

# SEXUAL ASSAULT

## INFORMATION SHEET



### QUESTIONS OR CONCERNS?

Contact the Title IX Coordinator  
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## JSU PROHIBITS SEXUAL VIOLENCE ON ANY MEASURES

JSU defines sexual violence as any sexual act (forcible or non-forcible) directed against another person, without the consent of the person, including instances where the complainant is incapable of giving consent, if that sex act meets the definition of one of the following:

- Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person;
- Fondling: The touching of the private body parts of another person for the purpose of sexual gratification;
- Incest: Sexual intercourse between persons who are related to each other as:
  - Parent or child;
  - Step-parent or step-child, while the marriage creating the relationship exists;
  - Sibling, Aunt/uncle or nephew/niece.
- Statutory rape: Sexual intercourse with a person who is under the age of 16.

## WHAT SHOULD I DO IF I HAVE BEEN SEXUALLY ASSAULTED?

- **Preserve evidence.**
  - This is important to prove that the alleged criminal offense or university policy violation occurred and may be helpful in obtaining a protection order.
- Report to at least one of the following:
  - UPD,
  - Office of Community Standards and Student Ethics, or
  - Title IX Coordinator.
- Know your options about involving law enforcement. You can:
  - Notify law enforcement authorities, including on-campus and local police.
  - Be assisted by campus authorities in notifying law enforcement.
  - Decline to notify law enforcement.
- If the victim or JSU finds it necessary, "no contact" orders, restraining orders, or similar lawful order can be issued by the court or the institution.

## WHAT CAN I DO AS A BYSTANDER?

- To prevent an incident of sexual violence, use the four steps of CARE:
  - Create a distraction.
  - Ask directly.
  - Refer to an authority.
  - Enlist others.
- For more information on the CARE steps, please visit <https://www.rainn.org/articles/your-role-preventing-sexual-assault>.
- If an incident of sexual violence has occurred:
  - Listen to the victim and allow them to control the direction of the conversation.
  - Do not focus on the attack or ask many questions, but rather on how they are handling the trauma.
  - Offer support throughout the healing process, however long it may take.
  - If they are interested and open to receiving assistance, tell them about resources on-campus.

## HOW TO REDUCE THE RISK OF COMMITTING SEXUAL ASSAULT:

- Listen carefully and take time to hear what the other person has to say.
- Do not make assumptions about consent and remember silence alone is not consent.
  - Just because someone consents to one sexual activity does not mean that they are consenting to another sexual activity.
- Respect personal boundaries.
- If you are receiving "mixed messages" from a potential partner stop and ask if the partner if they want to continue.
- Be aware that having sex with someone who is mentally or physically incapable of giving consent is rape and do not take advantage of someone's drunkenness or drugged state.
- Resist pressure from friends to participate in inappropriate acts.
- Be aware that you may have a power advantage simply due to size or social status.

# LET'S TALK ABOUT CONSENT

Anything less than clear, knowing, and voluntary consent should be considered a “No!” It is the responsibility of the initiator of any sexual activity to obtain their potential partner’s consent.

The definition of consent does not vary based upon a participant’s sex, sexual orientation, gender identity, or gender expression. The following are essential elements of consent:

## ONGOING

Consent must exist from the beginning to the end of each sexual activity or each form of sexual contact. Either party may withdraw consent at any time. Individuals choosing to engage in sexual activity must evaluate consent in an ongoing manner and communicate clearly throughout all stages of sexual activity.

## WILLING

Consent must be gained without force, coercion, deception, threats, pressure, or manipulation from any other person.

- The use or threat of physical violence, intimidation, or coercion to overcome an individual’s freedom of will to choose whether or not to participate in sexual activity.
- Coercing an individual into engaging in sexual activity violates this policy in the same way as physically forcing someone into engaging in sexual activity.

## MUTUAL

All parties must demonstrate a clear and mutual understanding of the nature and scope of the act to which they are consenting and a willingness to do the same thing, at the same time, in the same way.

