
Sexual Violence Response, Investigation, Title IX, and VAWA

307.1 PURPOSE AND SCOPE

The purpose of this policy is to establish standardized procedures for initial response to, and investigation of, sexual violence incidents including sexual harassment, sexual assault, and sexual battery.

307.2 POLICY

It shall be the policy of the Fresno State Police Department to conduct accurate, prompt, and thorough investigations into all reported incidents of sexual violence including sexual harassment and sexual assault, taking into consideration the needs of the victim; apprehend and pursue the prosecution of a sexual assault suspect, when appropriate; ensure that victims are connected to resources and are afforded the compassion and concern that is critical to surviving the incident; collaborate, as legally appropriate, with the Title IX Coordinator, and cooperate, as legally appropriate, with the campus student conduct process; and educate members of the University community about sexual violence prevention and reporting in order to promote the safety of the campus. The Department recognizes that the investigation of these incidents, both criminal and non-criminal, is a complex process requiring great sensitivity, victim support and crisis intervention skills.

307.3 DEFINITIONS

- A. Consent: An informed, affirmative, conscious decision by each participant to engage in mutually agreed-upon sexual activity.
- B. Dating Violence: A form of sexual violence, and is abuse committed by a person who is or has been in a social or dating relationship of a romantic or intimate nature with the victim. This may include someone the victim just met; i.e., at a party, introduced through a friend, or on a social networking website. The existence of such a relationship shall be based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- C. Domestic Violence: A form of sexual violence, and is abuse committed against someone who is a current or former spouse; current or former cohabitant; someone with whom the abuser has a child; someone with whom the abuser has or had a dating or engagement relationship; a person similarly situated to a spouse of the victim under California domestic or family violence law; or any other person against an adult or youth victim under California domestic or family violence law. Cohabitant means two unrelated persons living together for a substantial period of time, resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to (1) sexual relations between the parties while sharing the same living quarters, (2) sharing of income or expenses, (3) joint use or

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ownership of property, (4) whether the parties hold themselves out as husband and wife, (5) the continuity of the relationship, and (6) the length of the relationship.

- D. **Sexual Assault:** A form of sexual violence which as used in this policy, refers to crimes of sexual violence as defined within Title IX of the California Education Amendments of 1972, California Education Code 66250, and/or California Government Code 11135. It involves an attempt, coupled with the ability, to commit a violent injury on the person of another because of that person's gender or sex. Simple sexual assaults include such acts as the touching, groping, kissing, etc. of a sexual nature. Violent/aggravated sexual assaults include such acts involving rape, penetration by a foreign object, sodomy, etc.
- E. **Sexual Violence:** Physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs, alcohol or other form of incapacity, including disability. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, and sexual coercion. All such acts of sexual violence are forms of sexual harassment covered under Title IX.
- F. **Stalking:** A form of sexual violence involving a repeated course of conduct directed at a specific person that places that person in reasonable fear for his or her safety; the safety of others; or suffer substantial emotional distress.

307.4 INITIAL RESPONDING OFFICER'S RESPONSIBILITIES

When an incident of simple sexual assault or other sexual violence (simple sexual battery, harassment, non-criminal stalking) is reported to the Fresno State Police Department, the initial responding officer shall investigate and report on the incident similar to that of other reported crimes in accordance with the requirements of this policy.

When an incident of violent/aggravated sexual assault is reported to the Fresno State Police Department, the initial responding officer shall:

- (a) Determine the location and condition of the victim.
- (b) Ensure the victim's safety.
- (c) Administer emotional and first aid to the victim.
- (d) Determine whether the victim has any physical injuries that require immediate medical attention.
- (e) Contact the University's Confidential Victim Advocate, or if unavailable, an advocate from Rape Crisis Services (RCS).
- (f) Advise the victim that he/she may have a support person, of his/her choice, present at any time during the investigation process.
- (g) Without discussing what occurred with the victim, determine where the incident took place and identify any potential crime scene/evidence that may need to be secured or processed by the Sexual Assault Investigator.
- (h) If the incident occurred outside this Department's jurisdiction, notify the corresponding law enforcement agency where the incident took place to determine which agency will conduct the investigation.

