

Memorandum

TO: ALL DEPARTMENT PERSONNEL

FROM: Anthony Mata
Chief of Police

**SUBJECT: DUTY MANUAL ADDITION:
L 6002.5 NON-INVESTIGATIVE
REPORTING**

DATE: March 22, 2021

APPROVED

MEMO# 2021-009

BACKGROUND

The Violence Against Women Act (VAWA) offers victims of sexual assault options regarding how their case is reported. The case may be classified as an investigative report or as a non-investigative report. Non-investigative reports have been referred to as Anonymous, VAWA, Jane Doe, or abbreviated exams. The Santa Clara County Sexual Assault Response Team (SART) Committee developed a countywide procedure for non-investigative reporting. The procedure established a method for the collection, documentation, and maintenance of time-sensitive evidence, while at the same time allowing victims to recover and consider their reporting options.

Victims have the right to obtain a medical forensic exam without requiring the victim to report the incident of sexual assault to law enforcement. California Penal Code section 13823.95(b) states that any victim of sexual assault who seeks a medical evidentiary examination (Sexual Assault Forensic Exam (SAFE)/SART Exam) shall be provided the examination. The victim is not required to participate in the criminal justice process prior to the examination or any other time. SAFE Team members provide the victim with a handout explaining their rights and an advocate may respond to meet with the victim.

Under California mandated reporting laws (California Penal Code section 11160), a health practitioner is required to report details of a sexual assault to law enforcement. This reporting requirement shall include the victim's name, the victim's whereabouts, the extent of injuries, and the identity of the suspect (if known).

In order to comply with VAWA and the rights of victims, the Department has created a procedure for the collection of SART/SAFE kits and reporting of non-investigative sexual assault incidents.

Procedure

SART exams are currently conducted at the following Santa Clara County hospital locations: Santa Clara Valley Medical Center (SCVMC), Stanford Hospital (Palo Alto), and St. Louise Regional Hospital (Gilroy).

A victim of sexual assault may present themselves to the Emergency Department at Santa Clara Valley Medical Center (SCVMC), Stanford Hospital (Palo Alto), St. Louise Regional Hospital (Gilroy) or contact their local Rape Crisis Center to initiate a non-investigative report medical forensic exam. For cases occurring within the jurisdiction of the San Jose Police Department, no law enforcement approval is necessary for a non-investigative SART exam to occur.

A SART nurse will contact SJPD Communications to request an officer to collect any evidence obtained from the non-investigative SART exam after the examination is completed. Per Communications policy, this event will be typed as a priority-4 "261NIR." Either a Police Officer or a Community Service Officer may be dispatched to this event, based on call volume, staffing, and patrol needs.

The assigned officer will respond to the appropriate hospital to collect the evidence. The officer will verify the victim's SART kit, SART exam report, and toxicology envelope (containing blood and urine samples) are marked as a NIR (non-investigative report) with the appropriate SJPD case number.

The officer will obtain the mandated reporting requirements from the SART nurse, which shall be documented in a General Offense report (Form 200-2-AFR). The officer shall not contact the victim to discuss the sexual assault without their consent.

The officer will ensure the collected property is booked into evidence at Central Supply in accordance with DM section L 5400 through L 5800. The officer will utilize the property type code "SART kit – NIR" to identify the SART kit. The blood and urine specimens in the toxicology envelope shall be booked into evidence at AIB. The officer will utilize the offense code "261 PC – Rape – NIR," to identify the case as a non-investigative report.

No investigation will be conducted on a non-investigative General Offense report without the victim's consent. If, or when, a victim re-initiates a non-investigative report into a standard report, the officer receiving the case will write a supplemental to the original General Offense report with the victim's statement and any other investigative steps taken. The supplemental report will be routed to the Sexual Assault Investigations Unit (SAIU). Lastly, the officer shall notify the SAIU Officer of the Day (during normal business hours) or the SAIU On-Call sergeant (after hours).

ANALYSIS

The Duty Manual has been revised to reflect changes described below. Additions are shown in *italics and underlined*. Deletions are shown in ~~strike-through~~ form.

