

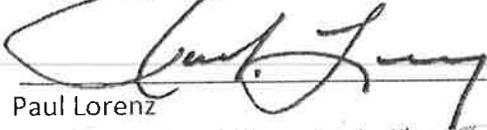
SANTA CLARA COUNTY SEXUAL ASSAULT PROTOCOL

Adopted September 2019

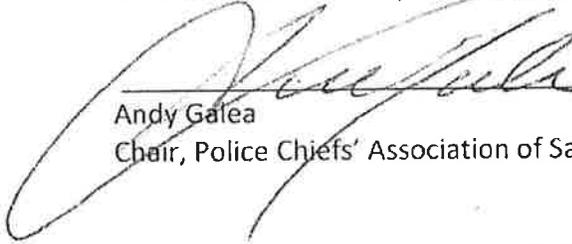
By signing below, we show our support and commitment to the policies and procedures of our respective agencies as documented in this Santa Clara County Sexual Assault Protocol ("Protocol"), to the training and implementation of such, and to the ongoing process of facilitating improvement through participation in the Santa Clara County Sexual Assault Response Team (SART) Committee, a multidisciplinary, coordinated response to the crime of sexual assault and to survivors of sexual assault and violence.



Jeff Rosen
District Attorney, County of Santa Clara Office of the District Attorney

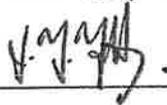


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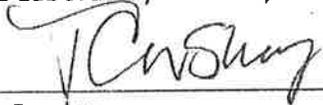


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Introduction

Rape and Sexual Assault are significant social and health problems in the United States. The National Violence Against Women Survey (NVAWS) revealed that 17.7 million women and 2.8 million men in the United States have been forcibly raped at some time in their lives. Nearly 1 in 2 women (44.6%) and 1 in 5 men (22.2%) experienced sexual violence victimization, other than rape, at some point in their lives.

Sexual assault is a crime of violence against a person's body that can result in physical trauma and significant mental anguish. It can cause suffering that lasts for years after the assault, yet less than one third of all sexual assaults are ever reported to law enforcement. The initial contact after a sexual assault is critical to a survivor's recovery. Positive support from first responders has a direct impact on a survivor's emotional well-being and their willingness to engage in continued investigative efforts. Sexual assault investigations should focus on the medical care of the survivor first and the investigation second. This demonstrates to the survivor that their well-being and health are priorities. They feel heard and supported, which is key to maintaining their participation in the process.

When sexual assault occurs, survivors deserve a coordinated, competent and compassionate response from the systems they encounter and from the community. Having a positive experience with the criminal justice system, medical professionals, and advocates can greatly contribute to a survivor's overall healing.

On June 13, 2016 the Santa Clara County SART Committee was convened, following the guidelines set by Penal Code Section 13898, which states that each "county may establish and implement an interagency sexual assault response team (SART) program for the purpose of providing a forum for interagency cooperation and coordination, to assess and make recommendations for the improvement in the local sexual assault intervention system, and to facilitate improved communication and working relationships to effectively address the problem of sexual assault in California."

This Protocol was developed by the Santa Clara County SART Committee to establish a common understanding and framework for the provision of services to survivors of sexual violence, enable greater coordination and collaboration between community partners, and respond to issues and trends with respect to sexual assault in the county. This is a living document for sharing information, knowledge, and best practices in coordinated services.

This Protocol also offers an integrated source of information on agency practices and procedures, clarifying the roles various agencies play in responding to sexual assault in our community. This

supports familiarity between agencies as well as the development and maintenance of effective working relationships. Community members also benefit from this central source of information as it helps them to better understand and access services.

Finally, this Protocol is intended to support and inform pre-existing community and inter-agency protocols, understanding that sexual assault can happen at the intersections of human trafficking, domestic and intimate partner violence, campus assault, child abuse, and elder abuse.

Through a multidisciplinary and collaborative approach, we strive to be victim-centered, trauma-informed, and offender-focused in all aspects of our response and services to sexual assault survivors. This Protocol strengthens our relationships with each other and our resolve to ensure a coordinated and collaborative response.

ACKNOWLEDGEMENT

In February 2018, the following persons represented their agencies to create the first Santa Clara County Sexual Assault Protocol:

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<p>Community Solutions</p> <ul style="list-style-type: none"> • Erica Elliott 	<p>San Jose Police Department</p> <ul style="list-style-type: none"> • Brian Anderson
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<p>Santa Clara County Crime Laboratory</p> <ul style="list-style-type: none"> • Lynne Burley (DNA Unit) • Mark Burry (Toxicology Unit) 	<p>Santa Clara Police Department</p> <ul style="list-style-type: none"> • Saskia Lagergren
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Statement of Purpose

The purpose of this Protocol is to ensure a coordinated multi-disciplinary response to sexual assault in Santa Clara County that is effective, consistent, collaborative, and culturally sensitive, with priority placed on the needs of sexual assault victims, bringing responsible persons to justice, and ensuring community safety.

Sexual Assault Response/Resource Team (SART/SARRT)

- I. SART stands for Sexual Assault Response/Resource Team and is a comprehensive intervention model that involves a multi-disciplinary team approach to coordinate and evaluate the community response to sexual assault. California Penal Code §13898 establishes that each county may create and implement a SART program to provide a forum for inter-agency cooperation and coordination, to assess and make recommendations for the improvement of a local sexual assault intervention system, and to facilitate improved communication and working relationships to effectively address the problem of sexual assault statewide. Collaborative efforts of the various SART partners ensure that the needs of both the victim and the criminal justice system are accommodated. Per PC §13898.1, each SART may contain representation from:
 - A. Law Enforcement Agencies
 - B. Sexual Assault Forensic Examination (SAFE) team
 - C. Rape Crisis agencies
 - D. Office of the District Attorney
 - E. Crime Laboratory

- II. Additional agencies that provide important collaborative support but may not participate routinely in core team operations include:
 - A. Victim Services Unit of the Office of the District Attorney
 - B. Department of Family and Children's Services (DFCS)
 - C. Forensic Interview Center
 - D. Title IX Coordinators/Campus Advocacy
 - E. Emergency Medical Services (EMS)
 - F. Public Health Department
 - G. Mental Health Services
 - H. Court Systems

- III. The site or origin of the crime determines jurisdiction. The law enforcement jurisdictions served by Santa Clara County include:
 - A. All city law enforcement agencies within the county
 - B. Santa Clara County Sheriff's Office, which has jurisdiction over unincorporated regions of the county, and acts on behalf of jurisdictional agencies outside of the county

- C. Agencies specific to Universities and Colleges
- D. Agencies specific to the military
- E. Agencies specific to California State and Federal jurisdictions
- F. Agencies from other countries with established agreements to receive SART services

Values

I. VICTIM-CENTERED APPROACH

- A. This approach is defined as the systematic focus on the needs and concerns of a victim to ensure the compassionate and sensitive delivery of services in a nonjudgmental manner. In a victim-centered approach, the victim's wishes, safety, and well-being take priority in all matters and procedures.
- B. A victim-centered approach seeks to minimize re-traumatization associated with the criminal justice process by providing the support of advocates and service providers, empowering victims as engaged participants in the criminal justice process, and providing victims an opportunity to play a role in seeing justice served.
- C. This approach is one of the most important aspects of the collaboration that arises from SARTs: the knowledge that we gain from a collaborative response to sexual assault in our community promotes trust among partners and seeks to keep victims at the center of our justice process.

II. TRAUMA-INFORMED APPROACH

- A. An understanding of trauma and its effects, as well as the principles of being trauma-informed, are key for service providers and criminal justice system professionals. We must understand trauma and its manifestations and approach all interactions through a trauma-informed lens.
- B. Trauma-informed approach is a strengths-based framework that is responsive to the impact of trauma, emphasizing physical, psychological, and emotional safety for both SART responders and victims; and creates opportunities for victims to rebuild a sense of control and empowerment. The approach:
 - 1. Realizes the widespread impact of trauma and understands potential paths for recovery;
 - 2. Recognizes the signs and symptoms of trauma in victims, families, staff, and others involved with the system;
 - 3. Responds by fully integrating knowledge about trauma into policies, procedures, and practices; and
 - 4. Seeks to actively resist re-traumatization.

III. REDUCE VICTIM-BLAMING

- A. Victim blaming refers to attitudes or beliefs that hold victims partially or completely responsible for being sexually assaulted. Victim blaming typically utilizes the argument that if the victim had not made a particular choice, engaged in a particular activity, or acted in a particular way, this person would not have been assaulted. Victims usually engage in this type of second guessing and hearing any variation of this theme from others adds to the trauma already being experienced.
- B. Through collaborative response and cross-agency training, the SART seeks to ensure that the blame for the crime remains set on those who perpetrated the crime.

IV. TEAM BUILDING BETWEEN AGENCIES

- A. The relationships that we build with each other as members of the SART are essential to achieve positive outcomes in sexual assault cases. Collaborative response provides a systematic response that allows victims to feel supported, informed and involved. It is essential that this team make time to build and strengthen relationships and address issues that arise through a multi-disciplinary approach of its members, with the best interest of victims in mind. We must also search for ways to increase collaboration between the partners.

V. STANDARDS AND TRAINING

- A. Pursuant to PC §13898.2, the Santa Clara County SART Committee will ensure the policies and effort it puts forth promote best practices and effective intervention to address sexual assault in the county. To do this, SART Committee members will meet regularly to:
 - 1. Identify and highlight successes, as well as, address areas for improvement in cross-agency coordinated response.
 - 2. Review this county Protocol annually.
 - 3. Conduct case review.
 - 4. Share and gather baseline data
 - 5. Report annually to the Board of Supervisors
- B. Members of the SART Committee will commit to attending and providing cross training opportunities between all partner agencies annually. Members also commit to respond to requests for cross training.
- C. This Protocol will be reviewed and updated annually by the SART Committee. As part of the implementation process, there is a commitment by all partners to provide training to their agencies on the Protocol and all updates thereafter.
- D. The SART Committee will plan and implement effective prevention strategies and collaborate with other agencies, including educational institutions, to address sexual assault in the County. Areas of focus may include sexual assault perpetrated by strangers or persons known to the victim, predatory date rape, and drug-facilitated sexual assault.

Alignment with County Protocols

- I. Sexual assault is addressed in other types of investigations that are addressed in existing county protocols. These include:
 - A. Domestic Violence Protocol for Law Enforcement
 - B. Santa Clara County Child Abuse Protocol for Law Enforcement
 - C. Human Trafficking Protocol for Law Enforcement
 - D. Santa Clara County Protocol and Memorandum of Understanding for Commercially Sexually Exploited Children (CSEC)
 - E. Elder and Dependent Adult Abuse Protocol
 - F. Santa Clara County Probation Department Juvenile Division-Institutions, Prison Rape Elimination Act (PREA)
 - G. County of Santa Clara Office of the Sheriff Custody Bureau/Department of Correction Policy on Prison Rape Elimination Act (PREA)
 - H. County of Santa Clara Emergency Medical Services Protocols
- II. Portions of these protocols pertaining to sexual assault have been referenced in the body of this document. Please refer to the original document for complete information.
- III. County protocols are publicly available on the Santa Clara County Office of the District Attorney website: <https://www.sccgov.org/sites/da/Pages/DA-office-site-home-page.asp>

Mandated Reporting

- I. REPORTING REQUIREMENTS FOR CHILD SEXUAL ABUSE
 - A. Any Person May Report Suspected Child Abuse or Neglect of Children. Child Abuse or Neglect Includes:
 1. Non-accidental physical injuries including unlawful corporal punishment and willful cruelty. (PC 11165.3, 11165.4)
 2. Severe or general physical neglect, including inadequate supervision or medical neglect. (PC 11165.2)
 3. Sexual abuse including sexual assault, sexual exploitation, or commercial sexual exploitation. (PC 11165.1)
 - a) Sexual Exploitation. (PC 11165.1(c)(1)-(3))
 - b) Commercial Sexual Exploitation (PC 11165.1(d)) is the trafficking of a child, as described in PC 236.1(c) or the provision of food, shelter, or payment to a child in exchange for the performance of any sexual act described in PC 11165.1 or PC 236.1(c).

