

# UNIVERSITY AT ALBANY

## STATE UNIVERSITY OF NEW YORK

### COORDINATED RESPONSE TO THE SEXUAL ASSAULT OF STUDENTS

#### **Purpose**

The University at Albany is committed to the maintenance of an educational environment which is supportive of its primary educational mission and free from all exploitation and intimidation. The University will not tolerate sexual assault, including rape and any other form of nonconsensual sexual activity.

It is essential that students who are sexually assaulted receive medical treatment and support as soon as possible. This document outlines the procedures that will allow members of the University community to be effective at introducing victims of assault to medical, psychological, and legal resources.

#### **Definitions**

As presented in the University at Albany Community Rights and Responsibilities sexual offenses as defined in Article 130 of the New York State Penal Law are subject to criminal prosecution. The University prohibits the following behaviors:

**Sexual Assault I:** By a stranger or an acquaintance, sexual intercourse, sodomy, or any sexual penetration, however slight, of another person's oral, anal or genital opening with any object where the victim clearly expressed (by verbal and/or nonverbal means) that she or he did not consent to the act. It should be established that a reasonable person in the accused's situation would have understood the victim's words and acts as an expression of lack of consent. Where the victim did not directly express lack of consent, but the accused used force, threat, intimidation, or the victim's mental or physical helplessness, the charge of Sexual Assault I also applies. Mental or physical helplessness would include, but not be limited to, the inability to consent due to excessive alcohol or drug use or consumption.

**Sexual Assault II:** By a stranger or acquaintance, touching an unwilling person's intimate parts (defined as genitalia, groin, breast, or buttocks, or clothing covering them) or forcing an unwilling person to touch another's intimate parts. The accused is guilty of such acts where it can be established that (1) the victim clearly expressed (by verbal and/or nonverbal means) that she or he did not consent to the act AND (2) a reasonable person in the accused's position would have understood the victim's words or acts as an expression of a lack of consent. Where the victim did not directly express lack of consent, but the accused used force, threat, intimidation or the victim's mental or physical helplessness, the charge of Sexual Assault II also applies. Mental or physical helplessness would include, but not be limited to, the inability to consent due to excessive alcohol or drug use or consumption.

Incidents which do not constitute sexual assault might nonetheless be considered sexual harassment or threatening and abusive behavior, and as such violate Community Rights and Responsibilities. Students who require assistance with such complaints should be referred to the Director of Conflict

Resolution and Civic Responsibility if the assailant is a student, and the Office of Diversity and Affirmative Action in all other situations.

## **Procedures for Responding to a Student Who Has Been Assaulted**

**In the aftermath of sexual assault, it is important for victims to regain a sense of control over their environment, and their bodies. These students are often traumatized by the incident and concerned about confidentiality. They may require a deliberate and specific clarification of the supportive and legal options available to them. Please use care and consideration as you provide necessary information. Ultimately, decisions about how to proceed must be made by the victim.**

### **I. INSURE THE VICTIM'S SAFETY**

If the victim is in danger call the University Police at 911 from an on campus phone (or 442-3131 from a cellular phone) or, if off campus or on the East Greenbush campus, call the nearest police department: Albany City Police at 911 (or 438-4000, non-emergency); Colonie Police at 911 (or 783-2744, non-emergency); Guilderland Police at 911 (or 356-1501, non-emergency) or East Greenbush Police at 479-1212. It is crucial that you and the victim are safe and that you not place yourselves in a dangerous situation. Note that 911 calls placed from a cellular phone are automatically routed to State Police, so you will need to specify the city you are calling from as well as the address.

### **II. SEEK IMMEDIATE MEDICAL TREATMENT**

#### **• NOTE: VICTIMS SHOULD BE ADVISED OF THE FOLLOWING:**

- If she/he is considering reporting the incident to the police, whether now, or at some future point, an evidentiary medical exam (“rape kit”) is strongly recommended. This will greatly enhance the likelihood of successful prosecution of the assailant, should the victim report the incident.**
- It is important to encourage the victim **not to bathe, wash, or change clothes** before seeking medical attention. In addition, it is best that the victim **not take fluids or empty her/his bladder** before the medical exam.**
- Evidence should be collected within 72 hours of the incident; however, even if 72 hours have elapsed, or if the victim has bathed, etc., an exam is still recommended.**
- Explain to the victim that the medical exam does not commit her/him to reporting the attack. In the event that the victim decides not to report to the police, the evidence collected will be destroyed after 30 days.**

- Note that materials collected as evidence are likely to include some articles of clothing, and/or personal effects.
- Inform the victim that compensation may be available for certain individuals, through the New York State Crime Victims Assistance Program, if they go to a hospital emergency room and agree to a forensic medical exam and/or if they report the crime and cooperate with authorities.

