



**Mission:** *To promote a community-wide response to sexual violence by coordinating a multi-disciplinary team that will ensure victims receive comprehensive, compassionate care*

## **Sexual Assault Response Team (SART) Law Enforcement Meeting Minutes Thursday, November 18<sup>th</sup>, 2021**

### **Call to Order:**

Nicole Bishop, Director, Palm Beach County Victim Services & Certified Rape Crisis Center (PBCVS)

### **Welcome/Introductions of Members and Guests:**

Nicole Bishop welcomed all who were in attendance at the meeting and facilitated introductions.

- Nicole welcomed everyone and provided a brief summary of the purpose of the meeting. She stated that this quarterly meeting was created to allow participants to meet and focus on law enforcement-related issues.
- Nicole informed SART LE that Sergeant Julianna Martinez will not joining the meeting.
- Nicole introduced Joy Radford-Cole as the new Forensic Nurse Manager. She informed SART LE that if there are any questions about the SANE program, Joy will be the point of contact.
- Nicole informed SART LE members that the mask mandate has been lifted in county buildings, however when responding to Wellington Regional and the Butterfly House, masks are still required.

### **New Business:**

#### *State Attorney Updates– Brianna Coakley, Chief of Special Victims Unit, Office of the State Attorney*

Ms. Coakley provided an in-depth presentation on case submittal, specifically the main considerations that are made once a case is submitted to the State Attorney's Office by law enforcement. She highlighted some of the common issues that arise when filing sexual assault cases, such as inability to locate key witness, inconsistencies with the story, insufficient investigation. She reviewed previous case studies. She also highlighted how important it is for the evidence that is collected to support the victim's statement. Miss Coakley reviewed helpful information that can be obtained during an interview, a control phone and/or an in-person meet up with suspects. She provided helpful tips for investigators to assist with building rapport with suspects in order to get a proper statement from them. She stressed the importance of being thorough, confident and fair. Ms. Coakley encouraged SART Law Enforcement members to contact her for questions or comments. Her email is [bcoakley@sa15.org](mailto:bcoakley@sa15.org). Please see attached presentation.

#### *Advocate's Role- Rene Boone, SART Supervisor*

Nicole informed SART LE members that training will be created during the first quarter of 2022 called, "A critical partnership". This training will highlight the importance of the relationship between law enforcement and advocates.

Nicole introduced Rene Boone to provide information on the advocate's role and how they can be helpful to law enforcement.

Rene informed SART LE members that the role of an advocate is to provide immediate crisis intervention, confidential emotional support, information and advocacy to victims and their loved ones. She stated that advocates are part of a coordinated response team and facilitate services while providing trauma-informed, victim-centered care.

- Advocate:
  - coordinate SANE response (if needed)
  - provide crisis intervention
  - provide information about Crime Victims' Rights and explain options
  - accompany and support victims during legal proceedings (Forensic Exam, LE Interview, and SAO Meetings)
  - address safety concerns, immediate basic needs, and help make a safety plan
  - orient victims to systems they may have contact with, serving as a liaison between the victim and these systems
  - provide short-term counseling and advocacy
  - provide legal, social and medical referrals to victims
  - assists with filing for crimes compensation
  - discuss the effects of trauma and provide adaptive coping strategies for the days ahead
  - coordinate follow-up services
  - educate family and friends on trauma and how to support the victim

Rene stated that advocates can assist with reducing a victim's fears or anxiety by explaining law enforcement and prosecutors' roles in the criminal justice process. Advocates help to break down communication barriers. Advocates can help law enforcement and prosecutors build a positive relationship with victims and build trust between victims and the criminal justice system. It is important to offer advocacy services as early as possible, and as often as needed. This can help victims receive the emotional resources they need to participate in the process of an investigation and prosecution. Advocates assist other responding professionals by helping victims to participate successfully in forensic exams, law enforcement investigations (interviews, controlled calls, photo lineups), and criminal prosecution of their sexual assault cases. Advocacy services can help victims sustain the strength and focus needed to withstand this process. Which in turn makes it easier for other professionals (SANE's, Law Enforcement, Prosecutors) to be able to do their job more effectively. How can we expect victims to participate in the process, if they do not have the support they need. When working together we can provide this support. She reminded SART Le members that we all have the same goal which is to see more sex offenders held accountable for their crimes. She stated that this can only be accomplished when victims can participate in the criminal justice process, and this can only happen when victims feel supported by all professionals on the team.