4. Unjustifiable mental suffering or emotional abuse. (PC § 11165.3)

B. Mandated Reporters Include (PC §§ 11165.7, 11166):

1. Childcare custodians (schools, daycare, etc.)
2. Health practitioners (medical and non-medical)
3. Employees of child welfare and law enforcement agencies
4. Commercial film and photographic print processors
5. Child visitation monitors
6. Peace officers
7. Probation and parole officers
8. Custodial officers as defined by PC § 831.5
9. Firefighters, animal control officers, humane society officers
10. Emergency medical technicians and paramedics
11. Clergy (excluding confession or its equivalent)
12. Athletic coaches
13. Teachers, Educators, Instructional Aids, School Personnel

C. Criteria for Mandated Reporting

1. Knowledge or reasonable suspicion of child abuse or neglect obtained in the reporter's professional capacity or within the scope of their employment. (PC § 11166(a))
2. "Reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that would cause a reasonable person in a like position, drawing, when appropriate, on their training and experience, to suspect child abuse or neglect. Neither certainty of child abuse nor a specific medical indication of child abuse is required. (PC § 11166(a)(1))
3. Exposure to domestic violence may be reportable abuse, neglect, or endangerment if there is some indication that the child was impacted. Examples include:
 - a) Perpetrator and victim physically struggle over the child;
 - b) Perpetrator assaults the victim while the victim is holding or near the child;
 - c) Perpetrator assaults victim while the child is in the same home or location, even if the child was reported to be in another room or sleeping;
 - d) Perpetrator has or threatens to use a weapon, especially a firearm;
 - e) Perpetrator grabs the child or forces the child to come with them right after a violent incident;
 - f) Perpetrator uses high lethality violence, e.g., strangulation;
 - g) Child hears or sees the violence and tries to stop it by physically intervening, yelling, or calling 911;
 - h) There is a recent history of multiple domestic violence related calls to the home;
 - i) Child was hiding;

- j) Child has created a safety plan for themselves and any younger siblings, e.g., gathering siblings and locking them in a room, taking siblings out of the house, running to a neighbor, distracting themselves with TV or video games;
 - k) Child is having difficulty sleeping or difficulty concentrating in school because of violence in the home.
4. Past abuse of a child who is an adult at the time of disclosure or discovery of the abuse need not be reported except by a member of the clergy or if there is a risk to another minor.
 5. However, identification of child abuse is a priority for law enforcement. Questions regarding liability for reporting past abuse of a child, who is an adult at the time of disclosure or discovery of the abuse, should be directed to the reporter's appropriate legal adviser.

D. Duties of Mandated Reporters

1. A report shall be made immediately or as soon as practically possible and may be made 24 hours-a-day, 7 days-a-week, to:
 - a) The appropriate local law enforcement agency (See Appendix F). If outside of business hours or unsure of jurisdiction, call 911 to report.
 - b) The Child Abuse and Neglect Center (CAN Center) created by the Department of Family and Children's Services in Santa Clara County at (833) 722-5437 (SCCKIDS).
2. Law enforcement investigating suspected acts of sexual abuse should immediately, or as soon as practically possible, contact the Department of Family and Children Services (DFCS) Joint Response call toll free line **(833) 722-5437** (SCCKIDS), which is available 24 hours a day, 7 days a week. Joint Response is activated through the Law enforcement agency's communication center. A DFCS social worker shall arrive at the investigation scene within 60 minutes of the activation of Joint Response.
3. The reporter shall submit a written report within 36 hours
 - a) The Suspected Child Abuse Report form (SS 8572) available from the Department of Family and Children's Services at (408) 299-2071 or http://ag.ca.gov/childabuse/pdf/ss_8572.pdf.

E. Confidentiality of Report and Reporter

1. The identity of all persons who report shall be confidential and disclosed only between employees of child protective agencies, or to the following individuals pursuant to Penal Code § 11167(d):

- a) Counsel representing child protective agencies
 - b) The District Attorney in a criminal prosecution or an action instituted under Section 602 of the Welfare and Institutions Code
 - c) Counsel appointed to represent the minor in an action instituted under Section 300 of the Welfare and Institutions Code
 - d) Licensing agencies
 - e) Anyone identified by court order
2. Written reports of suspected child abuse or neglect are confidential and may be disclosed only to the individuals identified in Penal Code §11167.5. Those individuals include:
- a) Anyone allowed to receive the identity of the reporter under Penal Code §11167(d).
 - b) Members of the multidisciplinary teams as defined by Welfare and Institutions Code §18951.
 - c) Coroner or medical examiners when conducting the examination of a deceased child.
 - d) The chair, and their designee, of a Child Death Review Team.
 - e) Persons identified by the Department of Justice as listed in the Child Abuse Central Index. The name, address and telephone number of a witness, reporting party and victim may be redacted to maintain confidentiality as required by law.
 - f) Out-of-state law enforcement employees when an agency makes a request for reports of suspected child abuse or neglect. The report should be in writing and on official letterhead, identifying the suspected abuser or victim by name and date of birth or appropriate age.

F. Immunity from Liability When Reporting

- 1. Mandated reporters are immune from civil and criminal liability when making a required or authorized report of known or suspected child abuse. (PC §11172)
- 2. This immunity shall apply even if the mandated reporter acquired the knowledge or reasonable suspicion of child abuse or neglect outside of their capacity or outside the scope of their employment. (PC §11172)

G. Criminal Investigation for Failing to Report

- 1. Failure of a mandated reporter to report suspected abuse is a misdemeanor punishable by six months in county jail or a fine of \$1000, or both. Concealing one's failure to report abuse or severe neglect is a "continuing offense" until the failure to report is discovered by law enforcement or the child welfare agency. (PC §11166(c))

2. How to Investigate Failing to Report Child Abuse.

- a) Determine which individuals knew about the abuse and how they found out about the abuse. Create a timeline regarding disclosures.
- b) Inquire if there was an investigation conducted by an agency, or by individuals, who knew about the abuse. Determine the extent of the investigation including when and where people were interviewed.
- c) Obtain through legal means any documents regarding the investigation.
- d) Interview possible suspects and witnesses regarding why law enforcement was not contacted.
- e) Interview the victim about which individuals the victim disclosed the abuse to.

II. REPORTING REQUIREMENT FOR ADULT/ADOLESCENT SEXUAL ASSAULT

- A. Medical Providers are mandated to report assaultive or abusive conduct, including sexual assault PC §11160.
- B. Any health practitioner employed in a health facility, clinic, physician's office, local or state public health department, or a clinic or other type of facility operated by a local or state public health department who, in their professional capacity or within the scope of their employment, provides medical services for a physical condition to a victim whom they know, or reasonably suspect is a person described as follows, shall immediately make a report.
 1. Any person suffering from any wound or other physical injury inflicted by their own act or inflicted by another where the injury is by means of a firearm.
 2. Any person suffering from any wound or other physical injury inflicted upon the person where the injury is the result of assaultive or abusive conduct, which includes:
 - a) Assault with intent to commit mayhem, rape, sodomy, or oral copulation, in violation of Section 220
 - b) Sexual battery, in violation of Section 243.4
 - c) Incest, in violation of Section 285
 - d) Rape, in violation of Section 261
 - e) Spousal rape, in violation of Section 262
 - f) Procuring any female to have sex with another man, in violation of Section 266, 266a, 266b, or 266c
 - g) Abuse of spouse or cohabitant, in violation of Section 273.5
 - h) Child Sexual Abuse
 - i) Sodomy, in violation of Section 286
 - j) Lewd and lascivious acts with a child, in violation of Section 288
 - k) Oral copulation, in violation of Section 287
 - l) Sexual penetration, in violation of Section 289
 - m) An attempt to commit any crime specified above

3. To satisfy the reporting mandate, both of the following must be completed:
 - a) A telephone report shall be made to a local law enforcement agency immediately or as soon as practically possible
 - b) A written report shall be prepared using either of the following forms. The completed form will be submitted to local law enforcement within two working days of receiving the information regarding the person.
 - (1) Suspicious Injury Report form (Cal OES 2-920), available from <http://www.caloes.ca.gov>
 - (2) Suspected Child Abuse Report form (DOJ SS8572), available from http://ag.ca.gov/childabuse/pdf/ss_8572.pdf

III. REPORTING REQUIREMENT FOR ELDER ABUSE

- E. Any mandated reporter, who in their professional capacity, or within the scope of their employment, has observed or has knowledge of an incident that reasonably appears to be abuse or neglect, or is told by an elder or dependent adult that they have experienced abuse or neglect, shall immediately make a report for each suspected instance of abuse, including:
 1. Physical abuse
 2. Sexual abuse
 3. Sexual assault
 4. Sexual exploitation
 5. Financial abuse
 6. Abduction
 7. Neglect
 8. Isolation
 9. Abandonment
- F. To satisfy the reporting mandate, both of the following must be completed:
 1. A telephone report shall be made to a local law enforcement agency immediately or as soon as practically possible.
 2. A written report shall be prepared using the Report of Suspected Dependent Adult/Elder Abuse (SOC 341), available from: <http://www.cdss.ca.gov/cdssweb/entres/forms/English/SOC341.pdf>. The report should be mailed or faxed within two days to:

Adult Protective Services
333 West Julian Street, 4th Floor
San Jose, CA 95110-2314
FAX: 1-408-975-4910

Dispatch Response

- I. The dispatcher who receives a call of sexual assault shall dispatch an officer, or officers, to every reported incident. The dispatcher who received the call should identify if the caller is in immediate danger and, when warranted, provide the call of sexual assault the same priority as any other life-threatening call.
 - A. If this is a call to report a Non-investigative Report (NIR), see the NIR section of this Protocol.
 - B. Questions to ask the caller:
 1. Caller's name
 2. Are you the victim?
 3. Caller's age
 4. Caller's current location
 5. What type of incident has occurred?
 6. When did the incident occur?
 7. Where did the incident occur?
 8. What is the location of suspect(s)?
 9. What is the relationship of suspect(s) to the victim?
- II. The dispatcher should ascertain any suspect information available, including but not limited to, name, physical descriptors, and relationship – if any – to the victim, and last known location.
- III. The dispatcher who receives the call should attempt to identify potential needs of the caller, including but not limited to, whether immediate medical attention and/or language interpretation accommodations are required.
- IV. The dispatcher should instruct the victim not to shower, eat, drink, brush teeth or hair, or go to the bathroom before evidence is collected. Dispatcher should also instruct the victim to keep any clothing that was present during the incident, preferably in non-plastic bags.
- V. If the dispatcher receives a call from a SAFE Program facility regarding the evidence collection of a victim who chooses not to report at the time of the exam, the dispatcher should:
 - A. Provide the SAFE Program facility with an agency case or incident number.
 - B. Dispatch an officer (or other appropriate personnel) to retrieve the evidence, when requested.
 - C. If the jurisdiction cannot be determined at the time of the call, the agency in which the SAFE Program facility resides is responsible for the evidence collection.
- VI. For additional information regarding dispatch, each agency should refer to their internal dispatch protocol.

Joint Response and Cross-Reporting

- I. Per the Santa Clara County Child Abuse Protocol:
 - A. Law enforcement investigating suspected acts of sexual abuse should immediately, or as soon as practically possible, contact the Department of Family and Children Services (DFCS) Joint Response call toll free line **(833) 722-5437** (SCCKIDS), which is available 24 hours a day, 7 days a week. Joint Response is activated through the law enforcement agency's communication center. A DFCS social worker shall arrive at the investigation scene within 60 minutes of the activation of Joint Response.
 - B. DFCS social worker must immediately, or as soon as practically possible, contact the local law enforcement agency to request a joint response for investigations of allegations of child sexual abuse. An officer shall arrive at the investigation scene as soon as possible.
 - C. In Non-Investigative Report cases, DFCS might not be called out to respond to ensure compliance with Violence Against Women Act (VAWA).
 - D. For more information, reference Santa Clara County Child Abuse Protocol.

Law Enforcement Response

- I. INITIAL INTERVIEW
 - A. The officer who responds to a call of sexual assault should contact the reporting party and attempt to determine whether a crime has occurred. If the reporting party is also the victim, the officer should assess the immediate safety and/or medical needs of the victim and respond appropriately.
 - B. The officer shall explain the benefits of having a sexual assault advocate present, offer to contact a sexual assault advocate, and offer to have the sexual assault advocate present during the interview. Officer shall inform the victim of their right to have an advocate per PC 679.04.
 - C. To have a sexual assault advocate respond in- person, 24 hours a day, an officer should call:
 1. YWCA Silicon Valley for all North and Central County jurisdictions at 1-800-572-2782; or
 2. Community Solutions for South County jurisdictions at 1-877-363-7238
 3. See advocate section for defined jurisdictions
 - D. Using a trauma-informed approach, the initial interview of the victim should consist of questions to determine what occurred, the identity of the suspect(s), the identity of possible witnesses (first disclosure witnesses included), if a BOLO (Be On The Lookout) needs to be broadcast, and any potential evidence that needs to be collected.