Help arrange to transport the victim to the hospital as soon as possible. Remember, not all injuries are immediately apparent. A medical evaluation is necessary to evaluate internal injuries, and for sexually transmitted disease and pregnancy testing, in addition to gathering medical information for the police. The mode of transportation depends on the victim's condition and preference. For transport from the uptown or downtown campus to a local hospital, the following can help if desired: Five Quad Ambulance (911 from an on campus phone or 442-3131 if calling from an off campus or cellular phone), and/or University Police (911 from an on campus phone or 442-3131). In a medically emergent situation off campus or on the East Greenbush campus, call 911. The Coordinator for Sexual Assault Prevention and Education (442-5800) can also be of assistance in providing information and referrals to resources both on and off campus.

### **AN ALTERNATIVE: GO TO THE UNIVERSITY HEALTH CENTER**

The University Health Center offers confidential services for information, medical care and referral including:

- With the victim's consent, referral to Albany Medical Center Hospital's Sexual Assault Examiner Program or, if the victim requests, St. Peter's or Memorial Emergency Room, for care and a rape examination.
- With the victim's consent, contact Albany County's Crime Victim and Sexual Violence Center (CVSVC) to be present to assist and support the student at **AMCH**, St. Peter's or Memorial.
- If the student refuses referral to an area hospital **ER**, the University Health Center will offer medical care and follow up, including **STD** and pregnancy testing.
- Referral for services at the University Counseling Center or Albany County's CVSVC. It is normal for victims to go through a process of feeling traumatized, helpless, frustrated and even guilty. It can be helpful to talk to a psychologist or counselor.
- Referral to the University Police Department for legal action. (**UPD** will make every effort to offer female victims an opportunity to have a female officer present during all interviews.)

### **Note: Confidentiality**

Services in the University Counseling Center (UCC) and the University Health Center (UHC) are strictly confidential. However, with a student's written consent and at her/his request, the UCC or the UHC will notify the Office of the Vice President for Student Success for a coordinated response

as in IV below. The student should be reminded that their confidentiality at either location will be jeopardized if court proceedings are initiated.

### **III. REPORTS TO POLICE**

**All students are encouraged to report incidents of sexual assault to police. Students who wish to press charges may contact the police in the jurisdiction where the assault occurred.**

**It is very important that the victim make a decision about whether to file criminal charges without pressure from any individual or group. For students who are uncertain about whether to prosecute, it may be important for them to first obtain information about what to expect from police agencies, the process of investigation and prosecution. There are resources where students may seek such information: Albany County's CVSVC (447-7100), University Counseling Ctr. (442-5800)**

**On-Campus Incidents.** The University Police Department conducts investigations of on-campus sexual assaults, and they can be reached 24 hours a day at 442-3131 (or 911 from an on campus phone). As a community policing organization, the UPD makes every effort to be sensitive to the needs of victims. All members of the University community should inform the student that such reporting does not obligate the victim to cooperate in pressing charges. Other reasons for the victim to inform police include: 1) giving themselves the option of pressing charges at a later date; 2) making police aware of potential danger to other students; and 3) having an incident report on file in case the same assailant harms someone else.

**Community Notification.** The Vice President for Student Success will evaluate, on a case by case basis, those instances which suggest potential danger to other members of the University community. In such cases, the University administration must report the crime to the University community. Consideration will be given to the victim's welfare. Community notification will be discussed with the victim in advance, and will not involve the posting of identifying information.

**Off-Campus Incidents.** If the assault took place off-campus, the victim may report the incident to the police department with jurisdiction (e.g., Albany, Colonie, or Guilderland Police). The student may request that a victim's advocate (from Albany County's CVSVC) accompany her/him throughout the criminal proceedings.