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- (i) Ensure a Sexual Assault Investigator is called to investigate.
- (j) Remain with the victim until relieved by a detective/sexual assault investigator.

307.5 SEXUAL ASSAULT INVESTIGATOR RESPONSIBILITIES

When a Sexual Assault Investigator is called out to an incident of violent/aggravated sexual assault, he/she shall:

- (a) Explain to the victim that a confidential victim advocate will be responding to assist with any questions they may have throughout the investigation process.
- (b) In the preliminary investigation, the following information should be gathered to substantiate the allegation of sexual assault:
 - 1. Interview the victim and all witnesses. Record all interviews.
 - 2. Identify all persons with possible knowledge of the incident.
 - 3. Ensure the crime scene is processed and documented with photos (as appropriate).
- (c) Victim Interview
 - 1. Tape record all interviews.
 - 2. Note the emotional and physical state of the victim and document the information in the report.
 - 3. Identify the suspect (if possible) and all areas where the suspect came in contact with the victim.
 - 4. Determine the victim's activities prior to the assault.
 - 5. Identify specific details of the suspect, including; specific verbiage, tone of voice, weapons used, threats made, physical characteristics and unique identifiers.
 - 6. Document the victim's mental and physical condition.
 - 7. Interview any fresh witnesses.
 - 8. Understand that late reporting is a common behavior of sexual assault victims.
 - 9. Identify any prior history of sexual assault, especially if it resulted in law enforcement action.
- (d) Witness Interviews
 - 1. Identify any fresh witnesses. These are individuals whom the victim contacted immediately after the assault occurred. These witnesses can testify to the emotional and physical state of the victim after the assault.
- (e) Evidence
 - 1. All evidence in support of the allegations of sexual assault should be gathered and preserved including:
 - (a) Photographs of the victim/crime scene
 - (b) Victim's SART Exam kit

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- (c) Suspect's SART exam results
- (d) Articles of clothing from both victim and suspect (package each item of clothing in separate paper evidence bags. Items with blood or semen should be folded carefully to prevent distortion of the stains).
- (e) Bedding and/or other material used.
- (f) Provide a VAWA packet to the victim and explain all of the enclosed material:
 - 1. PC 293 Privacy Document - Have the victim sign if she/he wishes to keep her/his name confidential.
 - 2. Sexual Assault Resources - Explain all of the on-campus and off-campus resources available to the victim and what services they provide.
 - 3. Executive Order 1095 - Explain to the victim the purpose of this executive order and the rights and options afforded to her/him, which include:
 - (a) The right to file a Title IX complaint through the Title IX Coordinator.
 - (b) The right to file a criminal complaint with the University Police Department or law enforcement agency having jurisdiction over the incident.
 - 4. Marsy Card - Explain to the victim the services offered from the Marsy Card for victims of violent crimes.
 - 5. Various informational pamphlets.
 - 6. Initial VAWA packet checklist for insertion into original case file.
- (g) Sexual Assault Forensic Exam (SAFE)
 - 1. Fresno State PD has contracted with Forensic Nurse Specialists of Central California (FNS) to perform Sexual Assault Forensic Examinations. They are located at the Family Healing Center (7025 N. Chestnut #102) on the northwest corner of Chestnut and Herndon.
 - 2. FNS will be called to advise that a sexual assault victim is en route to the Family Healing Center.
 - 3. If Fresno State PD transports the victim to the Family Healing Center, the Fresno State Confidential Victim Advocate shall be advised if she is not already on scene. If the Fresno State Confidential Victim Advocate is unavailable, Rape Counseling Services will be advised (559-222-7273).
- (h) Suspect Apprehension/Crime Scene
 - 1. If a suspect has been apprehended, investigations personnel will conduct suspect interviews in the Fresno State Interview Room. All interviews will be audio and video recorded.
 - 2. Take suspect to the Family Healing Center for an evidentiary exam. Any "non-intrusive" methods (fingernail clippings, hair and/or saliva samples, etc.) used to gather evidence do not require the suspect's consent and reasonable force may be used to obtain these samples if the suspect refuses an exam. Any "intrusive"

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procedures (blood draw, semen samples, etc.) used to gather evidence will require a warrant.