- E. Whenever possible, the initial interview with the victim should be recorded in accordance with department policy. Body cams must not be activated in hospital facilities without permission from the victim and Sexual Assault Forensic Examiner (SAFE).
- F. If the officer determines a crime occurred, the officer shall submit a written report documenting their actions, as well as the victim's initial statement. The site of the crime, or the origin of the crime (such as with a kidnapping), determines the jurisdiction of the case. The initial report can be forwarded to the appropriate jurisdiction for investigation.
- G. The officer should explain 293(a) PC – Confidentiality – and complete the appropriate form. Juvenile Victims should always be listed as confidential.
- H. In situations where the victim is in immediate or present danger, the officer shall request an Emergency Protective Restraining Order (EPRO) application.
 - 1. During normal court hours, the officer should call the Family Court at (408) 534-5601 and ask to speak to a judge, who is available to process an EPRO.
 - 2. After 5:00 p.m. on weekdays, weekends, and holidays, the officer should call County Communications at (408) 299-2501 and ask for the Duty Judge to call back. The officer should leave the phone number where they can be reached. If the Duty Judge is not available, the officer should ask to speak to another judge.
 - 3. Upon obtaining an EPRO, the officer must take the following FIVE actions:
 - a) Serve the order on the restrained party. An officer is to make a reasonable attempt to serve the restrained party. If they are present or can be readily contacted, serve the order and complete the Proof of Service on the form. Document if and how the order was served in the police report.
 - b) Give a copy to the Protected Person.
 - c) File a copy with the Court. Once an EPRO is issued, it is the responsibility of the law enforcement agency to promptly file the EPRO with the Family Justice Center Courthouse at 201 N. First Street, San Jose, CA 95113.
 - d) Enter the order into the Department of Justice's computer database.
 - e) Copies of the EPRO should be distributed as follows:
 - (1) Original – Court
 - (2) Yellow – Restrained person
 - (3) Pink – Protected person
 - (4) Goldenrod – Law enforcement agency
- I. The officer shall request that the victim sign a Medical Records Consent release form if any, mental or physical, medical assistance was sought as a result of the sexual assault.

J. Non-fatal strangulation

1. Given the prevalence of non-fatal strangulation in sexual assault, it is important to determine whether the victim had or possibly had a loss of normal breathing during their assault.
2. Officer should ask the victim about strangulation, ensuring that they ask the following:
 - a) Did anyone try to keep you from breathing?
 - b) Did anyone put their hands, body part, or object on or around your neck?
 - c) Did anyone cover your nose or mouth until you could not breathe?
 - d) Did anyone push on your chest so you could not breathe?
3. Refer to Penal Code 273.5 and 245(a)(1) for strangulation events.
4. Incidents of strangulation can result in delayed medical complications. Officer should consider the need for medical aid if the victim is experiencing:
 - a) Loss of breath or difficulty breathing
 - b) Loss of consciousness
 - c) Memory loss
 - d) Dizziness, nausea, headache, or disorientation during or after the incident
 - e) Vision loss or vision changes
 - f) Voice changes or difficulty speaking
 - g) Coughing or difficulty swallowing or sensation of something in the throat
 - h) Sore throat
 - i) Loss of bladder or bowel control
 - j) Problems with balance or coordination
 - k) Pain or stiffness to the neck that was not present prior to the assault
5. Victims often decline medical aid for strangulation. If there is obvious concern for the victim's well-being, emergency medical follow-up should be considered, regardless of the victim's desire. Strangulation assessment and care are part of a sexual assault medical forensic exam. If a victim additionally refuses to have the exam, medical follow-up should still be recommended, since late complications are not unusual.
6. Provide **Strangulation Resource Card** to victim (See Appendix E)

K. Victims who are Minors

1. At the initial interview, if the victim of sexual assault is a juvenile, the officer should refer to their agency's manual for Multi-Disciplinary Interview (MDI) process and authorization. Officer should obtain an initial disclosure and contact a child abuse investigator to schedule an MDI. See Child Abuse Protocol for initiation process.
2. The determination of who will conduct the interview for a child (between 0-17 years) is made by each agency. See Child Abuse Protocol.

L. Law enforcement shall provide every victim with:

1. **Marsy's Law card** (See Appendix E).
2. **"Your Rights as a victim of Sexual Assault"** card per PC264.2. Investigators should make best efforts to provide the card at the beginning of an initial contact (See Appendix E).
3. **Strangulation resource card** (See Appendix E).
4. In cases where Domestic Violence is also present, provide Santa Clara County **Domestic Violence Resource Card**.

M. SEXUAL ASSAULT MEDICAL FORENSIC EXAM

1. The patrol officer or investigator should make their best effort to explain the benefits of medical forensic follow up and offer an examination to all victims of sexual assault. The use of advocates should be implemented to provide an alternative explanation of an exam, if the victim shows reluctance. Issues of medical care, evidentiary value, and STI testing should be paramount in the explanation.
2. If questions arise about the forensic medical exam, the officer may contact the Sexual Assault Forensic Examiner (SAFE) to consult.
 - a) For cases where the victim is **12 and older**, officers may call the Adult/Adolescent SAFE Program at (408) 885-6466 or contact the on-call examiner at (408) 885-5000.
 - b) For cases where the victim is **11 and under**, officers may call the Pediatric SART Program at (408) 885-6460 or contact the on-call examiner at (408) 885-5000.
3. Officers accompanying the patient should follow the Police SART Process: Quick Reference Guide (See Appendix E).
4. For victims reporting **within five days of an assault**, or if drug-facilitated sexual assault is suspected, and the victim cannot wait to urinate until arriving at the exam site, the patrol officer should attempt to collect a urine sample and label it with the patient's name, date, and time of collection. Urine provides a longer window of detection of drugs commonly found in drug-facilitated assaults. The sooner a urine specimen is obtained after an assault and submitted for testing, the greater the chance of detecting substances that are quickly eliminated from the body.
5. If a forensic medical exam is conducted, the patrol officer or investigator accompanying the victim is responsible for transportation of all evidence and storing it appropriately within their agency. Every attempt should be made to keep blood and urine samples in refrigerated storage.

6. **The officer shall stay at the SAFE clinic for the duration of the exam, or until a relief officer arrives, to ensure chain of custody.** If an officer must leave before the medical forensic exam is completed, they must call dispatch to have another officer come and take their place. The officer must wait until the replacement officer has arrived before leaving.
7. If a medical forensic exam is not conducted, the patrol officer or investigator should explain that the opportunity may not remain at a later time, while encouraging the victim to contact the law enforcement agency (LEA) or Santa Clara Valley Medical Center (SCVMC) should they change their mind within a situational time frame.
 - a) If the victim does not want to have evidence collected, the patrol officer or investigator should also inform victim of the option of receiving a medical-only exam and their right to an advocate.
8. Victims who are minors 12 years and older have the right to report a crime, even without parental permission. Law enforcement is not required to notify parents of a sexual assault when the suspect is a non-parent. Some potential reasons for why youths might not want their parents to be notified:
 - a) They might not feel safe at home (for reasons unrelated to the crime they are reporting).
 - b) They might not want their parents to know about their sexual preferences / sexual orientation.
 - c) They might not be ready to disclose for a variety of fears including judgment or shame.
 - d) They might be concerned at their parent's response due to cultural expectations.
9. Any further questions on forensic exams can be directed to the Adult/Adolescent Program Coordinator at:
 - a) (408) 885-6466, during business hours
 - b) (408) 885-5000, during non-business hours

II. INVESTIGATION

- A. The assigned investigator should review the original report and note any need for clarifications, to include ensuring intended meanings and identifying missing information, and confirming proper storage of perishable evidence.
- B. The investigator should call the victim and introduce themselves as the primary investigator and offer a realistic time frame for follow-up.

- C. This conversation should include rape crisis advocacy information to make sure the victim has the appropriate tools for coping with the situation.
- D. The investigator should arrange to meet with the victim and review the original statement seeking more details and securing a timeline of events.
- E. The investigator should complete a thorough investigation to interview all involved parties, or potential witnesses, and secure all possible evidence.
- F. After a complete investigation, the findings should be documented in a written report and ultimately submitted to the District Attorney's Office for review or upon arrest of a suspect.

III. CASE REVIEW BY INVESTIGATORS

- A. Investigators will clear up any discrepancies found in the original report and highlight important facts for ease of reference. Additionally, the investigator should find the following important facts in the report:
 - 1. Can the victim identify the suspect?
 - 2. Who has the victim disclosed being a victim to? (Fresh Complaint Witness)
 - 3. Is the victim aware of other victims or witnesses?
 - 4. Are they cooperative and willing to pursue this case?
 - 5. Do you need to photograph their injuries?
 - 6. Language needs of victim
 - 7. Vehicle description (if applicable)
 - 8. Weapon(s)
 - 9. Witnesses; whether or not they can ID perpetrator
 - 10. Physical evidence: electronic, social media, photographs, crime scene, bedding or clothing
- B. Investigators may need to contact the on-scene patrol officers and review body-worn camera statements
- C. Investigators will determine the status of all evidence in the case and ensure it is properly accounted for and booked into evidence

IV. CONTACTING THE VICTIM

- A. Once an investigator is assigned to a new case, they should attempt to contact the victim as soon as practicable. However, the victim should be contacted within three (3) working days, based on the investigator's schedule, unless the victim does not want contact. **This initial contact shall be done even if the investigator knows they will not be able to proceed with the case for some period of time.**
 - 1. The characteristic mentioned by victims, who are happy with the work of the investigator assigned their case, is that they were kept informed. Conversely, lack

of communication is the characteristic most often reported by victims who are unhappy with their investigator.

2. A victim who hears from the assigned investigator right away is generally more satisfied with the department's service and more cooperative with the investigation.
-
- B. Investigators will arrange a follow-up interview with victim. The follow-up interviews are best done in person and should be conducted in the Sexual Assault Investigation Unit (SAIU) Interview Rooms or the Child Interview Center (CIC), if appropriate, and recorded. If this is impossible, the investigator should conduct the interview(s) by telephone as soon as possible.
 - C. If there is no telephone number for the victim, the investigator should send a letter to the victim. The "Victim Letter" form is available in English and Spanish (See Appendix E).
 1. This letter introduces the officer as the assigned case investigator, lists the case number and the Unit's address and phone number. It asks the victim to contact the investigator as soon as possible.
 2. This letter is to be maintained in the case file and logged in the case notes.
 - D. After the initial follow-up interview(s), the investigator should maintain contact with the victim(s) to keep them apprised of the status of the case.
 1. Remembering that victims appreciate courtesy and sensitivity, the investigator should express concern and genuine interest in solving the case.
 2. The investigator shall refer the victim(s) to the sexual assault advocates.
 3. The investigator may refer the victim(s) to Victim Services Unit, or a mental health care agency or professional to help cope with the trauma of the crime.
 - E. The investigator should leave their business card with the victim(s) so that the Investigator may be personally contacted in the future by the victim(s).

V. INVESTIGATIVE CONSIDERATIONS

- A. Canvass: Investigators are encouraged to canvass the original crime scene for additional witnesses, evidence and/or video cameras. Occasionally, field officers fail to locate and collect pertinent evidence.
- B. Video evidence: Investigators should view all video evidence and ensure it has been properly collected and booked into evidence. If additional video evidence has been identified and needs to be collected, investigators will ensure that the evidence is recovered, reviewed, and booked into evidence.
- C. Physical evidence: Investigators will review all evidence collected in cases. All pertinent physical and biological evidence will be taken to the Crime Laboratory without delay for forensic examination.