L 6002.5 **NON-INVESTIGATIVE REPORT**

Added 3-22-21

Officers initially assigned to respond to a sexual assault where the victim does not want to report the incident to law enforcement but does want a medical evidentiary exam (SART) shall perform the following functions:

- *Officers shall not contact the victim without the victim's consent.*

- Respond to the location where the SART exam was conducted.
- Obtain the mandatory reporting requirements from the SART nurse.
- Collect the SART kit and verify that the victim's SART kit, SART exam report, and toxicology envelope are marked with "NIR" (non-investigative report) and the case number.
- Book the SART kit as evidence at Central Supply in accordance with Duty Manual Sections L 5400 through L 5800. Use property type code "SART kit – NIR" to identify the SART kit.
- Book the blood and urine specimens in the toxicology envelope as evidence at AIB.
- Complete a General Offense Report (FORM 200-2 AFR) with offence code "261 PC – RAPE – NIR."

No investigation will be conducted on a non-investigative General Offense report without the victim's consent.

NOTE:

If, or when, a victim re-initiates a non-investigative report into a standard report, the officer receiving the case will write a supplemental to the original General Offense report with the victim's statement and any other investigative steps taken. The supplemental report will be routed to the Sexual Assault Investigations Unit (SAIU). Lastly, the officer shall notify the SAIU Officer of the Day (during normal business hours) or the SAIU On-Call sergeant (after hours).

In addition, the following Duty Manual sections were modified to allow for CSOs to respond to non-investigative sexual assault events.

A 3003

DUTIES OF THE CSO:

Revised 3-22-21

CSOs shall perform a wide variety of non-enforcement duties and limited enforcement duties, as assigned. The purpose of the CSO Program is to supplement patrol officers in the field by responding to, investigating and completing the written reports for lower priority calls for service. CSOs shall also supplement patrol officers in the Main Lobby/Information Center by completing written reports on incidents that do not require follow-up (refer to the Main Lobby Standard Operating Procedures Manual for further details on the types of reports CSOs will be responsible for taking).

The CSO Program is comprised of a CSO Supervisor, CSO I's (entry level), CSO II's (intermediate level) and Senior CSOs (line level supervisors).

The CSOs shall only be dispatched and respond to select lower priority calls in which there are no suspects on-scene and no identifiable suspect information is available.

The following is a list of duties and responsibilities regularly undertaken by CSOs. The distribution of responsibilities shall be left to the discretion of the CSO Program Supervisor:

1. Assists patrol teams with non-enforcement duties; completes routine police reports; maintains records of daily work activities.
2. Performs non-hazardous investigative duties related to the commission of crimes against property such as residential, commercial and vehicle burglary, petty theft, grand theft, vehicle theft, and vandalism.
3. Collects and preserves evidence at crime scenes which includes the processing and lifting of latent fingerprints, taking photographs at designated crime scenes, and collecting video evidence.

NOTE: CSOs will not be dispatched to perform PICS related responsibilities/duties at incidents or crime scenes not listed in their daily responsibilities (e.g., to collect evidence at a robbery, sexual assault, or other major crime scene) unless Patrol or the Bureau of Investigations deems evidence collection trained CSOs are necessary to assist at a scene; if deemed necessary, Patrol or BOI can request CSO assistance.

4. Recovers and processes stolen vehicles for evidence where found unattended.
5. Marks and tows abandoned vehicles.
6. Responds to and investigates traffic complaints such as road hazards.
7. Facilitates information exchange for non-injury vehicle accidents which are reported as traffic hazards or when the reporting party requests PD contact.
8. Directs and controls vehicle and pedestrian traffic at accidents, special events, and crime scenes when it is safe to do so. (This task includes setting up cone and/or road flare patterns).
9. Receives and responds to citizen inquiries; gives general assistance or directions as appropriate.
10. Performs routine office functions such as word processing, filing, record keeping, including the preparation of police reports.
11. Assists law enforcement in taking reports of and searching for persons reported as missing.
12. Protects crime scenes from bystanders.
13. Transports seized, found, lost, or abandoned property or evidence (excluding controlled substances and firearms).
14. Administers first aid as necessary.
15. May assist in the training of new employees and less experienced subordinates.
16. Testifies in court when necessary.

17. Issues parking citations (NOTE: It is not the intent of this policy for CSOs to assume primary responsibility for parking enforcement for the City. However, a CSO may enforce parking violations when dispatched to an incident (e.g., 11-25, etc.) or when on-viewing a parking violation in which a parking citation is deemed appropriate.)
18. Assists patrol in staffing the main lobby and completes routine police reports that do not require follow-up (Refer to the Main Lobby Guidelines for a list of the reports)
19. Collects and preserves SART/SAFE evidence kits, including toxicology samples. Documents non-investigative sexual assault reports.

CSOs shall not process narcotics or firearms. If narcotics or firearms are encountered in the field, the CSO shall request assistance from a patrol officer.