University Police can document a report of an **off-campus assault**, but do not take an official report leading to criminal charges. This must be done by the victim at the local police agency. UPD will seek the victim's consent to notify the appropriate off-campus authorities. Neither the name nor other identifying information will be disclosed without the victim's consent (note that identifying information includes the names or residential addresses of either the victim or perpetrator). This is meant to ensure that the victim decides whether or not an investigation is pursued. However, it is the practice of UPD to report that a felony may have been committed in the jurisdiction of another police department. The incident may be reported to off-campus police by date, time, approximate location, and type of crime. In such cases, a designated representative from UPD will share information with a designated representative from the off-campus police department.

#### **IV. INFORM THE UNIVERSITY**

**Students are encouraged to report all incidents of sexual assault to the University in order to receive help in accessing support services and in prosecuting the sex offender. However, this decision must be made by the victim and shall be respected by all members of the University. Although University personnel may be required to report a time, date, and location of incidents to the appropriate administrative office, the person receiving a report from the victim should not ask for this information nor accept it without first telling her/him how it may be utilized.**

When University personnel are informed of a sexual assault incident each will seek the victim's consent to notify the Vice President for Student Success or a representative. All University personnel (except University Counseling Center and University Health Center staff, as noted in section II) should notify the Vice President for Student Success of each incident by date, time and location, if known.

Note: In accordance with federal law (the Clery Act), all campus security personal (defined for the University at Albany as staff in Residential Life, Student Life, University Police, Conflict Resolution and Civic Responsibility, Athletics, Undergraduate Studies and Affirmative Action) are required to make such a report.

Without the victim's consent, it is not necessary to provide an exact address for location; the following examples would be appropriate (e.g., a room on [specify name] Quadrangle, an apartment in mid-town Albany). **However, neither the name nor other identifying information will be disclosed without the victim's consent.**

University personnel are encouraged to consult their supervisors when they have concerns or doubts regarding the safety or well-being of a victim or another person, in order to take steps to assure the safety of the victim and others. In rare cases this consultation may need to occur even without the victim's consent. Remember, the University Counseling Center (442-5800) can provide a confidential psychological consultation.

With a victim's consent the Vice President for Student Success or designee will provide a coordinated response. The following is a list of available services to provide support to the victim. **It will be up to the victim to choose.**

**A) Criminal Process**

The University Police Department will help to file a complaint or legal charges against the alleged sex offender for on campus incidents. University Police are also available to consult with victims about criminal prosecution, campus judicial review, and referrals to appropriate authorities for off-campus incidents.

**B) Campus Judicial Review**

The Director of Conflict Resolution and Civic Responsibility (442-5501) and/or the Associate Director of Residential Life/Quad Supervisor (442-5875) will assist in filing a complaint for possible university disciplinary action against the alleged sex offender.

**C) University Resources for help and support:**

- 1) The Coordinator for Sexual Assault Prevention and Education -- for information and referral to on and off campus resources.
- 2) A student's friends and family. While a student will be encouraged to call her/his family for support, the decision to do so will remain with the student;
- 3) Other University administrative/executive staff and teaching faculty to facilitate academic accommodations; financial accommodations, housing accommodations; etc.;
- 4) The Director of Residential Life, if the student lives in University housing;
- 5) The Directors of the Disability Resource Center and International Student Services and the Director of Multicultural Student Success, as appropriate;
- 6) The Office of Affirmative Action;
- 7) CHARGE, Fuerza Latina, ASUBA, International Student Association, if the student is of color or an international student, or at the request of any student, so that these networks can provide support;
- 8) Student Association Gender and Sexuality Concerns Advisor;
- 9) Chapel House staff for additional support to the student.

**D)** Materials describing all campus resources and providing additional information will be distributed to any sexual assault victim who is seen in the offices or departments mentioned in this protocol.

**V. OTHER INFORMATION**

**DELAYED REPORT OF AN INCIDENT**

In the event of a delay in the report of an incident, insure safety, medical care and support as above. Medical care and/or an official rape exam continues to be important. Police reporting is an option no matter how much time has elapsed. However, timeliness of the report may affect the ability of law enforcement to obtain corroborative evidence.