

Memorandum

TO: ALL DEPARTMENT PERSONNEL

FROM: Anthony Mata
Chief of Police

**SUBJECT: DUTY MANUAL REVISIONS:
SEXUAL ASSAULT SURVIVOR'S
BILL OF RIGHTS**

DATE: January 10, 2023

APPROVED

Memo #2023-001

BACKGROUND

Pursuant to Duty Manual section L 6009, Department members are required to provide advocacy referrals in all sexual assault cases. This is currently done by providing the survivor a card entitled *Your Rights as a Survivor of Sexual Assault* (form 200-45c Rev. 7-1-2018). These cards are maintained by Santa Clara County. The County recently developed a revised version entitled *Sexual Assault Survivor's Bill of Rights* (form 200-45c, 12179-E on the bottom left). See Attachment 1 for examples of the resource cards.

These cards are available in English, Spanish, Vietnamese, and Mandarin.

All Department members should discard any previous versions of *Your Rights as a Survivor of Sexual Assault* (form 200-45c Rev 7-1-2018) and replace them with *Sexual Assault Survivor's Bill of Rights* (form 200-45c, 12179-E on the bottom left). The revised cards are available at Central Supply.

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 6009 NOTIFICATION TO SURVIVOR

Revised 01-10-23

Department members shall provide advocacy referrals in all sexual assault cases. Advocacy is provided via pamphlet, telephone support, or in-person advocacy.

- Pamphlet: Officers shall immediately provide the survivor of a sexual assault with a notification card (Form 200-45c) titled "*Sexual Assault Survivor's Bill of Rights* ~~Your Rights as a Survivor of Sexual Assault.~~"
- Telephone Support: Prior to leaving the event, officers shall offer the survivor the opportunity to call an advocate. Refer to the "*Sexual Assault Survivor's Bill of*"

Rights ~~Your Rights as a Survivor of Sexual Assault~~" notification card for advocacy information.

- In-person: Refer to DM Section L 6010 – Notification to a Survivor Advocate

L 6009.7 NOTIFICATION OF SEXUAL ASSAULT BILL OF RIGHTS:

Revised 01-10-23

Law enforcement agencies are mandated to develop a card which explains the rights of sexual assault survivors, pursuant to Penal Code Section 680.2 (Form 200-45c - Sexual Assault Survivor's Bill of Rights ~~Your Rights as a Survivor of Sexual Assault~~).

Upon the initial interaction with a sexual assault survivor, law enforcement officers shall provide the survivor of a sexual assault with a notification card, consistent with L 6009. This card shall include, but is not limited to, all of the following:

- A clear statement that a sexual assault survivor is not required to participate in the criminal justice system or to receive a medical evidentiary or physical examination in order to retain their rights under law.
- Telephone or Internet Website contact information for a nearby rape crisis center and sexual assault counselor.
- Information about the types of law enforcement protection available to the sexual assault survivor, including a temporary protection order, and the process to obtain that protection.
- Instructions for requesting the results of the analysis of the survivor's sexual assault forensic exam.
- Information about state and federal compensation funds for medical and other costs associated with the sexual assault and information on any municipal, state, or federal right to restitution for sexual assault survivors if a criminal trial occurs.
- A clear statement that the survivor has the right to have a sexual assault counselor and at least one other support person of the survivor's choosing present at any initial medical evidentiary examination, physical examination, or investigative interview arising out of a sexual assault, and that a sexual assault counselor can be contacted 24 hours a day.
- Information about the rate of potential evidence degradation.
- A clear statement that if sexual assault forensic evidence will be tested, it should be transported to the crime laboratory and analyzed within the time limits imposed by subparagraphs (A) and (B) of paragraph (1) of subdivision (g) of Section 803.
- A clear statement that the law enforcement agency or crime laboratory will retain the sexual assault forensic evidence for at least 20 years, or if the survivor was under 18 years of age at the time of the alleged offense, at least until the survivor's 40th birthday.
- A law enforcement official shall, upon written request by a sexual assault survivor, furnish a free copy of the initial crime report related to the sexual assault, regardless of whether the report has been closed by the law enforcement agency, to the survivor. A law enforcement agency may redact personal, identifying information in the copy furnished to the survivor.

- A prosecutor shall, pursuant to Section 290.46, upon written request by a sexual assault survivor, provide the convicted defendant's information on a sex offender registry to the survivor, if the defendant is required to register as a sex offender.
- The law enforcement agency shall provide sufficient copies of the card described in subdivision (a) to each provider in its jurisdiction of medical evidentiary examinations or physical examinations arising out of sexual assault.

L 6009.8 NOTIFICATION OF RIGHT TO HAVE A SURVIVOR ADVOCATES AND SUPPORT PERSON:

Revised 01-10-23

An initial investigation by an officer to determine whether a crime has been committed and the identity of the suspect(s) shall not constitute as an interview by law enforcement for the purposes of Penal Code Section 679.04.

Before the conclusion of the initial investigation to determine whether a crime was committed and the identity the suspect(s), and prior to the commencement of the initial interview by law enforcement authorities or the district attorney pertaining to any criminal action arising out of a sexual assault, the officer shall notify the survivor of a sexual assault as a result of any offense specified in paragraph (1) of subdivision (b) of Section 264.2 in writing that they have the right to have a survivor advocate and a support person of the survivor's choosing present at any interview thereafter by providing form 200-45c – Sexual Assault Survivor's Bill of Rights ~~Your Rights as a Survivor of Sexual Assault Santa Clara County.~~

However, the support person may be excluded from an interview by law enforcement or the district attorney if the law enforcement authority or district attorney determines that the presence of that individual would be detrimental to the purpose of the interview.