If a CSOs is directed by a patrol officer or higher-ranking officer to perform a tasks which is not part of his/her responsibility, as listed above, and the CSO believes he/she has not been properly trained to carry out that task, the CSO shall advise the person asking them to undertake the task and attempt to resolve the issue. If the issue cannot be resolved, the CSO shall immediately advise the Senior CSO. The Senior CSO shall advise the Supervising CSO and the Area Lieutenant or on-duty Watch Commander.

If the CSO is directed to perform any task that the CSO believes may put them in a dangerous or unsafe situation, the CSO **shall not perform** that task. The CSO shall immediately notify the Senior CSO who shall advise the Supervising CSO and the Area Lieutenant or on-duty Watch Commander.

A 3007

DISPATCHABLE CALLS FOR CSOs:

Revised 3-22-21

When available, CSOs shall be dispatched to select lower priority calls for service, where there is no suspect on scene and/or any identifiable suspect information or leads that can be immediately followed-up upon. The types of calls CSOs shall respond to are:

Type Code	Response Parameters
1065	- Non "At Risk" Missing persons. - At-risk missing person reports shall be handled by PATROL OFFICERS.
10851/10851R	- Stolen vehicle reports, and recovered stolen vehicle reports when suspects are not present. - If the Registered Owner (RO) is not available for a field release, CSOs may tow the vehicle after attempting to locate the R.O. (refer to DM Section L 5403).
1124	Abandoned vehicles
1125	Traffic hazards

Type Code	Response Parameters
1184/Crowd Control	Traffic/Crowd control. This can be for accidents, special events, at fires, for another City agency, PG&E, etc. It includes setting up cones and/or road flare patterns.
1182	- Non-injury vehicle collisions with no known disturbance. In the event a non-injury vehicle collision involves a disturbance, patrol officers shall be dispatched to the incident in addition to a CSO. Officers may also be dispatched to a non-injury vehicle collision if the CSO on scene assesses the situation and deems police presence necessary. CSOs shall adhere to L 6901 TRAFFIC ACCIDENTS when responding to non-injury vehicle collision - CSOs shall NOT be dispatched to non-injury vehicle collisions involving government vehicles, city vehicles or city property. Patrol Officers shall be dispatched to complete the investigation and appropriate reports.
459/459R	- Residential and commercial burglary reports (scene is secured/no suspects present). - If the RP/victim is uncertain if the structure is secure, PATROL OFFICERS shall be dispatched to the location: - If PATROL OFFICERS locate a subject and enforcement action is taken, the PATROL OFFICERS shall complete the reporting and investigative process. - If PATROL OFFICERS secure the scene and no enforcement action is taken a CSO can complete the reporting and processing of the scene.
459VEH	Vehicle burglary reports when there is evidence left at the scene and/or when the RP/victim refuses to complete the report online or by phone and there is no suspect present.
FNDPRP	- Found Property - This includes picking up video surveillance evidence from a prior report. - CSOs shall NOT process narcotics or firearms. A PATROL OFFICER shall be dispatched to the scene to handle narcotics or firearms.
487	Grand theft reports when the RP/victim refuses to complete the report online or by phone and no suspects are present.
484	Petty theft reports when the RP/victim refuses to complete the report online or by phone and no suspects are present.
594/10852	Vandalism and vehicle tampering reports when the RP/victim refuses to complete the report online or by phone and no suspects are present.
<u>261NIR</u>	<u>Sexual assault events when the victim does not want to report the incident to law enforcement but does want a medical evidentiary exam (SART)</u>

If Location of Interest or Event Warnings information indicate a hazardous location, dispatchers shall dispatch patrol officers to the scene.

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Prioritization of Dispatch for CSO Calls for Service:

Generally, the following order of precedence ~~will~~ shall be used when dispatching CSOs when there is more than one pending dispatchable event. The duration a call has been pending should also be taken into consideration. The Area Commander the CSO is reporting to may re-prioritize the order of dispatch.

1. 1065
2. 10851/10851 R
3. 1125 (Including 1182s that are 1125)
4. 1184/Crowd Control
5. 1182 (1125 and/or RP/victim requesting contact)
6. 459/459R
7. 261NIR
8. 459 VEH
9. FNDPRP
10. 487
11. 484
12. 594
13. 1124

ORDER

Effective immediately, all Department personnel shall adhere to the above Duty Manual section.



Anthony Mata
Chief of Police

AM:MB:JJ