3. Document any trauma that may have resulted from confrontation with the victim. The location of the physical trauma should be noted and photographed.
 4. If there is more than one suspect detained, the suspects shall be kept separated.
 5. Record all spontaneous statements with date and time.
 6. Prevent contact between victims, witnesses, and suspects.
 7. Record any alibi statements.
 8. Determine and document any unusual manners or MOs demonstrated by the suspect.
- (i) Pre-Text Phone Calls
1. If a suspect is identified and the investigation permits, a pre-text phone call should be considered. Arrangements for a pre-text phone call shall be made with the Fresno Police Department's Sex Crimes Unit.
- (j) Informing the Title IX Coordinator: The Fresno State Police Department will not delay a Title IX investigation, except when time is needed for the collection of evidence. All investigative notes and findings will be made accessible to the Title IX coordinator, as long as it does not compromise the criminal investigation.
1. The Detective Sergeant shall serve as the designated person within the Department responsible for notifying and working directly with the Title IX Coordinator in the following manner:
 - (a) The preliminary investigation shall be reviewed by the responsible Detective Sergeant no later than the next business day occurring from the time of the reported incident. Upon doing so, he/she shall contact the Title IX Coordinator by email to inform him/her of the assault, providing a brief summary of the incident and the related RIMS case number.
 - (b) The Title IX Coordinator and the Detective Sergeant will discuss the case and the victim's willingness to pursue criminal charges. If the victim does not want to pursue criminal charges, the Detective Sergeant may share all information gathered from the victim with the Title IX Coordinator if not prohibited by state statute and prosecution has been declined by the District Attorney.
 - (a) If the victim wishes to pursue criminal charges, the Detective Sergeant will share basic information with the Title IX Coordinator to include the victim's name (if not prohibited by state statute); the victim's contact number; nature of the assault; and the classification of the crime and the name of the perpetrator, if provided. The Title IX Coordinator will use this information to begin an investigation through the University.
 - (b) If the victim wishes to pursue criminal charges, the Detective Sergeant shall inform the Title IX Coordinator of the victim's wishes,

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and the Title IX investigation may temporarily pause while law enforcement conducts their preliminary fact finding, which shall not exceed 10 business days (unless significant justification can be made as to why it needed to be longer and is approved by the Chief of Police). The Detective Sergeant may share all relevant interview summaries, forensic reports, etc. with the Title IX Coordinator.

- (c) If the victim chooses not to pursue criminal charges, the Detective Sergeant will be informed by the Title IX Coordinator of a change in the victim's desire to pursue criminal charges. In such cases, all relevant interview notes and information obtained by the Title IX Coordinator can be shared with the Detective Sergeant if the victim gives permission.
- (d) If the victim does not wish to pursue criminal charges and prosecution is declined by the District Attorney, the University will assume leadership over all aspects of the investigation. Any additional information obtained by the Detective Sergeant must be shared with the Title IX Coordinator

307.6 RECORDS RESPONSIBILITIES

Cases involving a Title IX/VAWA incident (i.e., sexual violence/harassment - verbal and/or physical) shall be indicated on the RIMS case report within the "Special Circumstances" drop down menu by selecting "Title IX/VAWA." A hard copy of the case, showing proof the Title IX Coordinator was given access to the required case documentation, will be maintained in a separate file within the records hard copy file system.

Copies of reports provided to the Title IX Coordinator will be redacted as required by law and issued via "Maxient" whereby reports provided are posted in a viewable pdf format only.

When issuing crime alerts (i.e. Timely Warnings, Emergency Notifications) and daily logs, victims' names shall not be posted, as per confidentiality requirements of VAWA.

307.7 TRAINING

Title IX training shall be conducted with all Department personnel biennially, as well as with all newly hired personnel.

Training should include:

1. How to identify sexual harassment.
2. Reporting and grievance procedures for Title IX cases.
3. Review of CSU Executive Orders 1096, 1097, and 1098.
4. Procedures in criminal investigations of sexual violence.