Detective Weiner from Riviera Beach Police Department stated that she has noticed when the victim completes their Sexual Assault Kit first, it may cause the victim to be more tired when it comes time for them to complete their law enforcement interview. She requested to possibly have the law enforcement interview done first.

Rene provided a brief overview of the SANE process. She explained that the SANEs have to interview the victims and write verbatim what is being said. Once that is finished, a SAK is done and the SANE gathers other evidence. She reminded SART LE members that the SANEs are expert witnesses therefore their process has to be thorough, therefore the time may be extended based on what is disclosed during the interview.

Joy also stated that the victims normally guide the exam, therefore whatever information the victims disclose during the SANE interview, will provide the SANEs with guidance on where to swab, areas to take pictures and what items to collect for evidence.

Rene discussed possibly reviewing the process and seeing how to ensure all parties are working for the better good of the victim. She suggested having the advocate and the detective respond out first and then the SANEs respond after the interview. She also suggested having the SANEs complete their process first and then scheduling an interview the following day, either at the SART center or the law enforcement agency.

Carol encouraged SART LE members to communicate with the advocate if there is a need to complete the interview first so that they do not dispatch the SANEs.

#### **Committee Reports:**

Training Committee/SART Protocol Committee: Kristen Ferguson, PBCVS Project Coordinator

No information to report.

#### **Member Field Discussion**

#### **Next meeting date:**

SART General Meeting, January 27<sup>th</sup>, 2022, 2pm-3pm

SART Law Enforcement Meeting February 24<sup>th</sup>, 2022 2pm-3pm

**Thank you!**

# Office of the State Attorney Dave Aronberg 15<sup>th</sup> Judicial Circuit



**OFFICE OF STATE ATTORNEY DAVE ARONBERG**  
**15<sup>TH</sup> JUDICIAL CIRCUIT**  
**INTRANET PORTAL**



Brianna Coakley  
Assistant State Attorney  
Office of the State Attorney  
15<sup>th</sup> Judicial Circuit  
Special Victims Unit—ICAC/Human Trafficking

# Considerations in Filing Cases

- **Amount and Type of Evidence**

- Circumstances of the initial disclosure
  - Nature and Specificity of the Disclosure
- Quality of the Statement to Law Enforcement
- Corroborating Evidence
  - Direct Corroboration
    - Forensics
    - Defendants Statements
    - Video or Audio Evidence
    - Statements of Witnesses
  - Circumstantial Corroboration

- **Existence and Strength of Potential Defenses**

- Contrary Evidence
- Bias or Motivation to Lie
- Incomplete investigation

→ There is no requirement for a certain amount or type of evidence. The facts circumstances of each case are different.

# Common Issues that Lead to No Filed Cases

- **No Corroboration**
  - Not automatic
- **Inability to Locate Key Witness**
- **Major Inconsistencies**
- **Strong Bias or Motivation to Lie**
- **Insufficient Investigation**

# Considerations in Proving a Case

- **Burden of Proof:**
  - **Beyond a Reasonable Doubt**

Jury Instruction: “A reasonable doubt is not a mere possible doubt, a speculative, imaginary or forced doubt. Such a doubt must not influence you to return a verdict of not guilty if you have an abiding conviction of guilt.”

# Prosecution Perspective

- Successful prosecution requires us to tell the entire story
  - Victim's life and circumstances
  - Abuse
  - Disclosure
  - Investigation
- Evidence of any of these things is useful
  - Look beyond just direct evidence of the offense

**→ Making the Intangible, Tangible**



# CASE STUDY: STATE V. MARK CAMPBELL

- 12 year old victim discloses family friend exposing himself and touching her vagina
  - Two incidents
    - Incident 1: exposed his penis in the car, showed her porn, touched her “pee pee”
    - Incident 2: D drove V to D’s son basketball game—when she came over he showed her porn again, exposed himself and made V stroke his penis.

