Sexual Assault Investigations

601.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of sexual assaults. These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims.

Mandatory notification requirements are addressed in the Child Abuse and Adult Abuse policies.

601.1.1 DEFINITIONS

Definitions related to this policy include:

Sexual assault - Any crime or attempted crime of a sexual nature, to include, but not limited to, offenses defined in Md. Code CR § 3-301 et seq. (Sexual Crimes).

Sexual Assault Response Team (SART) - A multidisciplinary team generally comprised of advocates; law enforcement officers; forensic medical examiners, including sexual assault forensic examiners (SAFEs) or sexual assault nurse examiners (SANEs) if possible; forensic laboratory personnel; and prosecutors. The team is designed to coordinate a broad response to sexual assault victims (Md. Code CP § 11-923).

601.2 POLICY

It is the policy of the Talbot County Sheriff's Office that its members, when responding to reports of sexual assaults, will strive to minimize the trauma experienced by the victims, and will aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community.

Talbot County Sheriff's Office Procedures Manual: 603.2 Procedure

601.3 QUALIFIED INVESTIGATORS

Qualified investigators should be available for assignment of sexual assault investigations. These investigators should:

(a) Have specialized training in, and be familiar with, interview techniques and the medical and legal issues that are specific to sexual assault investigations.

(b) Conduct follow-up interviews and investigation.

(c) Present appropriate cases of alleged sexual assault to the prosecutor for review.

(d) Coordinate with other enforcement agencies, social service agencies, and medical personnel as needed.

(e) Provide referrals to therapy services, victim advocates, and support for the victim (Md. Code CP § 11-926).

(f) Participate in or coordinate with the SART or other multidisciplinary investigative teams as applicable.

Copyright Lexipol, LLC 2021/12/22, All Rights Reserved.
Published with permission by Talbot County Sheriff's Office

601.4 REPORTING

In all reported or suspected cases of sexual assault, a report shall be written and assigned for follow-up investigation. This includes incidents in which the allegations appear unfounded or unsubstantiated.

601.5 VICTIM INTERVIEWS

The primary considerations in sexual assault investigations, which begin with the initial call the victim makes to Talbot Center, should be the health and safety of the victim, the preservation of evidence, and preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

Whenever possible, a member of the SART should be included in the initial victim interviews.

An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed and the personal needs of the victim have been met (e.g., change of clothes, bathing). The follow-up interview may be delayed to the following day based upon the circumstances. Whenever practicable, the follow-up interview should be conducted by a qualified investigator.

No opinion of whether the case is unfounded should be included in a report.

Victims should not be asked or required to take a polygraph examination (34 USC § 10451).

Victims should be apprised of applicable victim’s rights provisions, as outlined in the Victim and Witness Assistance Policy.

601.6 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE

Whenever possible, a SART member should be involved in the collection of forensic evidence from the victim.

When the facts of the case indicate that collection of biological evidence is warranted, it should be collected regardless of how much time has elapsed since the reported assault.

If a drug-facilitated sexual assault is suspected, urine and blood samples should be collected from the victim as soon as practicable.

Subject to requirements set forth in this policy, biological evidence from all sexual assault cases, including cases where the suspect is known by the victim, should be submitted for testing (Md. Code PS § 2-504(a)(3)(iii)).

Victims who choose not to assist with an investigation, do not desire that the matter be investigated, or wish to remain anonymous may still consent to the collection of evidence under their control. In these circumstances, the evidence should be collected and stored appropriately.

601.6.1 DNA TEST RESULTS

Members investigating sexual assault cases should (Md. Code CP § 11-926; COMAR 02.08.01.03):

Copyright Lexipol, LLC 2021/12/22, All Rights Reserved.
Published with permission by Talbot County Sheriff's Office

(a) Within 30 days of any request by a victim, provide notification regarding the [DepartmentOffice]'s decision as to whether to send a sexual assault evidence kit for analysis; and if sent, the status and results, unless doing so would impede or compromise the investigation.

(b) If no request is made, victims should be notified of any DNA test results as soon as reasonably practicable.

A SART member should be consulted regarding the best way to deliver biological testing results to a victim so as to minimize victim trauma, especially in cases where there has been a significant delay in getting biological testing results (e.g., delays in testing the evidence or delayed DNA databank hits). Members should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as provided in COMAR 02.08.02.04 and the Victim and Witness Assistance Policy.

Members investigating sexual assault cases should ensure that DNA results are entered into databases when appropriate and as soon as practicable.

601.6.2 COLLECTION AND TESTING REQUIREMENTS

Members investigating sexual assaults or handling related evidence are required to do the following:

(a) Offer the alleged victim the opportunity to be taken immediately to the nearest medical facility. The offer shall be made without regard for the place of the alleged sexual assault or where it is reported (Md. Code CP § 11-924(b)).