- D. Latent prints: Investigators will obtain any latent fingerprints cards submitted into evidence. These cards will be taken to Central Identification Unit for analysis and comparisons.
- E. Police Sketch Artist: Investigators should consider using one of the police sketch artists for a rendering of suspect in a case. This is especially useful with good Victims/Witnesses where no video evidence was collected. The artist is able to develop details in description of the perpetrator that may not be present in the victim(s)' interview. After the sketch is completed, the investigator should have it published in a Watch Bulletin TRAK flyer, other special bulletins, the media, etc.
- F. TRAK Flyer: Investigators will create and distribute TRAK flyers for field officers and Allied Agencies through APB.Net. Investigators should put entries into the Watch Bulletin TRAK flyer as soon as possible, so that information about the crime can be shared with patrol units and other allied agencies. The entry should include a photograph or Police Artist sketch, and concise information necessary to alert field units.
- G. Patrol briefings: Investigators are encouraged to attend Patrol briefings to discuss case, answer questions and distribute TRAK flyers.
- H. Media assistance: Occasionally, it is beneficial to seek the use of the media, i.e. working with newspapers, radio, and television.
 - 1. The investigator may consider publicity through TV shows like "America's Most Wanted," "Unsolved Mysteries," etc. The investigator should consider publishing information about the crime in the San Jose Mercury News "Crime Stoppers."
 - 2. Consider Fugitive Watch and Crime Stoppers. Rewards can be offered for anonymous tips through Crime Stoppers.
- I. Records checks and databases: Investigators must have a strong working knowledge of the vast array of databases and information at their disposal. Investigators will run all associated parties, including Victims through appropriate systems for relevant information.
- J. Photographic lineups: Photographic lineups will be presented in accordance with the Department policy or within current case law with the approval of the District Attorney's Office. Photographic Lineups should be recorded.
- K. Cell phone evidence: All phones collected as evidence need to be searched for relevant information, pursuant to CalECPA and Department policy. Once the consent or a search warrant is obtained, the cell phone should be run through a forensic tool for data and images.
- L. Vehicle evidence: Vehicles should be processed to collect evidence suitable for forensic examination.

- M. Social media: Investigators will have a strong working knowledge of current social media sites and be aware of current case law regarding its use
- N. All evidence shall be booked into evidence: This permits investigators the ease of future use and reference. It alleviates numerous requests by the DA's Office for upcoming trial cases.
- O. Return of evidence: Questions regarding the return of evidence can be directed to the investigator.
- P. Drug-Facilitated Sexual Assault (DFSA) investigations: Whenever available, information regarding the symptoms experienced by a victim (i.e. unconsciousness, amnesia), the length of time symptoms were present, the number and type of drinks voluntarily consumed, if any, and/or any drugs that were voluntarily used (recreational, prescription, or over the counter) should be documented and shared with the laboratory during the course of the investigation.

VI. INTERVIEWS OF CHILDREN

- A. In the interest of better serving children and their families, a facility will be maintained with a comfortable atmosphere in which investigations will be conducted. The Santa Clara County Children's Interview Center (CIC) serves all children who are suspected or confirmed victims of sexual or physical abuse. The CIC is the preferred location to interview victims under the age of eighteen.
- B. For more information, refer to the section in the Santa Clara County Child Abuse Protocol for Law Enforcement.

VII. ONCE INVESTIGATION IS COMPLETE

- A. Investigators shall explain the criminal justice process to the victim and answer any questions they may have about the next steps in the process. Investigators will remain available to victims for updates and to answer questions.
- B. After filing, the investigator should maintain contact with the assigned Deputy District Attorney to assist in prosecution. The investigator should make it a priority to partake in the prosecution of the Suspect and be available for follow-up investigation as needed.
- C. The investigator assigned to the case shall inform every victim if the case is charged or not. It is the responsibility of the investigator to contact the victim and inform them of the decision made by the Office of the District Attorney (see Appendix E for Investigation Outcome Letter examples)

- VIII. REQUEST FOR THE STATUS OF TESTING OF THE SEXUAL ASSAULT FORENSIC EXAM (SAFE) KITS BY VICTIMS
- A. Victims have the right to request that they be informed of the status of the DNA testing of the SAFE kit evidence or other crime scene evidence from the victim's case per Sexual Assault Victim's DNA Bill of Rights (PC 680).
 - B. Law enforcement agencies (LEA) can require that the request be in writing.
 - C. The LEA may respond to the request with either oral or written communication, or electronically if an email is available.
 - D. Sexual assault victims have the right to be informed whether or not:
 - 1. The DNA profile of the assailant was obtained from testing.
 - 2. The DNA profile of the assailant has been entered in to the Department of Justice Data Base.
 - 3. There is a match between the DNA profile of the assailant developed from the evidence and the Department of Justice database, provided that the disclosure will not impede or compromise the ongoing investigation.
 - E. If LEA elects not to analyze DNA evidence within the time limits established, when the identity of the perpetrator is an issue, LEA must inform the victim, either orally or in writing, of that decision.
- IX. SAFE kits and toxicology request envelopes are stored by the law enforcement agency of jurisdiction. If no jurisdiction can be established or verified, then the responsible law enforcement agency will be determined by the jurisdiction where the medical forensic exam is performed.

Correctional Deputy Response (PREA)

In 2003, Congress unanimously passed the Prison Rape Elimination Act (PREA), which mandated the development of national standards for correctional facilities to enhance the sexual safety of inmates. These standards were created by the U.S. Department of Justice (USDOJ) and address prevention, detection, and response to incidents of sexual abuse and sexual harassment.

I. INMATES

- A. An inmate is any person, whether in pretrial, un-sentenced or sentenced status, who is confined in a correctional facility or who is serving a sentence though not confined in a correctional facility, such as an out-of-custody program.

II. INCIDENT TYPES

- A. In confinement settings, incident types include:
 - 1. Sexual abuse of an inmate by another inmate.
 - 2. Sexual abuse of an inmate by a staff member, contractor, or volunteer.

B. Sexual Abuse

1. Sexual act with another by force, or threat of force, without the consent of the other; and employing or displaying a dangerous weapon, or physical object that the victim reasonably believes is a dangerous weapon; threatens, or places the victim in fear, that the victim, or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury or kidnapping.

C. Rape

1. Engaging in oral/vaginal/anal intercourse with another by force, or the threat of force, without the consent of the other; and employing or displaying a dangerous weapon, or a physical object that the victim reasonably believes is a dangerous weapon, or a physical object that the victim reasonably believes is dangerous weapon, or a physical object that the victim in fear, that the victim or an individual known to the victim, imminently will be subject to death, suffocation, strangulation, disfigurement, serious physical injury, or kidnapping.

D. Sexual Assault

1. Forceful or intimidating behavior by one or more person(s) that causes another person to unwillingly engage in the partial or complete sexual act. This includes pressure, threats, or other actions and communications by one or more person(s) to force another to engage in a partial or complete sexual act.

E. Inmate Sexual Misconduct:

1. Sexual behavior directed toward inmates by another inmate, including sexual abuse, sexual assault, and sexual harassment, physical conduct of a sexual nature, sexual obscenity and conversations or correspondence of a romantic or intimate nature.

F. Staff Sexual Misconduct:

1. Any behavior or act of a sexual nature, either consensual or nonconsensual, directed toward an inmate by an employee, volunteer, official visitor, or agency representative. Such acts include intentional touching, either directly or through the clothing, of the genitalia, groin, anus, breast, inner thigh or buttocks that is unrelated to official duties or with the intent to abuse, arouse, or gratify sexual desire, and occurrences of indecent exposure, invasion of privacy, or voyeurism for sexual gratification. Completed, attempted, threatened, or requested sexual acts are included.

G. Inmate Sexual Harassment:

1. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensives sexual nature by one inmate directed toward another.

H. Staff Sexual Harassment:

1. Repeated verbal comments or gestures of a sexual nature to an inmate by an employee, volunteer, contractor, official visitor or other agency representative. Unacceptable comments and gestures include references to gender, sexually suggestive or derogatory comments about body or clothing, and repeated profane or obscene language or gestures.

III. AUTHORIZATION

A. Victim is under the care and control of a custodial facility and is:

1. Not free to leave the facility unless supervised by an authorized custodial staff or law enforcement member.
2. Not entitled to any victim resource that cannot be accommodated by the custody facility when the resource is in direct conflict with subverting the care and control of the custodial facility.
3. Entitled to have an advocate from the YWCA Silicon Valley as they are the agency that has been given clearance to operate in a custodial facility within Santa Clara County.

B. Custody Health Services

1. Medical and mental health staff in custodial facilities, who witness or receive a verbal account of sexual abuse or assault to an inmate, will report the incident to the on-duty sergeant for investigation.
2. A Registered Nurse will obtain the patient's history and perform a nursing assessment.
3. Medical staff, including medical providers and nurses, must inform patients of the provider's duty to report and limitation of confidentiality.
4. If the patient is 12 years or older and alleges sexual assault or abuse occurred within 10 days, the patient will be transferred to the Emergency Department at SCVMC with probation and local law enforcement (e.g. Sheriff) for assessment, forensic medical examination and treatment by the Santa Clara Valley Medical Center Sexual Assault Forensic Exam Team (SCVMC SAFE). If the patient's injuries require emergent/urgent care, the medical providers will decide a method of transportation based on agency guidelines.
5. A copy of the patient's progress notes shall be sent with the patient upon transferring to SCVMC ED.
6. The nurse or medical provider will call the SCVMC ED and give an oral report.
7. For disclosures of prior sexual assault or victimization that occurred more than 10 days ago, custodial agency guidelines will be followed.

IV. EXAMINATION LOCATION

- A. Medical forensic exams for inmate victims are conducted at SCVMC, primarily in the Emergency Department
- B. Additional safety and security concerns must be considered for all inmates, staff, and authorized personnel during a medical forensic exam conducted away from a custodial facility, which may affect the manner in which the exam is conducted
- C. Law enforcement that accompanies the custodial patient will follow the general procedure to initiate the Sexual Assault Forensic Exam (SAFE) Team response (see Appendix E for the Police SART Process: Quick Reference Guide).

V. RIGHTS TO ADVOCACY

- A. A victim has a right to have an advocate accompany them at forensic exams and investigatory interviews.
- B. A victim has the right to access advocates for emotional support services related to sexual abuse. The facility shall provide inmates with mailing addresses and telephone numbers of local rape crisis organizations. Furthermore, the facility shall enable reasonable communication between inmates and these organizations in as confidential a manner as possible. The facility shall inform inmates beforehand the extent to which such communications will be monitored.
 - 1. In Santa Clara County, persons in adult facilities can reach the local rape crisis center by dialing #99 or *99 on any facility telephone. Persons in juvenile facilities can access the local rape crisis center by using a designated red telephone. These calls are free and will not be monitored or recorded.

VI. INMATE TRANSPORTATION

- A. Movements/transportations outside of the secure perimeters of Department Complexes, to include:
 - 1. Transport from complex to complex.
 - 2. Transport to a medical facility.
- B. Inmates will not be permitted to take or receive any items from persons while outside of a complex without authorization from the transporting officer.
- C. Inmates will not be permitted to communicate with other persons while outside a department complex except for:
 - 1. Attending medical personnel, as required
 - 2. Attorneys

3. Parole Agents and Probation Officers
4. Investigating Law Enforcement Officers
5. An interpreter supplied by the courts
6. Other inmates, as authorized
7. Other persons as approved by the transporting officer

D. Transport of Inmates to a Medical Facility

1. Regardless of security level, inmates being transported to a medical facility will be waist chained and leg shackled.
2. Exceptions to the use of restraint devices:
 - a) Any pregnant inmate during any phase of labor shall not be placed in any type of restraint unless, deemed necessary for the safety and security of the inmates, the medical staff, and the public. If a pregnant inmate in labor is secured with any type of restraint a Watch Commander is to be notified at the earliest opportunity. Restraints shall be removed when a professional who is currently responsible for the medical care of a pregnant inmate during a medical emergency, labor, delivery, or recovery after delivery determines that the removal of restraints is medically necessary.
 - b) Medical staff will advise the transporting officer whenever the application of restraints is likely to negatively affect an inmate's injuries or medical condition. In these situations, the decision to use any alternative forms of restraints or less restraint than normally required will be the responsibility of the on-duty Sergeant.
 - c) Requests by hospital medical staff to remove restraints from an inmate will be assessed by the transporting/escorting officer to determine if restraints will be removed. The assessment should include such factors including, but not limited to:
 - 1) Current physical condition of the inmate.
 - 2) Current and any known past behaviors of the inmate.
 - 3) Characteristics of present location.
 - d) If the request is necessary and feasible, the officer shall maintain constant and direct supervision of the inmate to prevent escape.
 - e) If the request is unfeasible due to security or other concerns, the officer will contact the on-duty Sergeant for additional assistance or further instructions.
 - f) Deputies will maintain strict inmate control, security and supervision.
 - g) Deputies will be armed at all times with a Department issued and/or authorized firearm, baton (straight or collapsible) and O.C. canister.
 - h) Deputies must be aware of the possibility of escape attempts and will maintain a constant vigilance in order to deter such an occurrence.

