whenever possible, one support person, other than the medical personnel (and not the law enforcement investigator), should stay with the victim throughout the entire legal and medical examination.*

*The model policy underscores the necessity of alerting medical personnel to the possibility of a drug having been administered to the victim, in light of the increased incidence of perpetrators covertly administering incapacitating and amnesia-producing drugs to victims prior to the crimes.*

*The release of medical records form should be signed by the victim in order to enable the prosecutor to receive that information as soon as possible. Note that the victim may refuse to sign this waiver, and that such a refusal must be honored. Furthermore, the waiver is limited in the policy to information pertinent to the sexual assault(s), thereby reducing the possibility that private, irrelevant medical history of the victim is unnecessarily divulged.*

- K. After the medical exam, transport the victim to the location of his/her choice within the local vicinity.
- L. Provide the victim with the Crime Victims' brochure as required by Florida Statute 960.001.
- M. Not initiate discussion of, or accept, a complaint withdrawal. Neither should the officer have the victim sign a waiver of prosecution form.

***Comment:*** *The responding officer should not even raise the possibility of, much less have the victim sign, a waiver of prosecution form. Such a waiver may result in the victim's loss of benefits otherwise available to him/her through the Victim Compensation Program. Similarly, the responding officer should refuse to accept a complaint withdrawal from a victim or suggest in any way that the officer thinks that the victim might not want to prosecute.*

- N. Follow these procedures regardless of the relationship between the victim and suspect.

## VI. INITIAL RESPONSE: REPORT WRITING

- A. The officer(s) responding to a complaint of sexual violence shall prepare a written police report and forward it consistent with departmental policy.
- B. The officer shall not disregard a complaint due to:
- § Assertion by the suspect that consensual sex occurred;
  - § Chemical dependency or intoxication of the parties;
  - § Marital status; sexual orientation; race; age; religion; profession; or cultural, social, or political position of either the victim or suspect;
  - § Disability status of the victim (including physical, sensory, cognitive or emotional disability);
  - X Status of the suspect as a law enforcement officer;
  - X Current or previous relationship between the victim and suspect;
  - X Belief that the victim will not cooperate with criminal prosecution or that the arrest may not lead to a conviction;
  - X Occurrence of the incident in a private place;
  - X Disposition of previous police calls involving the same victim or suspect;
  - X Sexual or criminal history of the victim;
  - X Lack of physical resistance;
  - X Manner of the victim's dress or behavior;
  - X Victim request that the suspect use a prophylactic device; or
  - X Assumptions about the tolerance of violence by cultural, ethnic, religious, racial or occupational groups.
- C. Officers shall identify the crime as "sexual violence," not "alleged sexual violence."

***Comment:*** The modifier "alleged" is not used to describe other complaints, and implies doubts about the accounts of victims of sexual violence.

- D. Maintaining high objectivity, the officer should ensure that all elements of the crime are included in the report. The report should include:
1. Documentation of all verbal or written statements (including excited utterances);
  2. Documentation of names, addresses, phone numbers and statements of all witnesses. All information which 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.
  3. Documentation of alternative addresses and other location identifiers in case the victim changes location (for instance, names and addresses of key victim contact persons);
  4. Information regarding the relationship between victim and offender;
  5. Documentation of all evidence, photographing and processing of crime scene;

6. Documentation of injuries (visible or complaint of pain);
7. Documentation of unusual or suspicious behavior and fetishes on the part of the suspect;
8. Reference to all related reports; and
9. Victim's emotional condition.

***Comment:*** "Excited utterances" are defined as a statement "relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition" (Florida Evidence Code, S. 90.803; F.S.). "Spontaneous statements" are defined as statements "describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter, except when such statement is made under circumstances that indicate its lack of trustworthiness" (Florida Evidence Code, S. 90.803, F.S.). Other exceptions to the hearsay rule include, but are not limited to, "then-existing mental, emotional, or physical condition," "recorded recollection," "statement under belief of impending death," "statement of child victim," and "statement of personal or family history."

*To be effectively utilized for prosecution, information regarding such statements must be very specific, verbatim quotations, including precise content and context in addition to quotation marks where appropriate. To ensure this, it is highly desirable that departments have cameras and tape recorders readily available for responding officers. The statements may not be exempt from the hearsay objections of the defendant's counsel in court if they are not collected according to the above guidelines.*

- E. 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.