(b) Inform any victim who wants to remain anonymous and not file a criminal complaint that he/she may file a criminal complaint in the future (Md. Code CP § 11-926):

(c) Submit any sexual assault evidence collection kit and any associated reference standards to a forensic laboratory for analysis within 30 days of receipt unless (Md. Code CP § 11-926):

1. Clear evidence exists that disproves the sexual assault allegation;
2. The alleged facts do not amount to a sexual assault, abuse, a crime relating to prostitution, or another covered crime;
3. The victim from whom the evidence was collected declines to give consent for testing; or
4. The evidence was collected from a suspect who has pleaded guilty to the offense for the purpose of entry into the Combined DNA Index System (CODIS).

(d) If not already completed, take steps to enter any eligible results of the analysis of a kit into CODIS (Md. Code CP § 11-926).

(e) Promptly retrieve sexual assault evidence collection kits upon notice of their availability (e.g., a hospital calls and advises a kit is ready for law enforcement collection) (COMAR 02.08.01.04).

601.7 DISPOSITION OF CASES

Copyright Lexipol, LLC 2021/12/22, All Rights Reserved.
Published with permission by Talbot County Sheriff's Office

601.7.1 UNFOUNDED STATUS
If the assigned investigator has reason to believe the case is without merit, the case may be classified as unfounded only upon review and approval of the Criminal Investigation Division supervisor.

Classification of a sexual assault case as unfounded requires the Criminal Investigation Division supervisor to determine that the facts have significant irregularities with reported information and that the incident could not have happened as it was reported. When a victim has recanted his/her original statement, there must be corroborating evidence that the allegations were false or baseless (i.e., no crime occurred) before the case should be determined as unfounded.

601.7.2 SUSPENDED STATUS – VICTIMS REQUEST TO LIMIT OR SUSPEND INVESTIGATION
Pursuant to Maryland Annotated Code, Criminal Procedure 11-929:
1. When a victim of a sexual assault requests that the scope of a sexual assault investigation be limited or that the investigation be temporarily or permanently suspended, members of the Talbot County Sheriff's Office will:

(a) Thoroughly document the request; and

(b) Follow up with the victim in accordance with practices recommended by the Maryland Police Training and Standards Commission

601.8 CASE REVIEW
The Criminal Investigation Division supervisor should ensure cases are reviewed on a periodic basis, at least annually, using an identified group that is independent of the investigation process. The reviews should include an analysis of:

- Case dispositions.
- Decisions to collect biological evidence.
- Submissions of biological evidence for lab testing.

The SART and/or victim advocates should be considered for involvement in this audit. Summary reports on these reviews should be forwarded through the chain of command to the Sheriff.

601.9 RELEASING INFORMATION TO THE PUBLIC
In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appear to be related, consideration should be given to releasing information to the public whenever there is a reasonable likelihood that doing so may result in developing helpful investigative leads. The Criminal Investigation Division supervisor should weigh the risk of alerting the suspect to the investigation with the need to protect the victim and the public, and to prevent more crimes.

601.10 TRAINING
Subject to available resources, periodic training should be provided to:

Copyright Lexipol, LLC 2021/12/22, All Rights Reserved.
Published with permission by Talbot County Sheriff's Office

(a) Members who are first responders. Training should include:

1. Initial response to sexual assaults.
2. Legal issues.
3. Victim advocacy.
4. Victim's response to trauma.

(b) Qualified Investigators, who should receive advanced training on additional topics. Advanced training should include:

1. Interviewing sexual assault victims.
2. SART.
3. Medical and legal aspects of sexual assault investigations.
4. Serial crimes investigations.
5. Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (ViCAP).
6. Techniques for communicating with victims to minimize trauma.

601.11 VICTIMS OF SEXUALLY ASSAULTIVE BEHAVIOR – WAIVER OF RIGHTS – PROHIBITION

Pursuant to Maryland Annotated Code, Criminal Procedure 11-929:

Any member of the Talbot County Sheriff's Office assigned to investigate a sexual assault will not present to a victim a form purporting to:

(a) Relieve the Talbot County Sheriff's Office of an obligation to the victim;

(b) Preclude or define the scope of an investigation by the Talbot County Sheriff's Office into an act allegedly committed against the victim;

(c) Prevent or limit a prosecution of an act allegedly committed against the victim; or

(d) Limit a private right of action of the victim pertaining to an act allegedly committed against the victim or the victim's interaction with the Talbot County Sheriff's Office.

Talbot County Sheriff's Office Procedures Manual: 604.1 Best Practices

Copyright Lexipol, LLC 2021/12/22, All Rights Reserved.
Published with permission by Talbot County Sheriff's Office