- Consent to one form of sexual contact does not constitute consent to all forms of sexual contact, nor does consent to sexual activity with one person constitute consent to sexual activity with any other person.
- Even in the context of a relationship, consent must be based on mutually understandable communication that clearly indicates a willingness to engage in sexual activity each time such activity occurs.
- The mere fact that there has been prior intimacy or sexual activity does not, by itself, imply consent to future acts.

## COHERENT

An individual must be able to recognize exactly what is happening (i.e. understand the who, what, when, how, where) in order to consent. An individual who is incapacitated and/or incoherent is considered unable to give consent.

- Alcohol and drugs may impair a person’s decision-making capacity, awareness of the consequences, and ability to make informed judgments. This applies even when voluntarily ingested.
  - An individual who is incapacitated is considered unable to give consent.
  - Incapacitation may be caused by the lack of consciousness, being asleep, being involuntarily restrained, or any other mental or physical state in which an individual lacks the ability to knowingly choose to participate in a sexual activity.



## AFFIRMATIVE

Consent does not always have to be verbal, but there should be some affirmative words and/or actions that indicate a clear willingness to engage in the proposed sexual activity or contact.

- A person who does not physically resist or verbally refuse sexual activity is not necessarily giving consent.
  - Please note that relying solely upon non-verbal communication can lead to a misunderstanding or false conclusion as to whether consent was sought or given.
- If at any time during the sexual activity or contact, an individual is no longer an engaged participant, all parties should stop and clarify verbally the other’s willingness to continue before continuing such activity.

## AGE FOR CONSENT

Persons under the age of sixteen (16) are deemed incapable of consenting under Alabama law.

# RESOURCES

## JSU WILL PROTECT THE PRIVACY OF VICTIMS AND OTHER NECESSARY PARTIES

Privacy generally means that information related to a report will only be shared with a limited group of individuals. The use of this information is limited to those individuals who "need to know" in order to assist in the active review, investigation, or resolution of the report, including the coordination of supportive measures. While not bound by confidentiality, these individuals will be discreet and will respect and safeguard the privacy of all individuals involved in the process.

It is important to note that anonymous statistical information must be reported by all institutions of higher education. The information contained in the Clery annual security report tracks offenses occurring at campus locations or university-sponsored programs and does not include the names or any other identifying information about the person(s) involved in the report.

**JSU WILL MAKE ACCOMMODATIONS AND PROVIDE PROTECTIVE MEASURES FOR THE VICTIM IF REQUESTED AND REASONABLY AVAILABLE.**

## TITLE IX PROCEEDING

If you wish to have a physical paper copy of the Sex-Based Harassment and Misconduct Policy, which includes the grievance procedure, it can be provided by Dean of Student's, Human Resources, or Title IX on-campus for free.

### ON-CAMPUS

**UNIVERSITY POLICE DEPARTMENT**  
Salls Hall  
256-782-5050  
[www.jsu.edu/police](http://www.jsu.edu/police)



**JSU COUNSELING SERVICES**  
CONFIDENTIAL RESOURCE  
147 Trustee Circle  
256-782-5475  
[www.jsu.edu/ccservices](http://www.jsu.edu/ccservices)

**TITLE IX**  
Suite 301-A, Angle Hall  
[TitleIX@jsu.edu](mailto:TitleIX@jsu.edu)  
256-782-5769  
[www.jsu.edu/titleix](http://www.jsu.edu/titleix)



**OFFICE OF COMMUNITY STANDARDS AND ETHICS**  
Suite 301-A, Angle Hall  
[communitystandards@jsu.edu](mailto:communitystandards@jsu.edu)  
256-782-8080  
[www.jsu.edu/community-standards](http://www.jsu.edu/community-standards)

### OFF-CAMPUS

**RAPE RESPONSE**  
CONFIDENTIAL RESOURCE  
Sexual Assault Nurse Examiner facility offers exams 24 hours a day, 7 days a week  
Birmingham, AL  
205-323-7273