VII. SEXUAL MISCONDUCT INVESTIGATION

- A. All sexual abuse, sexual assault, sexual misconduct and sexual harassment allegations will be referred to the Jail Crimes Investigations Unit. Only criminal investigators who have received special training in investigating sexual abuse will conduct the investigation.
- B. Investigators shall use appropriately legal and accepted best practices when conducting all criminal investigations into complaints of sexual abuse, sexual assault, sexual misconduct and sexual harassment.
- C. All investigations shall be done promptly, thoroughly and objectively, including anonymous and third-party reports.
- D. Staff investigating allegations of sexual abuse and sexual assaults shall follow a uniform evidence protocol that maximizes the potential for obtaining usable physical evidence for administrative proceedings and criminal prosecution.
 - 1. The protocol shall be developmentally appropriate for youth, where applicable.
 - 2. The Sheriff's Office imposes a standard of a preponderance of evidence or a lower standard of proof when determining whether allegations of sexual abuse, sexual assault, sexual misconduct or sexual harassment are substantiated.
 - 3. In circumstances where evidentiary or medically-appropriate forensic medical examinations are necessary to investigate and process complaints of inmate sexual abuse or sexual assault, such examinations will be provided, whether on-site or at an outside facility, without financial cost to the victim inmate. Such examinations shall be performed by SAFEs or SANEs, where possible. If SAFEs or SANEs cannot be made available, the examination can be performed by other qualified medical practitioners. The agency shall document its efforts to provide SAFEs or SANEs.
- E. All criminal investigation shall be documented in an Incident Report that contains a thorough description of the physical, testimonial, and documentary evidence. Documentary evidence will be attached to the report where feasible.
- F. Substantiated allegations of conduct that appear to be criminal shall be referred to the District Attorney's Office for prosecution.
- G. Administrative investigations shall include an effort to determine whether staff actions or failures to act contributed to the sexual abuse, sexual assault, sexual misconduct and/or sexual harassment.
 - 1. All administrative investigations shall be documented in an Incident Report that contains a thorough description of the physical, testimonial, documentary evidences, the reasoning behind the credibility assessments, and investigative facts and findings.
 - a) The credibility of the alleged victim, suspect, or witness shall be assessed on an individual basis and shall not be determined by the person's status as staff or inmate. No inmate alleging sexual abuse shall be required to submit to a

polygraph examination or other truth-telling device as a condition for proceeding with investigation of such an allegation.

- H. If the alleged sexual abuse, sexual assault, sexual misconduct or sexual harassment is inmate-on-inmate, the Department shall retain all written investigative reports as long as the victim and the alleged abuser are incarcerated, plus 5 years.
- I. If the alleged sexual abuse, sexual assault, sexual misconduct or sexual harassment is staff-on-inmate, all administrative and criminal reports shall be retained as long as the alleged abuser is incarcerated or employed by the agency, plus 5 years.
- J. The departure of the alleged abuser or victim from the employment or control of the Department shall not provide a basis for terminating the investigations.
- K. In the event of a report of sexual abuse, sexual assault, sexual misconduct or sexual harassment by a contractor or volunteer on an inmate, an immediate investigation will be conducted.

Sexual Assault Forensic Examiner (SAFE) Response – Adult/Adolescent

The role of the adult/adolescent sexual assault forensic examiner (SAFE) includes ensuring medical treatment and conducting medical forensic examinations for victims 12 and older, who report sexual assault. Unless otherwise specified, the Cal OES 2-923 Sexual Assault Forensic Medical Exam Report Form will be used to document the acute forensic medical examination for victims 12 and older.

I. AUTHORIZATION

- A. Acute medical forensic examinations are performed on victims 12 years and older within 10 days of assault.
- B. Standard acute exams are authorized by law enforcement. Forensic exams cannot be billed to victim or victim's insurance.
- C. Non-investigative acute exams may be provided to victims 12 and older at the victim's request without the authorization of law enforcement. These exams cannot be billed to the victim or victim's insurance (see non-investigative reporting of sexual assault).
- D. A "medical-only" exam may be done for individuals 12 and older if the victim wishes to have medical treatment but declines evidence collection. These exams will be billed to victim or victim's insurance.
- E. Law enforcement may contact the Adult/Adolescent Program Coordinator at (408) 885-6466, or the on-call examiner via the SCVMC Operator at (408) 885-5000, if there are questions regarding exams.

II. CONSENT

- A. Minors, 12 years of age and older, may give consent to the provision of medical care related to the diagnosis or treatment of sexual assault and/or the collection of evidence without parental consent (Family Code Section 6927). The reverse is also true; they may refuse any or all services and treatment.
- B. The SAFE is responsible for obtaining informed consent for medical forensic evaluation, evidence collection, and release of information.

III. SAFE EXAMINATION SITE

- A. If the victim arrives with law enforcement, an officer will:
 - 1. Notify the Emergency Department (ED) charge nurse of arrival.
 - 2. Ensure the victim is registered in the hospital computer.
 - 3. Accompany the victim to the private Family Room.
 - 4. Call the SCVMC operator at (408) 885-5000 (or "0" if calling from hospital line) and request to speak with the on-call examiner.
 - 5. Notify the agency blood tech to respond and draw lab work.
 - 6. Remain at the exam site (or be relieved by an officer from the same jurisdiction) until the exam is completed and evidence/paperwork is collected from the examiner.
- B. If the victim arrives without law enforcement:
 - 1. Hospital staff will determine if the victim wishes to report to law enforcement.
 - a) For victims wishing to report, staff will notify law enforcement to respond. The above procedure will be followed.
 - b) For victims who do not want to report, staff will notify the on-call examiner.
- C. On arrival at the exam site, the victim will be assigned to a private room and triaged for medical care.
 - 1. If medical clearance is required, the victim will be seen in the ED by the ED staff. If necessary, the medical forensic examination may be performed in the ED or in victim setting, in conjunction with medical treatment.
 - 2. If medical clearance has been given or is not required, the medical forensic examination will proceed at the SAFE Examination Site.

IV. SEXUAL ASSAULT FORENSIC EXAMINER (SAFE) EVALUATION

- A. Adult/Adolescent medical forensic examinations may only be conducted by qualified SAFEs who are active with the SCVMC SAFE Program.
- B. SAFEs will ensure that the appropriate sexual assault advocate is notified to respond. The advocate will be introduced to the victim and may be present for any or all of the exam, per the victim's choice. If the victim refuses the presence of an advocate, the SAFE will ensure the victim receives contact and service information for the appropriate advocate agency.
- C. SAFEs will discuss all options of the examination process with the victim, including sexually transmitted infection (STI) prophylaxis, pregnancy prevention, and follow-up care.
- D. Informed consent will be a continuous process. All procedures will be explained prior to being performed. The victim will be given the option to decline any or all procedures but will be informed of the importance of collecting all parts of the forensic evidence.
- E. SAFEs will conduct medical forensic exams in a trauma-informed manner and in accordance with established federal, state, and hospital protocols.
- F. SAFEs will offer a shower and clean clothing to the victim prior to discharge.
- G. Victims will be given discharge information about the treatment and care received, follow up instructions, and referral information.
- H. Evidence, including the Sexual Assault Forensic Exam (SAFE) kit, toxicology specimens, and forensic documentation, will be secured and chain of custody maintained until received by law enforcement.
- I. The SAFE will follow all requirements for mandated reporting.
- J. The SAFE will provide the Marsy's Law, strangulation, and victim's rights cards, if they are not already provided by law enforcement.

Sexual Assault Forensic Examiner (SAFE) Response – Pediatric (11 and under) and some Adolescent

I. AUTHORIZATION

- A. Acute medical forensic exams are done within 72 hours of assault for victims age 0-11 years.
- B. Non-acute medical forensic exams are done for victims:
 - 1. age 0-11 years, if disclosure is made greater than 3 days after assault, and
 - 2. age 12-17 years, if disclosure reveals assault occurred more than 10 days prior to disclosure (see Adult/Adolescent procedure if disclosure is within 10 days of assault).

- C. A “medical-only” child sexual abuse exam can be done if law enforcement does not authorize an exam, and if the victim, parent, legal guardian (not foster parent), or court consents to the exam. These exams will be billed to victim or victim’s insurance and will be done at the Supporting, Protecting, and Respecting Kids (SPARK) Clinic, located at 777 East Santa Clara Ave, Suite 200, San Jose.
- D. Acute and non-acute forensic child sexual abuse exams are done after authorization by law enforcement, the victim, parent, legal guardian (not foster parent), or court. Forensic exams cannot be billed to victim or victim’s insurance.
- E. Law enforcement or Social Services Agency may contact Pediatric Sexual Assault Forensic Examiner (SAFE) at SCVMC 408-885-6460 or 408-885-5000 to arrange an exam.

II. CONSENT

- A. Victims 11 years and younger will be examined only with written consent by parent, legal guardian (not foster parent), or judge. This includes children in protective custody or who are dependents of the juvenile court. The exception would be a case in which evidence might be lost by waiting for consent from parent or guardian; in that situation, a court order should be sought.
- B. A minor 12 years of age or older may consent to medical care related to the diagnosis and treatment of an alleged sexual assault, and the collection of medical evidence with regard to the sexual assault. Family Code Section 6927 permits minor (12 to 17 years of age) to consent to medical examination, treatment, and evidence collection related to a sexual assault without parental consent.
- C. Family Code Section 6928 requires health care professionals to attempt to contact the minor’s parent or legal guardian, and to note in the minor’s treatment record the date and time the attempted contact was made, including whether the attempt was successful or unsuccessful. This provision is not applicable when the health professional reasonably believes the parent(s) or guardian committed the sexual assault on the minor.

III. EXAM PERSONNEL AND LOCATION

- A. Child sexual abuse examinations are conducted in The Center for Child Protection by Sexual Assault Forensic Examiners (SAFE) who have been trained in the Cal OES protocol at the California Clinical Forensic Medical Training Center (CCFMTC) and mentored at The Center for Child Protection at Santa Clara Valley Medical Center. The SAFE will be assisted by a Pediatric Sexual Assault Nurse Assistant, who has also been trained in the Cal OES protocol and mentored at The Center for Child Protection at Santa Clara Valley Medical Center (SCVMC).

- B. If the case is acute (less than 72 hours in patients 11 and younger), Pediatric SAFE contacts Pediatric Sexual Assault Nurse Assistant, who contacts advocate from the YWCA-SV or Community Solutions and arranges for exam as soon as possible in The Center for Child Protection/Pediatric SART Program at the SCVMC SART Building.
 - 1. During business hours, registration will occur at SCVMC SART Building.
 - 2. After regular business hours, registration will occur at SCVMC Emergency Department (ED) and victim will be brought to the SART Building for exam, if possible.
- C. Non-acute pediatric cases (greater than 72 hours in patients 11 and younger; greater than 10 days in patients 12 to 17) are scheduled to be done at the SCVMC SART Building during regular business hours.

IV. SEXUAL ASSAULT ADVOCATE

- A. An advocate will be called by Pediatric SART Program staff prior to all forensic or medical examinations.
- B. The advocate will be introduced to the victim and caretakers prior to the evaluation.
- C. The victim and caretaker will be given the opportunity to decide how they want to interact with the advocate during the evaluation.
- D. The advocate may be present for the exam if desired by the victim.

V. EXAM FOR CHILD SEXUAL ABUSE

- A. Child Sexual Abuse medical exam will be done as described in the Cal OES 2-925 and 2-930 protocols, including general physical examination, careful non-invasive colposcopic examination with magnified photography, forensic evidence collection in acute cases, medical laboratory screening and testing as deemed necessary by history and physical exam findings.
- B. These exam findings will be discussed with custodial parents of children under 12 years of age, and with victims 12 years of age and older. Findings will be discussed with parents of victims 12 years of age and older only with the consent of the victim. Victim and family will be told that all findings will be released to the investigator, or to a judge by court order, but will otherwise be protected as confidential information in the SCVMC medical record.

VI. EXAMINATION REPORTING

- A. After the medical and/or forensic examination of the victim, the SAFE completes the applicable written report.
 - 1. Acute adult/adolescent exam (12 years of age and older): Cal OES 2-923 Acute Adult/Adolescent Sexual Assault Exam (electronic or paper version)

2. Acute child/adolescent exam (infancy to 11 years of age): Cal OES 2-930 Acute Child/Adolescent Sexual Abuse Exam
3. Non-acute child/adolescent exam (infancy to 21 years of age): Cal OES 2-925 Non-acute Child/Adolescent Sexual Abuse Exam
4. A typewritten narrative report will also be prepared by the SAFE, then reviewed and edited in weekly case review by The Center for Child Protection/Pediatric SART Program Medical Director and team. The final reviewed and edited report will be mailed to the investigator within 10 days.