## **VII. FOLLOW-UP INVESTIGATION**

An investigative officer shall be assigned to conduct the follow-up investigation and all procedures set forth in this policy shall be adhered to. The investigative 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 the necessary personnel and equipment needed to implement the plan, and maintain ongoing communication with the victim and/or rape crisis counselor/advocate, as appropriate.
- B. Determine the need for a second, more in-depth interview. Determine the victim's emotional and physical ability to submit to this re-interview and schedule it as soon after the incident as these factors allow. Honor the victim's request to invite a support person (e.g., rape crisis counselor/advocate), if possible. If a second interview is conducted the investigator shall:
  1. Employ a comfortable setting that affords privacy and freedom from

- distractions, attempting to obtain all necessary information at this time.
2. 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 described or identified by the victim;
  3. Document the victim's actions and expressions in response to the attack, the physical condition of the victim and the state of mind of the victim during the attack.
  4. Determine relationship of suspect and victim.
  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 prosecution of the case, emphasizing the importance of prosecution for public safety. Appraise the victim of future investigative and prosecutorial activities that will or may require involvement and cooperation, but refrain from making other comments about the prosecution of the case.
  7. Refer the victim to a rape crisis counselor/advocate, if one has not already become involved in the case.
  8. Work with the prosecutor's office to develop the case.
  9. Refer requests for victim protection orders, when appropriate.

***Comment:*** *It is of paramount importance that respect for the integrity and person of the victim be maintained at every stage. The interview of a victim of sexual violence must be conducted appropriately and sensitively. Officers should minimize the number and length of interviews with victims; too many interviews in a sexual violence case may result in the confusion of the victim and produce inconsistencies.*

- C. The use of polygraph exams or voice stress tests with victims shall be strongly discouraged and set forth in policy.

***Comment:*** *Generally, a victim should not be requested to take a polygraph examination or voice stress test, because such requests convey to the victim and to the general public that law enforcement does not take these victims seriously. The victim advocates among the drafters argued for **no** use of the polygraph or voice stress test with victims. The law enforcement representatives among the drafters argued that, in some cases, these tests are valuable tools. Both groups agreed that such tests should be conducted only under limited circumstances and that those circumstances--that is, when the polygraph exam and/or voice stress tests would or would not be used with sexual battery victims--should be set forth in policy.*

- D. Expeditiously interview witnesses or any other person(s) having information on the case, as necessary and without revealing any personal information about the victim to these persons.

***Comment:*** *The identity of the victim should always remain confidential pursuant to F.S. 119, to protect his or her safety, dignity, and privacy.*

- E. If the suspect is known:
1. Construct a photo line-up, if appropriate;
  2. Review criminal history;
  3. Review open sex crime cases;
  4. Confirm identity and address;
  5. Consider appropriate time, place and setting of the suspect interview; and
  6. Interview the suspect.
- F. If the suspect is unknown:
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.
- G. Physical evidence.
1. Determine if the suspect's blood, hair and saliva are needed for completion of lab analysis.
    - a. If probable cause exists to obtain blood, saliva or hair 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.
    - b. Collect blood, hair and saliva with consent from the suspect prior to the suspect's first court appearance.
    - c. If the suspect does not consent, seek to obtain a court order for the collection of blood, hair, and saliva from the defendant after the case has been filed.
    - d. 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.
    - e. Only authorized and licensed personnel should collect blood. Hair and saliva samples from a defendant should be collected by trained personnel of the same sex as the defendant.
    - f. Limit the number of people in the chain of custody of physical evidence as much as possible. Keep accurate and thorough

- records of the chain of custody of evidence.
2. Review evidence to determine the need for other criminalistic procedures such as, but not limited to:
    - a. DNA typing/serology typing
    - b. Micro analysis
    - c. Firearm and ballistic procedures
    - d. Fingerprint procedures
    - e. Laser technology
    - f. Photography
    - g. Handwriting analysis
    - h. Chemical testing
    - i. Forensic dentistry.

***Comment:*** *The gathering of physical evidence in a sexual violence case is a rigorous, scientifically exact activity. It should be conducted precisely according to protocol for sexual violence crimes. Any errors or omissions can weaken an otherwise strong case.*

#### **VIII. SUPPLEMENTAL FOLLOW-UP REPORT**

- A. 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.
- B. The officer should complete the victim notification form if there is a known suspect.
- C. The officer should share information related to the investigation with other departments, as warranted (e.g., teletype reference for possible serial type incident).

#### **IX. 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:
  - X make a probable cause arrest,
  - X obtain a warrant, or
  - X direct file.
- B. If there is doubt as to whether probable cause exists, the case should be referred to the State Attorney's Office for review. 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.
- C. If the case is complete, but 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 detectives and/or officers assigned to investigate sex crimes.

***Comment:*** *Inactive cases should not be perceived by law enforcement as insoluble or terminated; rather, detectives or other officers assigned to investigate sex crimes should periodically review these cases.*

- D. If there is no arrest, the case file shall be reviewed by the next level of supervision. The victim shall be notified that there will be no arrest and the reason(s) for not making an arrest.
- E. Agencies should develop and use written policies to guide “no arrest” or “unfounded” decisions. Such policies might include screening by the local state attorney’s office prior to any decision to drop a case of sexual violence.