# CASE STUDY: STATE V. MARK CAMPBELL

- Investigation:
  - Interview Defendant:
    - Denies showing porn, being alone with victim and all sexual misconduct
    - Admits driving victim to basketball game
  - Search Warrant for digital devices
    - Desktop search history shows that “youporn” was being searched for 5 minutes in the timeframe the victim indicated—between 1523 to 1526
  - V’s Mom’s phone records
    - Show 1500 text asking if V is coming
    - 1515 phone call where Mom tells D, V is headed over
  - Second Interview of Defendant
    - D says he wasn’t home when pornography was viewed, he was at 7-11 buying gatorade

# CASE STUDY: STATE V. MARK CAMPBELL

- Investigation:
  - Checked Alibi
    - Went to 7-11
      - Viewed surveillance—Defendant never went to 7-11
      - Spoke with Victim—she said they didn't go to 7-11, they went to the Mobile Gas Station WITH the Defendant and he bought items
    - Went to Mobil Gas Station
      - No Surveillance
      - Obtained copy of the receipt—matched what victim said was purchased time 1605
    - Defendant credit card matches receipt
  - Defendant Arrested
  - Jail Call

# Types of Evidence—Be Imaginative

- Pictures

  - Location of Abuse or other key events

  - Pictures of home can be incredibly powerful

- Social Media

- Digital Evidence

  - Cell phone tracking and location data

  - Pictures/Timestamps

- Jail Calls

- Control Call

- Wired up witness

- Can you corroborate other aspects of the story?



# Evidence to Support V's Description











# Interviews

- Helpful Information
  - Defendants AGE → element of the crime
  - Victim's AGE → element of the crime
  - What they know about the offense PRIOR to being provided information
    - Do you know what this is about?
  - Get information about possible defenses or excuses
    - Why would they be saying this about you?
    - Have they ever made this type of allegation before
- Don't be afraid to change it up



# Control Calls

- Best Calls
  - Start out nice and non-threatening
  - Ultimately need to confront with the allegations
- Control Texting
  - Officer has greater control and can actually text instead of the victim is nervous or hesitant
- In Person Meet-Up
  - Much more likely to get an admission
  - Background noise will block out everything being said

# In Person Meetup—State v. Stephen Stubbs

1:02	V: ... <u>when Bianca</u> told me I was shocked, I thought I was the only one..."
3:00	D: "I think you are making sense part of it.  "It was wrong."
3:54	D: "I think I found myself getting caught up in sexual pleasure and I didn't cleanse myself" D: "I knew it was wrong, I always knew it was wrong"
4:32	D: "There is really no excuse. It was sin" D: "It took you for me to see how far it was."

# Detective Actions that Undermine Usefulness of Interviews

- Manner and Delivery
- Miranda
- Detective doing all the talking and/or interrupting suspect
  - Silence is your friend
- Providing all the Details
- Offering up Defenses
- God
- False Promises
  - “I want to help you” or “It will help you”
- Misstatements of the Law and Minimizing
  - She was 16, its ok if she consented

# Perception of the Law Enforcement Investigation

## 3.9 WEIGHING THE EVIDENCE

- You may rely upon your own conclusion about the witness. A juror may believe or disbelieve all or any part of the evidence or the testimony of any witness.

- Thorough
- Confident
- Fair
- Never hurts to be nice

# Probable Cause Affidavit

On August 26th, 2020 I reached out to the State Attorneys Office via email to inform them of this case and ask for guidance on any future actions. My contact information was included in the email and shortly thereafter I was contacted by Assistant State Attorney Mathri Thannikkotu. Ms. Thannikkotu was the on duty SVU prosecutor for this week. After giving her a summary of the case she recommended interviewing anyone who Ms. Gordon may have discussed this incident with in addition to Mr. Bennett.

# Questions:

“I wanted to find out if there were any laws that specifically states that a minor cannot be a non-reporting sexual assault victim.

We recently had a case in which a minor (17 years old) did not want to report to law enforcement. The law enforcement agency was informed that according to our protocol a minor cannot be a non-reporting sexual assault victim because we are all mandatory reporters. The sergeant requested the Florida Statutes that states this. Carol and I reached out to FCASV regarding the question and they informed us that FL. 39.201 is the statute that governs our policy. However, the Sergeant’s question applies to a minor not wanting to report to law enforcement.

Do you know if there is a specific statute that states that if a minor is sexually assaulted, the assault has to be reported to law enforcement? If so, can you please provide this statute?”

# Questions:

- I did have a topic that I was hoping ASA Coakley could address. I have attached a case law to this e-mail that I believe affects a lot of our cases. In the case law it states that voluntary intoxication does not in and of itself make the victim mentally incapacitated or unable to consent. In a lot of our cases, the victim voluntarily ingests drugs and/or alcohol which causes them to have memory lapses or feel that they were too intoxicated to consent, without ever actually telling the suspect verbally or physically that they do not want to engage in the behavior. Is there any standard of what we would need in order to prove a case (or if we even could prove a case) where a victim was voluntarily too intoxicated to consent without the victim being completely physically incapacitated? Any insight into this case law and how it affects our cases and/or if there is additional case law on this topic would be appreciated.

