



# NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

## CHAPTER: 42.2.1

### TITLE: MISDEMEANOR SEXUAL BATTERY

**EFFECTIVE: 05/27/2018**

**REVISED:**

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#### PURPOSE

The purpose of this Chapter is to establish requirements and procedures for NOPD members to follow when responding to reports of misdemeanor sexual battery. District officers shall handle all misdemeanor sexual batteries (Signal 43-MB) according to this Chapter. Members shall handle all other sexual assaults according to **Chapter 42.2 – Sexual Assault**.

**Chapter 42.19 – Child Abuse** covers sexual incidents involving victims under the age of 17 at the time the incident is reported, including misdemeanor sexual battery.

District officers may choose to handle cases of misdemeanor sexual battery involving developmentally disabled victims according to **Chapter 42.19 – Child Abuse**.

#### DEFINITIONS

**Misdemeanor sexual battery**—The intentional touching of the breasts or buttocks of the victim by the offender using any instrumentality or any part of the body of the offender, directly or through clothing, or the intentional touching of the breasts or buttocks of the offender by the victim using any instrumentality or any part of the body of the victim, directly or through clothing, when the offender acts without the consent of the victim (**La. R.S. 14:43.1.1**). Misdemeanor sexual batteries are classified under Signal 43-MB for reporting purposes.

#### POLICY STATEMENT

1. It is important that sexual assault cases be handled from a nonjudgmental perspective so as not to communicate in any way to a victim that the victim is to blame for the crime. All members shall initiate investigations without the presumption that the victim is lying and shall not express cynicism or blame to the victim.

#### COMMUNICATIONS SERVICES RESPONSIBILITIES

2. Communications Services shall dispatch a district platoon officer to all 43-MB calls for service.
3. Communications Services **shall not dispatch** a Sex Crimes detective to a 43-MB scene unless requested by a district platoon officer or supervisor.

**OFFICER RESPONSE**

4. District officers shall handle 43-MB calls for service in their entirety.
5. If the officer determines the incident is a type of sexual assault that has been misclassified as a 43-MB, the officer shall request that a Sex Crimes detective be dispatched to the scene. The officer shall remain on scene until the Sex Crimes detective arrives. The officer shall not change the signal or give a disposition to the call.
6. If the officer determines the incident is not a sexual assault and is misclassified as a 43-MB, the officer shall handle the call as appropriate and request supervisory approval to mark the 43-MB item as unfounded and generate a new item number under the correct NOPD signal code.
7. Platoon officers shall give the final dispositions to 43-MB calls for service. Platoon officers must receive supervisor approval before marking a 43-MB call for service unfounded.
8. If the officer checks the suspect's name in law enforcement databases and finds any history of sexual offenses, the officer shall notify Sex Crimes prior to the final determination of charges.
9. Forensic medical exams are not required for misdemeanor sexual batteries.

**VICTIM ASSISTANCE**

10. Officers shall commend the victim for notifying the police. Show understanding, patience, and respect for the victim's dignity and attempt to establish trust and rapport.
11. NOPD prioritizes encouraging victims of sexual assault to feel safe reporting these crimes to the police and conducting thorough investigations of reported sexual assaults over prosecuting victims who come forward. See **Charging Victims in Chapter 42.2 – Sexual Assault** for additional guidance. ;
12. Victims of sexual assault shall not be charged for non-violent misdemeanors uncovered during the investigation of the sexual assault or related to the sexual assault. Facts related to the victim's potential non-violent misdemeanor(s) shall be documented in the investigative report and addressed by the investigator or the A-Case Officer with the screening District Attorney during the case presentation. The Screening District Attorney's determination as to the filing and prosecution of the charges will determine if any follow-up investigation is required by the NOPD.
13. Responding officers shall not ask the victim if he/she wants the assailant prosecuted. In the immediate aftermath of a sexual assault, a victim shall not be expected or encouraged to make decisions regarding the investigation or charges related to the offense.

**VICTIM CONFIDENTIALITY**

14. Throughout the investigation of the incident, officers and detectives shall protect the confidentiality of the victim's information to the maximum extent possible by law and policy. Officers shall not publicly disclose the name, address, or identity of crime victims who are victims of sex offenses (La. R.S. 46:1844).

15. Officers shall not use a victim's address or name on the radio, whenever feasible. If an officer's car does not have an MDT, phone contact between the communications desk and responding officers or detectives is preferred to contact over the radio.

#### **PUBLIC RECORDS REQUESTS**

16. NOPD shall not publically release footage of sexual assault cases (La. R.S. 46:1844).
17. The Records Room shall redact all materials for public records requests in accordance with La. R.S. 46:1844(W)).