***Comment:*** *In the event of a “no arrest” decision, the policy specifies that the victim be notified and the reasons for the decision explained to him or her. Although legitimate reasons may support such a decision, the victim may have an understandable emotional reaction and may require counseling and support, and, in some cases, the victim may need to take precautions to ensure his/her safety. Therefore, if possible, a sexual violence advocate should be with the victim when s/he is notified of the “no arrest” decision.*

#### **X. SPECIALTY UNITS/PERSONNEL**

- A. Based on the size of the agency, there will be at least one officer designated as a “sexual violence officer,” who is specially trained to deal with the complexities of sexual violence cases. This need not be a full-time designation.

***Comment:*** *The model policy requires that at least one officer serve as a sexual violence officer. This recognizes the different resources in departments throughout the state. Within smaller departments this could include a part-time assignment of an officer and within the largest departments sexual violence units will be developed and multiple full-time officers assigned.*

- B. The sexual violence officer shall:
  - 1. Monitor the agency’s compliance with the sexual violence policy;
  - 2. Ensure that all victims are referred to victim advocates, counseling, a rape crisis center or other appropriate follow-up support, and work with these resources to coordinate victim safety;
  - 3. Ensure there is an agency liaison with local rape crisis centers or sexual assault victim advocates, hospitals and state attorneys to promote for all cases of sexual violence successful investigation, perpetrator apprehension and prosecution, and the well being of the sexual assault

- 4. victim; and
- 4. Unless the task is assigned to another unit, provide for and/or coordinate the training of other officers as required in Section XII below.

## XI. OFFICER-INVOLVED SEXUAL VIOLENCE CASES

***Comment:*** This component required careful consideration by the committee members who developed and revised this Model Policy. Law enforcement departments should have zero tolerance for sexual violence and a policy which confirms this. Although this provision only pertains to sworn personnel, a department should consider a provision which encompasses non-sworn personnel.

- A. Responding to the call:
  - 1. If communications personnel receive a call for assistance at a scene where an officer is alleged to be a sexual violence offender, the responding officer's supervisor will be notified and respond to the scene. Additionally, other department personnel will be notified in accordance with department policy which addresses procedures for when officers are alleged perpetrators of crime.
  - 2. The responding officer shall ensure that a supervisor is, or will be, responding and otherwise handle the situation on scene in a manner consistent with the policies used in all sexual violence cases.
  - 3. If an arrest is made, applicable departmental policies related to duty status/assignment, suspension, etc. will be followed.
  - 4. If a criminal investigation is required, applicable departmental policy shall be followed. In the absence of departmental policy, this investigation should be completed before the subject officer can be interviewed by departmental personnel for any administrative investigation associated with the event.
  - 5. If the relationship between the victim and suspect fits the criteria for domestic violence then appropriate departmental policy will be followed.
- B. 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 a supervisor.
- C. An agency which makes a sexual violence-related arrest of a law enforcement officer from another agency shall 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.

## XII. TRAINING

- A. All sworn personnel and all other law enforcement personnel designated to handle sexual violence investigations shall receive competency-based training in sexual violence.

- The above named persons shall be competent with regard to the following:
- X Nature, extent, and dynamics of sexual violence;
  - X Local resources available for victim support and how to coordinate;
  - X Use and application of current Florida and federal statutes as they relate to sexual violence;
  - X Duties and responsibilities of law enforcement in response to sexual violence calls, as set forth in departmental policy;
  - X Victims' concerns with the criminal justice system;
  - X Working with and understanding reluctant victims;
  - X Rules of evidence in sexual battery cases;
  - X Interview techniques;
  - X Myths and statistics;
  - X Physical evidence unique to sexual violence cases;
  - X Victims' emotional needs and conditions (e.g., sense of personal violation);
  - X Victims' rights and remedies;
  - X Needs of special populations (including juveniles, the elderly and disabled adults);
  - X Interrelationship between sexual violence and domestic violence;
  - X Laws and regulations related to the medical examination protocol;
  - X Documentation, report writing and evidence collection;
  - X Policies and procedures of the local State Attorney's Office; and
  - X Departmental and officer liability issues.

- B. Persons within the department designated as "sexual violence officers" shall receive more advanced competency-based training than that required of persons named in A, above. Particularly valuable would be courses on sex crimes investigations and sex crimes interviews and interrogations.
- C. Periodic or roll call training should address the components of this policy and the use of the Sexual Violence Reference Card.
- D. All sworn personnel should receive timely legal/legislative updates and information on current trends and intelligence pertaining to sexual violence.

### **XIII. DISSEMINATION OF POLICIES AND LAWS**

***Comment:*** *Wide distribution of this model policy both within the law enforcement agency and to service providers and state attorneys will enhance both consistency and coordination.*

- A. The agency shall ensure that the information contained in this policy is disseminated to all agency personnel.
- B. The agency shall also forward copies of departmental policy relating to sexual violence crimes to the State Attorney's Office and local victim service providers.

- C. Consistent with Section XII-C above, the agency shall obtain and disseminate all legislative and legal updates. These updates shall be distributed to all personnel dealing directly or indirectly with sexual violence cases, including, but not limited to, field officers and middle management.
- D. Agencies shall adopt internal procedures to support the information dissemination requirements of this policy.