Suspect Examinations

I. GENERAL GUIDELINES

- A. In most circumstances, suspect exams yield useful information within hours of an assault. A general guideline for conducting suspect exams is 72 hours post assault; however, this should not be a rigid cut-off. Injuries and DNA evidence may still be present, depending on the activities of the suspect, and drugs may still be detected in the suspect's system. Professional judgement should be used.

II. ARRANGING AN EXAM

- A. To arrange a suspect exam through Forensic Resource Services, contact Linda Richards at (408) 705-3578.
- B. If the suspect exam will be conducted by agency personnel, refer to the agency policy.

III. LOCATION OF EXAM

- A. Exams are generally done at the facility of the requesting law enforcement agency. Exams may also be performed at a medical facility, if the suspect requires medical care.

IV. REQUIRED PERSONNEL

- A. Evidence collection and exam
- B. Safety measures
 1. During the exam, at least one law enforcement officer should be present in the room at all times.
 2. If the suspect displays hostile or aggressive behavior, the forensic examiner may stop the exam or request the presence of additional law enforcement officers.
 3. Every attempt should be made to provide officers of the same gender during the exam or collection efforts, if possible.

V. CONSENT

- A. If the suspect examination is done by law enforcement, consent should be obtained per agency policy.
- B. If the suspect examination is done by a SAFE/SANE, consent to collect evidence will be required by either of the following:
 - 1. The SAFE/SANE will obtain consent by having the suspect complete the "Consent for Suspect Forensic Examination" (See Appendix E).
 - 2. The requesting law enforcement agency will obtain a search warrant or court order to allow the SAFE/SANE to complete a suspect forensic examination. This document must be made available for the SAFE/SANE to review at the time of the exam.

VI. EVIDENCE

- A. The suspect should not be brought to the victim's location. In the event that both the victim and the suspect are at a medical facility at the same time, every effort should be made to keep them from seeing one another or having any contact.
- B. Avoid cross contamination of evidence.
 - 1. Prevent contact between the victim and suspect.
 - 2. Perform exams for victim and suspect in separate locations.
 - 3. If the same examiner performs both exams, the following must be done:
 - a) Change clothes or use disposable coveralls.
 - b) Change personal protective equipment between exams.
 - c) Wash hands thoroughly between exams.
- C. Toxicology samples
 - 1. For all instances where the suspect may have been under the influence of alcohol or drugs at the time of the incident, blood and urine samples may be collected.
 - 2. If collection of blood and urine for a suspect is indicated, it should be done following the same forensic evidence guidelines used during a victim forensic medical examination.
- D. Paperwork
 - 1. For male suspects, use the Cal OES 2-950 (See Appendix E).
 - 2. For female suspects, use the Cal OES 2-950 but replace page 4 with page 6 of the Cal OES 2-923 (see Appendix E).
 - 3. Place a copy of the completed form in the suspect evidence kit. Law enforcement keeps the original.

Sexual Assault Advocate Response

I. SEXUAL ASSAULT ADVOCATES IN CALIFORNIA

- A. Victims of sexual assault have the right to a sexual assault counselor, as defined by Evidence Code 1035.2. In Santa Clara County, the local rape crisis centers are Community Solutions and YWCA Silicon Valley, who have trained confidential sexual assault advocates.
- B. Both agencies meet the requirements stated under Evidence Code 1035.2 for “sexual assault victim counselor,” Penal Code 264.2(b)(1) for “local rape victim counseling center,” and Penal Code 679.04(a) for “victim advocate.”

II. ROLE OF SEXUAL ASSAULT ADVOCATE

- A. The role of advocates in the response to sexual assault is to provide crisis intervention services, information, referrals, counseling, accompaniment, and support through the legal process.
- B. Sexual assault advocates help victims navigate the criminal justice system, provide education on the dynamics of sexual assault, provide access to an array of local services, and develop safety plans.
- C. More difficult to define, but of great importance, is the role advocates play in bearing witness to the experience of the victim. They do this by listening, believing, empowering, serving as a buffer, interrupting victim blaming, and honoring the choices that a victim makes.
- D. Advocates are uniquely positioned to offer victims the array of available options and to support the choices victims make. For advocates, the outcome the victim identifies they want—not the needs of the legal system or other responders—defines the advocacy strategy.
- E. The sexual assault advocate should notify the SAFE if leaving prior to completion of the exam.

III. CONFIDENTIALITY AND PRIVILEGE

- A. Victims of sexual assault are often cautious about disclosing the circumstances leading up to the assault and details of the assault itself. Some victims wait years to disclose or never disclose at all.
- B. Privileged communication is communication that is entitled to protection from disclosure in court or other legal proceedings. Information that is privileged has greater protection than information that is confidential. Privileged information may be subpoenaed but it is protected and only the holder of the privilege (the victim) may waive the privilege to release the information being subpoenaed.

- C. Sexual assault advocates in California have privilege. All advocacy agencies and programs must provide victims with a reasonable expectation of confidentiality with respect to their conversations and exchanges. In order to release any information to other parties, advocates must first obtain written permission from victims prior to contacting or sharing information with any other service providers and responders. Advocates hold confidentiality privilege. Having a confidential person who offers a non-judgmental, empowerment approach provides victims the opportunity to build trust and to understand their rights and options.
- D. Victim advocates in the District Attorney's' office, law enforcement advocates, and other government-based advocates are considered "agents" of the government entity for which they work and are not in a position to guarantee confidentiality to the victim, as they fall under the Brady Law. It is therefore best practice for these advocates to inform victims, prior to the victim's disclosure, about the level of confidentiality that can—and cannot—be afforded to them.

IV. SEXUAL ASSAULT ADVOCATES IN SANTA CLARA COUNTY

A. Responses and supportive services are split by service area to help support clients locally in offices and systems nearest to them.

Rape Crisis Centers	YWCA Silicon Valley	Community Solutions
Jurisdiction Served	North/Central County: San Jose, Palo Alto, Sunnyvale, Mountain View, Saratoga, Los Altos, Los Gatos, Milpitas	South County: Morgan Hill Gilroy San Martin Unincorporated South Santa Clara County
24hr crisis line number (call for advocate response)	800-572-2782	877-363-7238
Response Time	30 minutes	1 hour
Office Locations	San Jose Sunnyvale	Gilroy Morgan Hill
Languages	Rape Crisis Centers have advocates with various language capacities. Advocates also have access to translation services. The Victim Services Unit has bilingual staff and can utilize translation services in over 200 languages	
Family Justice Center Days*	Friday in Sunnyvale	Wednesday in Morgan Hill
Services	<ul style="list-style-type: none"> ● In-person Response: for medical forensic exam, LEA Interview, MDI, and schools. ● Legal Advocacy: restraining orders and case follow-up. <ul style="list-style-type: none"> ● Accompaniment: LEA follow-up interviews, DA interviews/meetings, and court hearings. ● Counseling: individual and group. ● Support and Education: on rights and issues. <ul style="list-style-type: none"> ● Resources and Referral Linkage ● Prevention and Outreach 	

Note: There is an additional Family Justice Center day on Thursdays. It is held at the Asian Americans for Community Involvement (AACI) Center, located at 749 Story Road, Ste. 50, in San Jose.

V. LAW ENFORCEMENT, DISTRICT ATTORNEY OR DEFENSE ATTORNEY INTERVIEWS

- A. All sexual assault victims have the right to have a sexual assault advocate present during all law enforcement, District Attorney or defense attorney interviews per PC 679.04; this includes the initial interviews. The rape crisis center serving their jurisdiction should be called to request an in-person response.
- B. Prior to the beginning of the initial interview the victim shall be notified orally or in writing by the officer or District Attorney that they have the right to have a sexual assault advocate and a support person of the victims choice present at the interview.
- C. Law enforcement may begin their interview process during an initial interview while waiting for a sexual assault advocate to arrive. Once the advocate has arrived, allow time for victim and advocate to meet in private.
- D. If the victim chooses to have the sexual assault advocate stay, the sexual assault advocate will be present at all aspects of the process that the victim chooses.

VI. SEXUAL ASSAULT ADVOCATES DIFFER FROM A SUPPORT PERSON

- A. A support person is identified as a family member or friend of the victim.
- B. A support person could be excluded from interviews if that person could be viewed as detrimental to the purpose of the interview.
- C. A sexual assault advocate cannot be excluded from the interview, unless at the request of the victim.

VII. WHAT SEXUAL ASSAULT ADVOCATES CANNOT DO

- A. Provide transportation to or from the medical forensic exam.
- B. Respond in person to someone's house or scene of crime.
- C. Participate in gathering of evidence, fact-finding or investigating of the assault.
- D. Conduct or assist the medical exam or interviews.
- E. Act as a translator or interpreter.
- F. Give legal advice.
- G. Testify in court.

Crime Laboratory Response

- I. The crime laboratory analyzes and interprets evidence collected by medical and law enforcement personnel. Its objective is to provide information useful in implicating or exonerating persons suspected of committing a crime, and corroborating or reconstructing the events in question. For cases involving alleged sexual assault, this may be accomplished through an examination of biological material, trace evidence, and toxicological samples, such as:
 - A. Body cavity swabs (vaginal, oral, rectal)
 - B. Swabs potentially containing saliva (breast, neck, suction injury, bite mark)
 - C. Swabs potentially containing trace DNA (areas involved in restraint or strangulation)
 - D. Fingernail scrapings or clippings
 - E. Condoms
 - F. Feminine hygiene products
 - G. Body hair samples
 - H. Clothing and/or bedding
 - I. Trace evidence (hairs, fibers, plant material, lubricant)
 - J. Urine or blood specimens for Toxicology
 - K. Evidence collected from the suspected assailant (genital swabs; fingernail scrapings or clippings; body hair samples; blood/urine)

- II. At the conclusion of the examination(s), the laboratory communicates all findings to law enforcement agencies and the District Attorney's office through written reports and to the courts through testimony.

- III. The Santa Clara County Crime Laboratory is divided in various sections responsible for conducting different types of evidentiary analysis. The Toxicology Unit of the laboratory receives blood and/or urine samples to be tested for the presence of alcohol or drugs in cases that are suspected to be a Drug Facilitated Sexual Assault (DFSA). These biological specimens differ from other types of evidence, such as DNA, and thus are to be treated independently. Evidentiary samples collected for toxicological analysis are to be:
 - A. Whenever possible, collected in the laboratory's designated collection vials containing appropriate amounts of preservative and/or anticoagulant.
 - B. Labeled with a unique identifier (patient's name, LEA's case number, and/or SAFE kit number).
 - C. Packaged in a signed and sealed *toxicology request envelope* provided by the Crime Laboratory. This envelope should clearly state:
 1. The victim's name (not applicable for VAWA/NIR cases)
 2. SAFE kit unique identifier (when applicable)
 3. Type of specimen collected (blood and/or urine)

4. Date and location of sample collection
 5. Date of incident
 6. Charge
 7. Submitting agency and agency's case number
 8. Chain of custody
 9. Whether the case is suspected to be a DFSA by checking the *Drug Facilitated Assault Panel* checkbox in the test(s) requested section of the envelope and/or writing "DFSA" on the front of the envelope.
- D. Refrigerated, whenever possible, and submitted to the laboratory as soon as possible to ensure time-sensitive testing can be performed promptly.
- E. DFSA cases submitted will be tested in a timely manner for the drug methods currently validated by the laboratory. However, if there is suspicion that a substance, for which the laboratory currently does not test for, may be present, the laboratory will contact the investigating agency to determine if the sample should be submitted for outside testing. Other substances may be indicated in the evidence envelope by documenting any suspected voluntary or involuntary drug use (i.e. medications).
- F. Following completion of analysis, all samples will continue to be refrigerated and stored for 3 years, after which time they will be destroyed, unless other arrangements have been made. Due to the nature of these samples and given that substances will degrade with time, analysis of blood and urine after this period of time will not be of value to an investigation.
- IV. In addition to the above responsibilities, the laboratory has the following responsibilities as a member of the Sexual Assault Response Team (SART):
- A. Participate as an active partner in SART by attending monthly meetings.
 - B. Provide training regarding evidence collection and preservation, practices to avoid cross-contamination, and any new forensic technologies that would influence sample collection.
 - C. Provide clear and constructive feedback to Sexual Assault Forensic Examiners (SAFEs) regarding the manner in which the medical evidence was collected and the quality of the specimens included in the kit or toxicology request envelope.
 - D. Provide clear and constructive feedback to law enforcement personnel regarding the manner in which physical evidence was collected (e.g. clothing, bedding, towels).
 - E. Notify law enforcement personnel and attorneys when potential associations are made between DNA profiles entered into the Combined DNA Index System (CODIS)
 - F. Continue to work with colleagues statewide to implement a standard sexual assault kit for California.

