

1 Florida International University  
2 **Violence Against Women on Campus Grant**  
3 **TASK FORCE MEETING # 8**

4 August 27, 2003  
5 Second Draft  
6

7 Policy Recommendations  
8 For Sexual Assault, Relationship Violence, Stalking and Cyber-Stalking

9 *\*Policy draft developed according to input from members of the Florida International University*  
10 *Task Force, research by Victim Advocacy Center staff.*  
11

12 Introduction

13 A safe campus environment is one in which students; faculty and staff are free to conduct their  
14 daily affairs both inside and outside the classroom without fear of physical, emotional, or  
15 psychological harm. Personal safety is a basic human need that must be preserved if the mission  
16 of the university is to be pursued.<sup>1</sup> Florida International University (FIU) recognizes the basic  
17 rights and freedoms of students. They are inherent to the educational process and to the  
18 intellectual growth of students. FIU is committed to fostering an environment in which the  
19 highest moral and ethical standards are upheld and in which all individuals and groups are  
20 treated with respect and without prejudice whether due to race, gender, sexual orientation,  
21 disability, age, infection with disease, marital status, religion, nationality, ethnicity or political  
22 persuasion. FIU intends to coordinate its policy with regard to sexual assault, relationship  
23 violence, stalking and cyber-stalking, and provide for its implementation. Further, FIU seeks to  
24 effectively balance each student's, faculty member's, staff member's and university visitor's  
25 rights with the goal of a safe campus community.

26 <sup>1</sup>(Natl. Student Personnel Administration's Task Group on Safety and Security, 1980)

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14

**NOTES:**

conduct and a commitment to its educational mission. Sexual assault, relationship violence, stalking and cyber-stalking are considered particularly troubling because those behaviors interfere with the educational mission by:

- Endangering the physical and emotional safety of community members;
- Damaging trust in the community;
- Offending the dignity and violating the autonomy of community members:
- Disrupting the academic progress of victims or survivors during the abusive relationship and during any subsequent attempt at recovery.

<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
----------	----------	----------	----------	----------

**NOTES:**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

This policy is established in order to provide for the coordination of the university’s response and to provide for the needs and care of victims, as well as to enforce behavior standards critical to our mission, which is to impart knowledge through excellent teaching, promote public service, discover new knowledge, solve problems through research, and foster creativity, and consistent with our values, which are:

- Freedom of Thought and expression,
  - Excellence in teaching and in the pursuit, generation, dissemination, and application of knowledge,
  - Respect for the dignity of the individual,
  - Respect for the environment,
  - Honesty, integrity and truth,
  - Diversity, and
  - Strategic, operational, and service excellence,

<sup>2</sup>National Crime Victimization Survey, 1999

<sup>3</sup> Fisher, Cullen and Turner, 2000

<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
----------	----------	----------	----------	----------

**NOTES:**

1 **Comprehensive Policy Statement**

2 As a matter of policy, relationship violence, sexual assault, stalking and cyber-stalking will not  
3 be tolerated in the University community. Florida International University is committed to  
4 prevention and awareness education on all issues. In publishing this policy the University does  
5 not intend to substitute or supersede related civil and criminal law. Members of the University  
6 community, students, faculty, staff and university visitors are expected to comply with and abide  
7 by the University policies and guidelines issued below, as well as federal, state, and local laws,  
8 whether off campus or on-campus. It should be clearly understood that there is a fundamental  
9 difference between the nature and purpose of student discipline and criminal law. Regardless of  
10 the charge issued or procedures employed, sanctions issued by the University can be expected to  
11 be consistent with the educational mission of the institution. Victims are encouraged to use  
12 services provided by the Victim Advocacy Center.

13 Given the potential harm to members of the university community and the need to monitor the  
14 campus climate, it is important that all violations of this policy are reported to appropriate  
15 authorities, including the law enforcement officials or agencies with jurisdiction in the location  
16 of the incident.