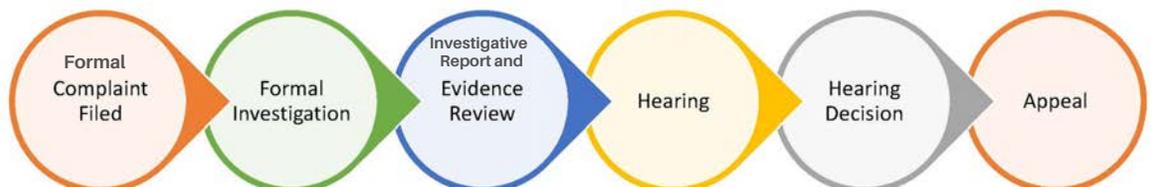


**2ND CHANCE, INC**  
CONFIDENTIAL RESOURCE  
Shelter and Support  
Crisis Line: 256-236-7233  
Office: 256-236-7381

**NORTHEAST ALABAMA REGIONAL MEDICAL CENTER**  
CONFIDENTIAL RESOURCE  
400 East 10th Street  
Anniston, AL 36207  
256-235-5121



**MALE SEXUAL TRAUMA: 1IN6 ORGANIZATION**  
24/7 Helpline Chat Available online  
Telephone: 1-877-628-1in6



If you have any questions about proceedings, feel free to go to this link below:  
[jsu.edu/titleix/grievance-procedure.html](http://jsu.edu/titleix/grievance-procedure.html)

# CRIMINAL CODE

It is significant to note the importance of preserving evidence that may assist in proving that the alleged criminal offense occurred or that may be helpful in obtaining a protection order.

## RELATED DEFINITIONS

### FORCIBLE COMPULSION

Use or threatened use, whether express or implied, of physical force, violence, confinement, restraint, physical injury, or death to the threatened person or to another person. Factors to be considered in determining an implied threat include, but are not limited to, the respective ages and sizes of the victim and the accused; the respective mental and physical conditions of the victim and the accused; the atmosphere and physical setting in which the incident was alleged to have taken place; the extent to which the accused may have been in a position of authority, domination, or custodial control over the victim; or whether the victim was under duress. Forcible compulsion does not require proof of resistance by the victim.

### SEXUAL INTERCOURSE

Such term has its ordinary meaning and occurs upon any penetration, however slight; emission is not required.

### SEXUAL CONTACT

Any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party. The term does not require skin to skin contact.

### INCAPACITATED

- Use or threatened use, whether express or implied, of physical force, violence, confinement, restraint, physical force on a person who suffers from a mental or developmental disease or disability which renders the person incapable of appraising the nature of his or her conduct.
- A person is temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or intoxicating substance and the condition was known or should have been reasonably known to the offender.
- A person who is unable to give consent or who is unable to communicate an unwillingness to an act because the person is unconscious, asleep, or is otherwise physically limited or unable to communicate.

### SODOMY

Any sexual act involving the genitals of one person and the mouth or anus of another person.

## RAPE

- A person commits the crime of rape in the first degree if he or she does any of the following:
  - Engages in sexual intercourse with another person by forcible compulsion.
  - Engages in sexual intercourse with another person who is incapable of consent by reason of being incapacitated.
  - Being 16 years old or older, engages in sexual intercourse with another person who is less than 12 years old.
- Rape in the first degree is a Class A felony
- A person commits the crime of rape in the second degree if, being 16 years old or older, he or she engages in sexual intercourse with another person who is 12 years old or older, but less than 16 years old; provided, however, the actor is at least two years older than the other person.
- Rape in the second degree is a Class B felony.