- G. Continue to work with colleagues statewide to remain up to date on analysis, method development and effects of drugs commonly seen in drug facilitated sexual assault cases.
- H. Process all kits and all applicable toxicology samples submitted to the laboratory in a timely manner, with the exception of non-investigative report (NIR) cases, which are not to be tested. VAWA/NIR kits, toxicology request envelopes, and evidence that are submitted to the Crime Laboratory, without release by the victim, will not be tested and returned to law enforcement to hold.
- I. Prioritize case requests involving judicial deadlines, investigative demands, perishable nature of evidence, and/or public safety risks.
- J. Identify evidence that is inadvertently submitted to the laboratory (e.g. NIR/VAWA) and return them to the appropriate law enforcement unexamined.
- K. Ensure laboratory resources are commensurate with the needs of law enforcement agencies.

District Attorney Response

I. Issuing a Criminal Complaint

- A. All sexual assault cases, whether misdemeanor or felony, should be delivered to the Office of the District Attorney Sexual Assault Team secretary at the San Jose office, regardless of the crime location.
- B. Investigating officers, who wish to obtain a felony complaint, should meet and discuss the case with the Supervisor of the Sexual Assault Team.
- C. Investigators should bring the following materials:
 - 1. Three (3) copies of all reports, including supplemental reports.
 - a) The following information of all victims should be redacted in copies of reports to be filed with the court pursuant to PC sections 964, 841.5 and 293:
 - 1) Name
 - 2) Address
 - 3) Telephone number
 - 4) Driver's license number
 - 5) California identification card
 - 6) Social security number
 - 7) Date of birth
 - 8) Place of employment
 - 9) Employee identification number
 - 10) Mother's maiden name
 - 11) Demand deposit account numbers
 - 12) Credit card numbers

b) The following information of all witnesses should be redacted in copies of reports to be filed with the court pursuant to PC sections 964, 841.5 and 293:

- 1) Address
- 2) Telephone number
- 3) Driver's license number
- 4) California identification card
- 5) Social security number
- 6) Date of birth
- 7) Place of employment
- 8) Employee identification number
- 9) Mother's maiden name
- 10) Demand deposit account numbers
- 11) Credit card numbers

2. Copies of all photographs
3. Copies of all audio and video tapes
4. Copies of all medical records, including the medical forensic exam report
5. Copies of DFCS or Juvenile Dependency Court records
6. Defendant's rap sheet (local, state, FBI)
7. Completed warrant due diligence form

C. Sexual Assault filing decisions are made by the District Attorney's Sexual Assault Team.

II. RESPONSIBILITIES OF THE DISTRICT ATTORNEY'S OFFICE (DAO)

- A. Police reports will be filed with the defendant's discovery packet. The Sexual Assault Team Supervisor will review the case to determine whether any reports (e.g., confidential juvenile case file material) should be held back.
- B. The Sexual Assault Team paralegals will duplicate or otherwise make available audio and videotapes for the defense attorneys on all cases.
- C. Sexual assault medical forensic exam materials, including the report and the photos, will be provided to the defense after a court order for their release is obtained from the court by the assigned Deputy District Attorney (DDA).
- D. Child pornography materials will be provided to the defense after the defense attorney signs the required stipulation.

III. SUPPLEMENTAL REPORTS

- A. The investigating officer will provide copies for all supplemental reports (including lab reports and autopsy reports) to the Sexual Assault Team secretary at the DAO. Sexual Assault Team paralegals will provide copies to the assigned DDA and the defendant's attorney.

IV. JUVENILE CASE FILE MATERIAL

- A. Welfare and Institutions Code 827 authorizes the DAO and law enforcement agency to view and copy relevant portions of juvenile case files (e.g., Juvenile Dependency Court and DFCS files).
- B. It is a misdemeanor to disseminate juvenile case file material to any unauthorized agency or attorney (including the defendant's attorney) without a court order.
- C. Law enforcement shall make every effort to prevent the unauthorized dissemination of juvenile case file material. Furthermore, without a court order, juvenile case file material shall never be released to an unauthorized entity as an attachment to other investigative reports.

V. CHARGING APPROACH

- A. When reviewing a case for issuing, the reviewing DA will ask the following questions before deciding to charge:
 - 1. Was a crime committed?
 - 2. Do we know who committed the crime?
 - 3. Can the crime be proved beyond a reasonable doubt?
 - 4. Is charging the right thing to do?

VI. RESPONSE TO PACKET SUBMITTED FOR CHARGING (See Appendix B for common charges):

- A. Case is issued as requested.
- B. Case is issued with additional charges.
- C. Case is rejected for all purposes.
- D. Case is rejected with suggestions for additional investigation to be completed.

VII. RESPONSE TIME:

- A. In-custody defendants: Pursuant to Penal Code section 825, the DAO must file charges within 48 hours of a defendant's arrest. See chart below for arraignment schedule.
- B. For out-of-custody defendants, the DAO policy is to make a charging decision within 30 days of receiving the issuing packet in the office.

- C. Any investigator who wishes to expedite an out-of-custody warrant may meet with the Sexual Assault Team Supervisor to request a walk-through warrant. The DAO can then expedite the complaint process; the warrant can be presented to the judge by the investigator for approval of charges, and once the warrant is entered into the California Law Enforcement Telecommunications System (CLETS), the investigator may arrest the suspect.

PC 825 Arraignment Schedule Regular and Monday Holiday

Day of Arrest	Time of Arrest	Arraignment Day	Arraignment Day (Monday holiday)
Monday	0001 – 1700	Wednesday	Thursday
Monday	1701 – 2359	Thursday	Thursday
Tuesday	0001 – 1700	Thursday	Thursday
Tuesday	1701 – 2359	Friday	Friday
Wednesday	0001 – 2359	Friday	Friday
Thursday	0001 – 1700	Monday	Tuesday
Thursday	1701 – 2359	Tuesday	Wednesday
Friday	0001 – 1700	Tuesday	Wednesday
Friday	1701 – 2359	Wednesday	Thursday
Saturday	0001 – 2400	Wednesday	Thursday
Saturday	0001 – 2400	Wednesday	Thursday

I. INITIAL CONTACT

- A. Once the District Attorney's Office issues a criminal case, the victim will receive a letter indicating that a case was filed. This letter will contain the following important information:
 - 1. The District Attorney case number that has been assigned to the matter.
 - 2. All the Penal Code charges that the District Attorney filed against the defendant e.g. Penal Code 289(d) (Sexual Penetration where the victim was unconscious of the nature of the act).
 - 3. A contact number for the District Attorney Victim Services Unit and a brief description of the services provided by that center.
 - 4. The contact number for the Supervising Deputy District Attorney of the Sexual Assault Team.
 - 5. The victim will be advised that their name has not been released as part of any public record. Their name is not released to anyone but the defense attorney representing the defendant.
- B. This letter is written in English but provides information in Spanish and Vietnamese with contact numbers for further assistance.
- C. Once the District Attorney's Office issues a case, an advocate from the Victim Services Unit will also send a separate letter to the victim and attempt to contact them.
- D. Once a Deputy District Attorney is assigned to the case, they will reach out to the victim telephonically to introduce themselves and provide contact information.

II. ARRAIGNMENT IN COURT

- A. On the day that the defendant is arraigned in court (advised of the charges against them) the judge will automatically issue a protective order for the benefit of the victim in the criminal case pursuant to Penal Code 136.2.
- B. The courtroom deputy will personally serve the defendant with a copy of this order. This order typically provides, absent unusual circumstances, that:
 - 1. Defendants shall not contact the victim themselves or through a third party by any means.
 - 2. The defendant may not come within 300 yards of the victim.
 - 3. The victim may record any communications by the restrained person.

- C. It is not necessary for the victim to be present at the arraignment. If the victim's presence is needed, they will be notified far in advance by the Deputy District Attorney assigned to the case.
- D. A copy of this protective order will be mailed to the victim shortly after the hearing.

III. PRETRIAL

- A. Once a defendant has been arraigned, there will often be multiple court dates where the Deputy District Attorney, the defense attorney, and a judge will share all necessary information about the case with each other.
- B. It is not necessary for the victim to be present at any of these court dates. If the victim is needed, they will be notified far in advance by the Deputy District Attorney assigned to the case.

IV. PRELIMINARY HEARING

- A. If the Deputy District Attorney and the defense attorney are unable to resolve the matter via plea bargain, the case will be set for a preliminary hearing.
- B. A preliminary hearing is a mini trial where the judge will listen to the evidence and decide if there is enough evidence to show:
 - 1. That the charged crimes were committed and
 - 2. The defendant committed those crimes.
- C. This is called probable cause. The judge is the trier of fact. There is no jury present. A victim will be notified that their presence is necessary for this hearing well in advance of the hearing date, if possible.
- D. If the victim or witness to the crime is a child, a court tour will be arranged before the preliminary hearing. The purpose of this tour is to help familiarize the child with the courtroom and the process.
- E. The child will often sit in the witness chair, get to bang the gavel and sometimes judges even allow children to try on their robes. This is all done to alleviate any fear the child may have that the courtroom is a scary place.
- F. For an adult victim or witness who wishes to have a courtroom tour, arrangements can be made.
- G. During the hearing the victim will answer questions first from the Deputy District Attorney and then the defense attorney.

V. SUPPORT PERSON

- A. When the victim takes the witness stand, they are entitled to have an advocate and/or support person of their choosing sit next to them on the witness stand, per Penal Code 868.5(a). The victim is also entitled to have a second support person of their choosing sit in the courtroom audience.

VI. TRIAL

- A. If the judge finds there is sufficient evidence at the preliminary hearing, the case will proceed to trial.
- B. There may be many more court dates after the preliminary hearing where the Deputy District Attorney, the defense attorney and a judge will discuss the case to see if it can resolve without the matter going to trial.
- C. It is not necessary for a victim to attend any of these court dates.
- D. If the case cannot resolve, the case will proceed to trial.
- E. At the trial, the Deputy District Attorney must prove all the elements of the charged crime beyond a reasonable doubt. Twelve jurors will listen to all the evidence and decide if the case has been proven beyond a reasonable doubt.
- F. A victim or witness will be notified that their presence is necessary for this courtroom testimony well in advance, if possible.
- G. The format will be the same as it was at the preliminary hearing. The Deputy District Attorney will ask questions first followed by the defense attorney.
- H. All victim rights that applied at the preliminary hearing in terms of witness support persons apply equally at trial.

VII. SENTENCING

- A. If the jury finds the defendant guilty of any or all charges, or the defendant pleads guilty to any and all charges, a date will be set for the defendant to be sentenced.
- B. Prior to the sentencing, the probation office will reach out to the victim seeking input about the victim's thoughts on the crime and the effect the crime has had on their life. They will inquire about any monetary losses the victim suffered as a result of the crime and any counseling or medical bills the victim incurred.
- C. It is not necessary for a victim to be present on the date of the sentencing but they are entitled to be there if they choose.
- D. Victims have the right to give a victim impact statement in open court at the sentencing. This statement may be anything a victim wishes the court and/or defendant to hear. It usually details the impact that the crime had on their lives emotionally and financially.

Court Process - JUVENILE

- I. If the person who commits a sexual assault is a juvenile, the court process is different in certain respects. Juvenile Justice proceedings are governed by the Welfare and Institutions Code and the Penal Code. There is a special courthouse within Santa Clara County that deals exclusively with juvenile offenders. Victims of juvenile offenders will receive the same notifications from the Office of the District Attorney and share all the same rights as victims of adult perpetrators.
 - A. Terminology in the juvenile justice courthouse is different than terminology in adult court.
 1. A defendant who is under the age of 18 is referred to in all proceedings as a "minor."
 2. A minor does not plead guilty or not guilty. Instead, the minor "admits" or "denies" the petition.
 - B. Three key differences in juvenile justice court are:
 1. Juvenile proceedings are confidential and closed to the public.
 - a. Despite the fact that proceedings are closed to the public, the victim and two support people are allowed to attend all proceedings, unless there is a showing of prejudice (Welfare and Institutions Code 676, 679). Other people may be permitted to attend, so long as they can show a direct and legitimate interest in the particular case.
 2. There are no preliminary hearings.
 - a. Since there are no preliminary hearings, victims will potentially only have to testify once regarding the offense(s). If subpoenaed to testify, they will not testify in front of a jury but will only testify in front of the judge, defense attorney and necessary court personnel. This hearing is called a "contested jurisdictional hearing."
 3. There are no jury trials.
 - C. In some situations, the court process can move extremely quickly in juvenile justice court. If a minor is in custody (juvenile hall), and elects to have a contested jurisdictional hearing, without waiving any time rights, then that hearing must be held within 15 court days of the detention hearing. If the minor is out of custody and wishes to have a hearing without waiving any time rights, then the hearing must be held within 30 calendar days of the detention hearing. (Welfare and Institutions Code 657(a)).
 - D. If the judge finds that the People have proven the charges then the petition is "sustained."