17 This policy is subject to change to comply with changes in relevant laws, definitions, or  
18 University operating procedures. Please see the FIU web page for the most recent updates.  
19 *http://www.fiu.edu*. The office of \_\_\_\_\_ manages this policy.

20

<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
----------	----------	----------	----------	----------

21 **NOTES:**  
22  
23

**Sexual Assault Policy**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14

As a matter of policy, Florida International University will not tolerate sexual assault and will enlist all available resources in order to respond effectively. Florida International University is committed to providing sexual assault prevention education and awareness programs for its students, faculty and staff.

Sexual battery and attempted sexual battery will not be tolerated in any form in the university community. Acts of date rape, gang rape, acquaintance rape, marital rape, and stranger rape are all considered to be sexual battery and are punishable by the Florida Criminal Statutes and disciplined by the appropriate administrative authority. Both men and women can be victims and perpetrators of sexual battery.

It is the policy of the institution to strongly encourage victims to report all assaults and violations to the law enforcement officials or agencies with appropriate jurisdiction, and avail themselves of all the services and rights to which they are entitled by law.

<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
----------	----------	----------	----------	----------

**NOTES:**

1 Victims of sexual assault are strongly encouraged to seek medical care, and if the assault  
2 occurred within the past 72 hours, victims are strongly encouraged to have a rape protocol exam  
3 conducted at the Rape Treatment Center, since The sooner a rape protocol exam is conducted,  
4 the easier it is to collect valuable evidence, regardless of whether the victim chooses to report the  
5 assault to police. Whether the victim chooses to immediately involve law enforcement officials  
6 or not, the victim is urged to contact the Victim Advocacy Center for assistance with  
7 coordinating services, accessing resources, academic and other accommodations and to help the  
8 victim, engage in safety planning, explore options, and consider how to preserve evidence if the  
9 victim chooses to pursue legal prosecution at a later date, and for help with recovering from the  
10 trauma. A victim can make a report anonymously to the Victim Advocacy Center at any time,  
11 whether legal or disciplinary action is desired.

12 If the assault occurs in university housing, victims are also encouraged to contact Residence Hall  
13 staff. University personnel should always encourage victims to report and fully disclose  
14 incidents(s) of sexual assault to the police.

15

<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
----------	----------	----------	----------	----------

**NOTES:**

1 The use of alcohol and other drugs, in conjunction with an incident of sexual assault, does not  
2 mitigate accountability for the commission of this crime or diminish the seriousness of the crime.  
3 The use of a substance with the possibility of harm to another individual will be considered when  
4 determining responsibility and appropriate sanctions.

5 Healthy sexual activities involve mutually expressed consent. Consent is defined as follows:

- 6 • Both individuals are physically free and capable to act;
- 7 • Both are clear about their intent to engage in sexual activities and their willingness to do  
8 so;
- 9 • Silence may not in and of itself constitute consent;
- 10 • Past consent of sexual activities does not imply ongoing future consent.

11 **Definitions of Sexual Assault**

12 The term sexual assault as used in this policy, encompasses sexual misconduct as defined in the  
13 Student Code of Conduct, sexual battery as defined by the Florida Statutes, and other terms  
14 commonly used, such as rape and sexual violence.

15

<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
----------	----------	----------	----------	----------

<b>NOTES:</b>
---------------

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

**FIU Student Code of Conduct**

The term Sexual Misconduct is defined as:

- (1) Any sexual act that occurs, regardless of personal relationship, without the consent of the other person, or that occurs when the other person is unable to give consent.
- (2) Obscene or indecent behavior, which includes, but is not limited to, exposure of one’s sexual organs or the display of sexual behavior that would reasonably be offensive to others.
- (3) Conduct of a sexual nature that creates an intimidating, hostile, or offensive campus, educational, or working environment for another person. This includes unwanted, unwelcome, inappropriate, or irrelevant sexual or gender-based activities, comments or gestures.

**Sexual Battery**

Sexual battery shall be defined as oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another with other objects. Sexual battery occurs without a person’s intelligent, knowing, and voluntary consent. Incidences of non-consent can include the following circumstances: a victim is physically helpless (unconscious, asleep, or physically unable to communicate his/her unwillingness), has been administered a narcotic or intoxicant without his/her knowledge, or is coerced into submission through a perceived or actual threat of force.