## SEXUAL ABUSE

- A person commits the crime of sexual abuse in the first degree if he or she does either of the following:
  - Subjects another person to sexual contact by forcible compulsion.
  - Subjects another person to sexual contact who is incapable of consent by reason of being incapacitated.
- Sexual abuse in the first degree is a Class C felony.
- (a) A person commits the crime of sexual abuse in the second degree if he or she does either of the following:
  - (1) Subjects another person to sexual contact who is incapable of consent by reason of some factor other than being less than 16 years old.
  - (2) Being 19 years old or older, subjects another person to sexual contact who is less than 16 years old, but more than 12 years old.
- (b) Sexual abuse in the second degree is a Class A misdemeanor, except as provided in subsection (c), or if a person commits a second or subsequent offense of sexual abuse in the second degree within one year of another sexual offense, the offense is a Class C felony.
- (c) If a person violates subdivision (a)(2), and he or she is at least 15 years older than the victim, the offense shall be a Class C felony.

## SEXUAL TORTURE

- A person commits the crime of sexual torture if he or she does any of the following:
  - Penetrates the vagina, anus, or mouth of another person with an inanimate object, by forcible compulsion, with the intent to sexually torture, sexually abuse, or to gratify the sexual desire of either party.
  - Penetrates the vagina, anus, or mouth of a person who is incapable of consent by reason of being incapacitated, with an inanimate object, with the intent to sexually torture, sexually abuse, or to gratify the sexual desire of either party.
  - Penetrates the vagina, anus, or mouth of a person who is less than 12 years old, with an inanimate object, by a person who is 16 years old or older with the intent to sexually torture, sexually abuse, or to gratify the sexual desire of either party.
  - By inflicting physical injury, including, but not limited to, burning, crushing, wounding, mutilating, or assaulting the sex organs or intimate parts of another person, with the intent to sexually torture, sexually abuse, or to gratify the sexual desire of either party.
- The crime of sexual torture is a Class A felony.

## LACK OF CONSENT

- Unless otherwise stated, an element of every offense defined in this article is that the sexual act was committed without the consent of the victim.
- Lack of consent results from either of the following:
  - Forcible compulsion.
  - Being incapable of consent.
- A person is deemed incapable of consent if he or she is either:
  - Less than 16 years old.
  - Incapacitated.
- Consent to engage in sexual intercourse, sodomy, sexual acts, or sexual contact may be communicated by words or actions. The existence of a current or previous marital, dating, social, or sexual relationship with the defendant is not sufficient to constitute consent. Evidence that the victim suggested, requested, or otherwise communicated to the defendant that the defendant use a condom or other birth control device or sexually transmitted disease protection, without additional evidence of consent, is not sufficient to constitute consent.

## SODOMY

- A person commits the crime of sodomy in the first degree if he or she does any of the following:
  - Engages in sodomy with another person by forcible compulsion.
  - Engages in sodomy with another person who is incapable of consent by reason of being incapacitated.
  - Being 16 years old or older, engages in sodomy with a person who is less than 12 years old.
- Sodomy in the first degree is a Class A felony.
- A person commits the crime of sodomy in the second degree if, being 16 years old or older, he or she engages in sodomy with another person 12 years old or older, but less than 16 years old; provided, however, the actor is at least two years older than the other person.
- Sodomy in the second degree is a Class B felony.

## SEXUAL MISCONDUCT

- A person commits the crime of sexual misconduct if he or she does any of the following:
  - Engages in sexual intercourse with another person without his or her consent, under circumstances other than those covered by Sections 13A-6-61 and 13A-6-62; or with consent where consent was obtained by the use of any fraud or artifice.
  - Engages in sodomy with another person, without his or her consent or with consent where consent was obtained by the use of fraud or artifice.
  - Engages in sexual contact with another person without his or her consent or with consent where consent was obtained by the use of fraud or artifice.
- Sexual misconduct is a Class A misdemeanor.

## SEXUAL ABUSE OF A CHILD LESS THAN 12 YEARS OLD

- A person commits the crime of abuse of a child less than 12 years old if he or she, being 16 years old or older, subjects another person who is less than 12 years old to sexual contact.
- Sexual abuse of a child less than 12 years old is a Class B felony.