R 1527 SEXUAL ASSAULT SURVIVOR'S BILL OF RIGHTS ~~SEXUAL ASSAULT REPORT RECEIPT (FORM 200-45c):~~

Revised 01-10-23

This form will be given and explained to a survivor of a sexual assault at the time the report is completed by the officer.

ALL DEPARTMENT PERSONNEL

SUBJECT: DUTY MANUAL REVISIONS: SEXUAL ASSAULT SURVIVOR'S BILL OF RIGHTS

January 10, 2023

Page 4

ORDER

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

A handwritten signature in black ink, appearing to read 'A. Mata', is positioned above the printed name and title.

Anthony Mata

Chief of Police

AM:SD:GB

Attachment 1: Resource Card Examples

Attachment 1: Resource Card Examples

YOUR RIGHTS as a Survivor of Sexual Assault	RESOURCES	SEXUAL ASSAULT SURVIVOR'S BILL OF RIGHTS								
State of California Victim Compensation Program - The California Victim Compensation Program (CalVCP) can help pay bills and expenses that result from certain violent crimes. Survivors of crime who have been injured or have been threatened with injury may be eligible for help. CalVCP Helpline: 800-777-9229 (phone) 866-902-8669 (fax) - Contact: The Santa Clara County District Attorney's Office Victim Services Unit at: (408) 295-2656. NOTE: You may have to take part in the criminal case to qualify for CalVCB. - You have a right to have a confidential sexual assault counselor (Victim Advocate) and a support person of your choice present during any exam or investigative interview. However, the support person may be excluded by law enforcement or the district attorney if it is determined to be detrimental to the interview. (Penal Code 679.04) A survivor's immigration status does not affect their right to advocacy services and these services are offered at no cost to the survivor.	Sexual assault medical forensic exams are available through: Santa Clara County (408) 885-5000 Exam Locations: Valley Medical Center · San Jose Stanford University Medical Center Palo Alto You can reach a Sexual Assault Advocate 24 hours a day by calling Rape Crisis centers: YWCA Golden Gate Silicon Valley 1-800-572-2782 www.yourywca.org Community Solutions 1-877-363-7238 www.communitysolutions.org Survivor Resources in Santa Clara County <table border="0"> <tr> <td>Children's Advocacy Center</td> <td>408-885-6460</td> </tr> <tr> <td>District Attorney's Office</td> <td>408-299-7400</td> </tr> <tr> <td>CAN Center/CPS Reporting Line</td> <td>833-722-5437</td> </tr> <tr> <td>Victim Services Unit</td> <td>408-295-2656</td> </tr> </table>	Children's Advocacy Center	408-885-6460	District Attorney's Office	408-299-7400	CAN Center/CPS Reporting Line	833-722-5437	Victim Services Unit	408-295-2656	You have rights. You have the right to get answers, the right to information, and a right to know. This card explains your rights, options, and helpful resources available to you under California Penal Code 680.2. You are not required to participate in the criminal justice system to receive a medical evidentiary examination. You Decide It's your choice to: - Get a physical exam - Be part of a criminal case Date: _____ Police Report No.: _____ Officer & Badge: _____ Agency: _____ Phone #: _____ Survivors of sexual assault and/or domestic violence are encouraged to report abuse to local police departments. Local police departments are not ICE and you will not be reported to ICE as a survivor of sexual assault or domestic violence.
Children's Advocacy Center	408-885-6460									
District Attorney's Office	408-299-7400									
CAN Center/CPS Reporting Line	833-722-5437									
Victim Services Unit	408-295-2656									
		22179-E Form 200-45c								

Sexual assault medical forensic exams are available through	YOUR RIGHTS as a Survivor of Sexual Assault										
Santa Clara Valley Medical Center (408) 885-5000 Exam Locations: Gilroy · San Jose Survivor Resources in Santa Clara County <table border="0"> <tr> <td>Adult/Adolescent SA Program</td> <td>408-885-6466</td> </tr> <tr> <td>Center for Child Protection</td> <td>408-885-6460</td> </tr> <tr> <td>District Attorney's Office</td> <td>408-299-7400</td> </tr> <tr> <td>Child Protective Services</td> <td>833-722-5437</td> </tr> <tr> <td>Victim Services Unit</td> <td>408-295-2656</td> </tr> </table> Call or look up offender information here: Santa Clara County Jail Booking 408-299-2306 VINElink.com	Adult/Adolescent SA Program	408-885-6466	Center for Child Protection	408-885-6460	District Attorney's Office	408-299-7400	Child Protective Services	833-722-5437	Victim Services Unit	408-295-2656	Victims of sexual assault and/or domestic violence should report abuse to local police departments. Local police departments are not ICE. Local police departments work with the District Attorney's Office to help victims. Date: _____ Incident Date: _____ Type of Incident: _____ Agency: San Jose Police Department Police Report No.: _____ Officer & Badge: _____ Officer Phone Number: (408) 277-102 Notes: _____ You Decide It's your choice to: - Get a physical exam - Be part of a criminal case, or - Report the assault No matter what you choose, you keep your rights. A law enforcement officer or medical provider must provide you with a card that clearly spells out your rights.
Adult/Adolescent SA Program	408-885-6466										
Center for Child Protection	408-885-6460										
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200-45c Rev. 7-1-2018	SCCSART Version 7/2018										