<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
----------	----------	----------	----------	----------

**Notes:**



1

2

**Florida Statute**

3 **794.011 Sexual battery**

4 "Sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of

5 another or the anal or vaginal penetration of another by any other object; however, sexual battery

6 does not include an act done for a bona fide medical purpose

7

<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
----------	----------	----------	----------	----------

**NOTES:**

**Relationship Violence Policy**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22

As a matter of policy Florida International University will not tolerate relationship violence and will enlist all available resources in order to respond effectively. Florida International University is committed to providing relationship violence prevention education and awareness programs for its students, faculty and staff.

It is the policy of the institution to strongly encourage victims to report all incidents and violations to the law enforcement officials or agencies with appropriate jurisdiction and avail themselves of all the services and rights to which they are entitled by law. Whether the victim chooses to immediately involve law enforcement officials or not, the victim is urged to contact the Victim Advocacy Center for assistance with coordinating services, accessing resources, academic and other accommodations and to help the victim engage in safety planning, explore options, consider how to preserve evidence if the victim chooses to pursue legal prosecution at a later date, and for help with recovering from the trauma. A victim can make a report anonymously to the Victim Advocacy Center at any time, whether legal or disciplinary action is desired.

If an assault occurs in university housing, victims are also encouraged to contact Residence Hall staff. University personnel should encourage victims to report and fully disclose incidents(s) of relationship violence to the police.

<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
----------	----------	----------	----------	----------

**NOTES:**

1  
2 Safety planning is an important process whether a victim chooses to remain with the abusive  
3 partner or wishes to leave the relationship. Research has shown that risk increases during the  
4 time immediately following separation. The Victim Advocacy Center provides assistance with  
5 safety planning for individuals in abusive relationships.

6  
7 **Definitions of Relationship Violence**

8 Relationship Violence (also known as “intimate partner violence”), as used in this policy  
9 encompasses domestic violence as it has been traditionally conceived to include married couples,  
10 co-habiting couples and couples with children in common, and expands the range of  
11 relationships to include interpersonal violence between boyfriend/girlfriend, dating relationships,  
12 former intimate partners, and same sex relationships.

13 **FIU Student Code of Conduct**

14 **Endangerment**

- 15 (1) Physical violence toward another person or group.  
16 (2) Action(s) that endanger the health, safety, or welfare of self or others.  
17 (3) Interference with the freedom of another person or group to move  
18 about in a lawful manner.

19

<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
----------	----------	----------	----------	----------

20 **NOTES:**  
21  
22

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21

**Florida Statute**

**741.30 Domestic violence**

Domestic Violence means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, or any criminal offense resulting in physical injury or death of one family or household member by another who is or was residing in the same single dwelling unit.

Your relationship with the person whom the injunction is being filed against must be that of a spouse, an ex-spouse, a relative by blood or marriage, who lives or has lived with you in the same dwelling as a family unit, anyone who lives or has lived with you in the same dwelling as a family unit, or anyone with whom you have had a child, with or without having lived together.

Domestic Violence must have occurred between you and this person or you must have reasonable cause to believe that domestic violence is about to occur between you and this person in order to be eligible to obtain an injunction under this statute.

<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
----------	----------	----------	----------	----------

**NOTES:**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

An assault does not have to be physical violence. An assault can occur if someone intentionally threatens to cause you physical violence, even if they do not touch you. This threat must be by word or act and the person threatening you must have done something to make you believe that this violence is about to happen. If the person uses a deadly weapon when committing this act, it is an aggravated assault.

An act of Domestic Violence becomes a battery when someone intentionally touches you without your permission. If that person's touching you causes you great bodily harm or permanent disability or disfigurement, or if the person uses a deadly weapon, or if you were pregnant and the person knew or should have known, the act becomes an aggravated battery.