# Questions:

- *Amelio v. State*-
  - Victim voluntarily consumed alcohol. As part of the jury instructions the court read the instruction for “mental incapacitation”
  - Held: That the instruction for mental incapacity was not appropriate because the victim voluntarily consumed alcohol.



# Sexual Battery--Elements

## **11.4 SEXUAL BATTERY**

§§ 794.011(5)(a), (5)(b), (5)(c), and (5)(d), Fla. Stat.

**To prove the crime of Sexual Battery, the State must prove the following four elements beyond a reasonable doubt:**

- 1. Defendant committed an act upon victim in which the sexual organ of the Defendant penetrated or had union with the Anus/Vagina/Mouth of the Victim**
- 2. Defendant's act was committed without the consent of victim.**
- 3. At the time of the offense, Victim was 18 years of age or older.**
- 4. At the time of the offense, Defendant was 18 years of age or older.**

2<sup>nd</sup> Degree felony—punishable by a maximum of 15 years DOC

# Sexual Battery--Elements

**“Consent” means intelligent, knowing, and voluntary consent and does not include coerced submission. Consent does not mean the failure by the alleged victim to offer physical resistance to the offender.**

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**“Consent” means intelligent, knowing, and voluntary consent and does not include coerced submission. Consent does not mean the failure by the alleged victim to offer physical resistance to the offender.**

**Evidence of Victims mental incapacity or defect, if any, may be considered in determining whether there was an intelligent, knowing, and voluntary consent.**

**“Mentally incapacitated” means that a person is rendered temporarily incapable of appraising or controlling his or her conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered to that person without his or her consent, or due to any other act committed upon that person without his or her consent.**

# Sexual Battery--Elements

**“Consent” means intelligent, knowing, and voluntary consent and does not include coerced submission. Consent does not mean the failure by the alleged victim to offer physical resistance to the offender.**

Can still use evidence of intoxication to show that there wasn't knowing and voluntary consent

- Very fact specific
- Can be VERY difficult to prove

# Sexual Battery—Mentally Defective “Date Rape” Drug Rape

## **11.3 SEXUAL BATTERY — UNDER SPECIFIED CIRCUMSTANCES**

§§ 794.011(4)(a), (4)(b), and (4)(c), Fla. Stat.

**To prove the crime of Sexual Battery Under Specified Circumstances, the State must prove the following five elements beyond a reasonable doubt:**

- 1. Defendant committed an act upon Victim in which the sexual organ of the Defendant penetrated or had union with the Anus/Vagina/Mouth of the Victim**
- 2. Victim was mentally defective and Defendant had reason to believe this or had actual knowledge of that fact.**
- 3. Defendant’s act was committed without the consent of Victim.**
- 4. At the time of the offense, Victim was 18 years of age or older.**
- 5. At the time of the offense, Defendant was 18 years of age or older.**

1<sup>st</sup> Degree felony—punishable by a maximum of 30 years DOC

# Sexual Battery—Mentally Defective “Date Rape” Drug Rape

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1<sup>st</sup> Degree felony—punishable by a maximum of 30 years DOC

# Sexual Battery—Physically helpless

## **11.3 SEXUAL BATTERY — UNDER SPECIFIED CIRCUMSTANCES**

§§ 794.011(4)(a), (4)(b), and (4)(c), Fla. Stat.

**To prove the crime of Sexual Battery Under Specified Circumstances, the State must prove the following five elements beyond a reasonable doubt:**

- 1. Defendant committed an act upon Victim in which the sexual organ of the Defendant penetrated or had union with the Anus/Vagina/Mouth of the Victim**
- 2. Victim was physically helpless.**
- 3. Defendant's act was committed without the consent of Victim.**
- 4. At the time of the offense, Victim was 18 years of age or older.**
- 5. At the time of the offense, Defendant was 18 years of age or older.**

**“Physically helpless” means that a person is unconscious, asleep, or for any other reason physically unable to communicate unwillingness to act.**

**1<sup>st</sup> Degree felony—punishable by a maximum of 30 years DOC**