**784.046 Repeat Violence**

two incidents of violence or stalking committed by the respondent, one of which must have been within 6 months of the filing of the petition, which are directed against the petitioner or the petitioner's immediate family member.

<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
----------	----------	----------	----------	----------

**NOTES:**

1

2 **784.046 Dating Violence**

3 (c) "Dating violence," means violence between individuals who have or have had a continuing  
4 and significant relationship of a romantic or intimate nature. The existence of such a relationship  
5 shall be determined based on the consideration of the following factors:

- 6 1. A dating relationship must have existed within the past 6 months;
- 7 2. The nature of the relationship must have been characterized by the expectation of affection or  
8 sexual involvement between the parties; and
- 9 3. The frequency and type of interaction between the persons involved in the relationship must  
10 have included that the persons have been involved over time and on a continuous basis during  
11 the course of the relationship.

12

13 The term does not include violence in a casual acquaintanceship or violence between individuals  
14 who only have engaged in ordinary fraternization in a business or social context.

15

<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
----------	----------	----------	----------	----------

16

**NOTES:**

1 **Stalking Policy**

2 As a matter of policy, Florida International University will not tolerate stalking, and will enlist  
3 all available resources in order to respond effectively. Florida International University is  
4 committed to providing stalking prevention education and awareness programs for its students,  
5 faculty and staff.

6 It is the policy of the institution to strongly encourage victims to report all incidents of stalking  
7 and violations to the law enforcement officials or agencies with appropriate jurisdiction, and  
8 avail themselves of all the services and rights to which they are entitled by law.

9 Whether the victim chooses to immediately involve law enforcement officials or not, the victim  
10 is urged to contact the Victim Advocacy Center for assistance with coordinating services,  
11 accessing resources, academic and other accommodations and to help the victim engage in safety  
12 planning, explore options, and consider how to preserve evidence if the victim chooses to pursue  
13 legal prosecution at a later date, and for help with recovering from the trauma. A victim can  
14 make a report anonymously to the Victim Advocacy Center at any time, whether legal or  
15 disciplinary action is desired.

16 University personnel should encourage victims to report and fully disclose incidents(s) of  
17 stalking to the police.

18 Students, faculty or staff who have petitioned the court for an Injunction Against Repeat  
19 Violence or on whose behalf a judge has issued a Stay Away Order are encouraged to inform and  
20 provide a copy of such order Campus Police.

21

<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
----------	----------	----------	----------	----------

22 **NOTES:**  
23

1  
2  
3  
4  
5  
6  
7  
8  
9  
10

**Definitions of Stalking**

**FIU Student Code of Conduct**

**Harassment**

(1) Conduct, not of a sexual nature, (including, but not limited to, physical contact, verbal, graphic, written or electronic communication) which creates an intimidating, hostile, or offensive environment for another person or group.

(2) Conduct, not of a sexual nature, (including, but not limited to, physical contact, verbal, graphic, written or electronic communication) threat threatens, harms or intimidates another person or group.

<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
----------	----------	----------	----------	----------

**NOTES:**



1

2 Stalking

3 (1) Stalking is defined as activities occurring on more than one occasion that collectively  
4 instill fear in the victim and/or threaten his or her safety, mental health, or physical  
5 health. Such behaviors and activities may include, but are not limited to, the following:

- 6 ■ Nonconsensual communication, including face-to face, telephone calls, voice messages,  
7 electronic mail, written letters/notes, unwanted gifts.
- 8 ■ Threatening or obscene gestures
- 9 ■ Pursuing or following
- 10 ■ Surveillance or other types of observation
- 11 ■ Trespassing
- 12 ■ Vandalism
- 13 ■ Nonconsensual touching
- 14 ■ Contacting a person after a sanction prohibiting contact with that person. This includes  
15 verbal, written or third party communication, or physical contact.

16 (2) Other violations of stalking laws as outlined in Section 784.048 Florida Statutes

17

<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
----------	----------	----------	----------	----------

**NOTES:**

1

2 **784.048 Florida Statutes, Stalking; definitions; penalties**

3 Any person who willfully, maliciously, and repeatedly follows or harasses another person  
4 commits the offense of stalking, a misdemeanor of the first degree, punishable as provided in s.  
5 [775.082](#) or s. [775.083](#).

6  
7 Any person who willfully, maliciously, and repeatedly follows or harasses another person, and  
8 makes a credible threat with the intent to place that person in reasonable fear of death or bodily  
9 injury, commits the offense of aggravated stalking, a felony of the third degree, punishable as  
10 provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

11	<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
----	----------	----------	----------	----------	----------

NOTES:

1

2

## **Cyber –Stalking Policy**

3

As a matter of policy, Florida International University will not tolerate cyber-stalking and will

4

enlist all available resources in order to respond effectively. Florida International University is

5

committed to providing cyber-stalking prevention education and awareness programs for its

6

students, faculty and staff.

7

<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
----------	----------	----------	----------	----------

**NOTES:**

1  
2 It is the policy of the institution to strongly encourage victims to report all incidents of cyber-  
3 stalking and violations to the law enforcement officials or agencies with appropriate jurisdiction,  
4 and avail themselves of all the services and rights to which they are entitled by law.

5 Whether the victim chooses to immediately involve law enforcement officials or not, the victim  
6 is urged to contact the Victim Advocacy Center for assistance with coordinating services,  
7 accessing resources, academic and other accommodations and to help the victim engage in safety  
8 planning, explore options, and consider how to preserve evidence if the victim chooses to pursue  
9 legal prosecution at a later date, and for help with recovering from the trauma. A victim can  
10 make a report anonymously to the Victim Advocacy Center at any time, whether legal or  
11 disciplinary action is desired.

12 University personnel should encourage victims to report and fully disclose incidents(s) of cyber-  
13 stalking to the police.

14 Students, faculty or staff who have petitioned the court for an Injunction Against Repeat  
15 Violence or on whose behalf a judge has issued a Stay Away Order are encouraged to inform and  
16 provide a copy of such order Campus Police. Florida International University's Student Code of  
17 Conduct provides specific guidelines for "computer misuse." In addition, the complete policies  
18 are available at <http://www.fiu.edu/provost/polman/sec11web.htm>.

19 

<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
----------	----------	----------	----------	----------

**NOTES:**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19

**Definitions of Cyber-Stalking**

**FIU Student Code of Conduct**

**Computer Misuse**

Cyber-stalking is considered “computer misuse” according to Florida International University’s Student Code of Conduct, and may include: unauthorized access, entry or use of a computer, computer system, network, software, password, account or data; unauthorized alteration or degradation of computer equipment, software, network data or system performance; unauthorized copying or distribution of computer software or data; unauthorized use of University computer resources for commercial purposes or personal financial or other gain. This includes, but is not limited to, advertising a product or service on personal Web pages, fund-raising or advertising on behalf of unsanctioned non-University organizations, publicizing unsanctioned non-University activities, the re-selling of University resources to any non-University individuals or organizations, and the unauthorized use of the University’s name or logos. Use of the University’s network for any of these purposes, even if the user is using his or her own personal computer, constitutes an offense. Any other violation of the University computer use and web page policies.

<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
----------	----------	----------	----------	----------

**NOTES:**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13

**Pending Florida Statute**

Cyber-stalking is also known as on-line harassment or electronic stalking.

Most states have made stalking illegal and about half have laws specifically prohibiting cyber-stalking, according to the Florida Information Service Technology Development Task Force.

Currently, a bill (HB479) is pending in the Florida legislature that would outlaw cyber-stalking, adding the crime to the existing stalking and aggravated stalking law. This form of stalking involves offensive, threatening communication through the Internet, via e-mail, chat rooms, or instant messaging or through other electronic means, such as cellular telephones or pagers. This type of stalking is methodical, deliberate, and persistent communication that disturbs the recipient. It is equally as serious as conventional stalking and is included in most statutes addressing stalking.

<b>5</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>1</b>
----------	----------	----------	----------	----------

**NOTES:**