1. Sentencing options differ greatly for juveniles because the juvenile justice court tries to treat and rehabilitate minors, in addition to protecting the public.
2. A sentencing hearing in juvenile justice court is called a "disposition hearing." Victims have a right to attend the dispositional hearing, present a written victim impact statement, and speak at the hearing. Welfare and Institutions Code 656.2

E. COMFORT ANIMAL

1. The District Attorney's Victim Services Unit (VSU) can provide services of a court support dog when requested by a victim. Court support dogs are professionally trained dogs that primarily provide comfort and a calming influence for children, as well as adult victims of crime, during stressful legal proceedings. Court support dogs may be present during interviews, court tours, and/or during testimony.
2. Court support dogs are available for accompaniment Monday through Friday from 8:00 am to 5:00 pm.
3. To reserve a court support dog accompaniment, contact Sylvia Mata at (408) 792-2938.

Non-Core SART Partners Response

Campus Response

I. JEANNE CLERY ACT

- A. The Clery Act was named after Jeanne Clery, who was raped and murdered in her dorm room by a fellow student on April 5, 1986. This Act is a federal law that requires all colleges that receive federal funding to report crimes that occur “on campus” and school safety policies. This information is available each year in an Annual Security Report (ASR), which can be found on each school’s website. The Clery Act also requires schools to send timely warnings to the school community when there are known risks to public safety on campus.
- B. The Clery Act also contains the Campus Sexual Assault Victim’s Bill of Rights, which requires colleges to disclose educational programming, campus disciplinary processes, and victim rights regarding sexual violence complaints. Under the Bill of Rights, colleges and universities — **but not K-12** — must do the following:
 - 1. Notify victims of counseling resources.
 - 2. Notify victims of the option to report a case to either the school, law enforcement, or both.
 - 3. Provide academic or living accommodations, such as changing dorms, classes, etc. Schools are discouraged from burdening the victim, instead of the perpetrator, with the responsibility to change their circumstances.
 - 4. To be notified of the final outcome of a disciplinary proceeding.
- C. Determination of Timely Warning
 - 1. When a crime covered by the Clery Act (including sexual assaults) occurs on campus or in an area surrounding it, officials are required to evaluate if there is a serious or ongoing threat to the campus community and determine if a timely warning needs to be issued.
 - 2. This notification can include the entire campus or be limited to a specific area deemed to be at risk. The purpose of the warning is to aid in the prevention of similar crimes by alerting the community about the incident and providing information on precautions people can take to enhance their personal safety. The methods typically used are text message, email, and/or phone – and depends on the nature of the incident.
- D. The Clery Act was expanded in 2013 by the Campus SAVE Act, which broadened the Clery requirements to address all incidents of sexual violence (sexual assault, domestic violence, dating violence, and stalking).

II. TITLE IX

- A. "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."
- B. This applies to all school levels, including K-12, colleges, universities, or trade schools that receive federal funds directly, or through federal financial aid programs used by their students.
- C. It is required that a victim be notified of the option to report a case to either law enforcement, the school, or both. Under Title IX, this includes incidents that occur off-campus with students or involve people who are not students on campus.
- D. Working collaboratively with the Title IX office can be beneficial in limiting a victims' over exposure to multiple interviews. However, a sexual assault medical forensic examination is an evidentiary examination for the purpose of the criminal investigation. It is NOT to be provided to alternative offices investigating campus policy violations.

III. SANTA CLARA COUNTY UNIVERSITY/COLLEGE CAMPUS MOU

- A. In 2016, a Memorandum of Understanding (MOU) was signed by Santa Clara County colleges and universities, local law enforcement agencies, Office of the District Attorney for Santa Clara County, Rape Crisis Centers, Santa Clara County Victim Services Unit and the Sexual Assault Forensic Exam Team associated with Santa Clara Valley Medical Center.
- B. Purpose
 - 1. The MOU was developed to meet the statutory requirements, established by the California Education Code. These require covered institutions to adopt and implement written policies and procedures that ensure reports of Part 1 violent crimes, hate crimes, or sexual assaults are immediately, or as soon as practicably possible, disclosed to local law enforcement (Ed. Code §67383(a) and §67381)
 - 2. The MOU promotes collaboration between the parties and enhances the reporting, investigation, and appropriate response to sexual assault and other covered crimes.
 - 3. The MOU promotes compliance with the numerous state and federal laws that provide specific requirements related to these issues, as outlined in California Education Code sections 67380, 67381 (the Kristin Smart Campus Safety Act of 1998) and 67383; SB 967 (de León, 2014), specified in California Education Code section 67386; the federal Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act"); Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. §14141; Title IX of the Higher Education Amendments of 1972 ("Title IX"); and Violence Against Women Reauthorization

Act of 2013 [VAWA] (Public Law 113-14), Department of Education Final Rule (2014); as well as the California Penal Code and applicable state laws related to health and confidentiality/privacy.

Victim Services Unit Response

- I. Individual victims, or a member of their family who have been the victim of a violent crime, can receive help from the Santa Clara County District Attorney's Victim Services Unit.
- II. Victim advocates from the Victim Service Unit can connect them to resources, serve as their liaison to prosecutors, law enforcement and other criminal justice agencies. The Victim advocate will also provide support during court hearings and help to ensure they have a voice in the criminal justice process. Further services include information on victims' rights, known as Marsy's Law, safety planning and lethality assessment.
- III. The Victim Services Unit will help them file a claim with the California Victim Compensation Program (CalVCP). CalVCP can help pay for crime-related, and non-reimbursed expenses. Possible expenses can include, but are not limited to, medical/dental costs, mental health counseling, relocation and home security improvements.
- IV. The Victim Services Unit has many bilingual staff and can utilize translation services in over 200 languages. Victim advocacy and victim compensation services are available to victims of violent crime, regardless of immigration status.

Non-Investigative Reporting of Sexual Assault

- I. BACKGROUND
 - A. Non-investigative reports (NIR) have been referred to as Anonymous, VAWA, Jane Doe, or Abbreviated exams.
 - B. The federal Violence Against Women Act (VAWA) and California Senate Bill 534 provide and affirm a victim's right to obtain a medical forensic exam without requiring the victim to report the incident(s) of sexual assault to law enforcement.
 - C. Victims are more likely to seek medical care after a sexual assault when they have prompt and unobstructed access to a medical forensic exam. Interacting with law enforcement, immediately after sexual assault, may constitute a barrier for the patient. Providing victims time to decide if they want to engage with law enforcement, gives them an opportunity to receive medical care, access support, and gather information before reporting.
 - D. From a criminal justice perspective, it is believed that more victims will ultimately choose to report to law enforcement and participate in the criminal justice system, if given the option to postpone engaging with law enforcement in the immediate aftermath of sexual assault.

- E. There are two dictates of the law:
 - 1. The medical forensic exam is free of charge to the victim.
 - 2. Victims will NOT be required to cooperate with law enforcement agencies or participate in the criminal justice system.

- F. United States Department of Justice Office on Violence Against Women's position is:
 - 1. Testing sexual assault kits or toxicology request envelopes without the victim's consent undermines victim rights and weakens community trust.
 - 2. Sending sexual assault kits or toxicology request envelopes for testing without victim consent should not be standard operating procedure. Sending the kits or envelopes would be out of compliance with the Office on Violence Against Women (OVW) grant.

II. NON-INVESTIGATIVE REPORT GUIDANCE

- A. In Santa Clara County, medical forensic exams performed under VAWA are referred to as non-investigative report (NIR) exams but may be identified as VAWA or Jane Doe exams by the public.
- B. A countywide method for non-investigative reporting was established for the collection, documentation, and maintenance of time-sensitive evidence, while at the same time allowing the victim to recover and consider reporting options (See Appendix D).
- C. This interagency NIR protocol describes the role and responsibilities of SART responders in cases where the victim is 12 years of age or older (See Appendix D).
- D. The protocol addresses the response process for:
 - 1. Law enforcement
 - 2. Sexual assault forensic/nurse examiner (SAFE/SANE)
 - 3. Sexual assault advocate

III. INITIAL REPORT

- A. A victim of sexual assault can present themselves to the Emergency Department (ED) at Santa Clara Valley Medical Center (SCVMC) or contact their local Rape Crisis Center to initiate an NIR Medical Forensic Exam.
- B. If the victim presents to SCVMC:
 - 1. The victim will be placed in a confidential room, i.e. Family room, etc.
 - 2. The ED charge nurse will contact the SAFE on-call.

3. The SAFE will contact the sexual assault advocate from the corresponding rape crisis center to respond in-person.
 4. The SAFE and the sexual assault advocate will explain the process of non-investigative reporting to the victim and provide the victim with options.
- C. If the victim contacts their local Rape Crisis Center:
1. The sexual assault advocate will explain the process of non-investigative reporting, the rights and options of the victim.
 2. If the victim chooses to proceed with an NIR, the advocate will guide the victim through the process of presenting themselves to SCVMC.
 3. The sexual assault advocate will contact the SAFE and inform them that there is an NIR case on its way and that an advocate has already been called. The on-call SAFE can be contacted via the SCVMC operator at (408) 885-5000.
 4. The sexual assault advocate will accompany the victim to or meet the victim at SCVMC.
- D. The sexual assault advocate should be contacted in every case of sexual assault, whether or not the victim chooses to have a sexual assault exam or report to law enforcement.
- E. Law enforcement should not be called to respond without the victim's consent.

IV. NON-INVESTIGATIVE REPORT EXAMINATION

- A. A complete medical forensic exam will be performed at the victim's request. Documentation will be made on the Cal OES 2-923 form; however, the consent page from the Cal OES 2-924 form will be used.
- B. In most cases, the SAFE will determine jurisdiction from the interview with the victim or through verification with the dispatch operator. Dispatch of the appropriate jurisdiction will be called by the SAFE before the victim leaves. Dispatch will provide the SAFE with a case number that will be given to the victim along with a Sexual Assault Forensic Exam (SAFE) kit number as a second identifier. Dispatch will send an officer to pick up all evidence, including the VAWA/NIR SAFE kit and toxicology specimens.
- C. If it is unclear or unknown in what jurisdiction the incident occurred, the evidence will be placed under the jurisdiction in which the exam is performed.
- D. Two identifiers will be placed on the SAFE kit:
 1. Law enforcement incident number or case number, and
 2. VAWA/NIR SAFE kit number, assigned by the SAFE examiner

- E. Two identifiers will be placed on the toxicology request envelope:
 - 1. Law enforcement incident number or case number, and
 - 2. VAWA/NIR SAFE kit number, assigned by the SAFE examiner
- F. The exam paperwork with the information on the incident and victim will be sealed inside the kit only. The outside of the kit will be labeled with the law enforcement incident or case number and the VAWA/NIR SAFE kit Number. NIR will also be indicated on the outside of both the SAFE kit and envelope to ensure it is easily identified from those that will be tested and are not anonymous.
- G. The SAFE will provide the victim with the LEA case/incident number and VAWA/NIR SAFE kit number. The victim will be given both identifiers in the discharge paperwork. If the victim no longer has the case or kit numbers, they can retrieve them by contacting the SCVMC SAFE Program at (408) 885-6466 and providing appropriate identification.
- H. The SAFE and the sexual assault advocate will inform the victim about next steps and the process to have their kit and envelope tested, if the victim wishes to convert to a standard law enforcement report. Following the victim-centered approach, the SAFE will inform the victim of the time-sensitive nature of the blood and urine specimens collected for toxicology analysis and explain to the victim that the longer the delay in testing the more time the drug will have to degrade and the less likely it will be for drugs to be detected.

V. EVIDENCE MANAGEMENT OF NON-INVESTIGATIVE REPORTS

- A. The VAWA/NIR SAFE kit or toxicology request envelope will not be sent to the Crime Laboratory, opened or tested without the victim's consent.
- B. The LEA with jurisdiction will store the VAWA/NIR SAFE kit, toxicology request envelopes, and evidence in their own evidence or property room. Blood and urine specimens should be kept refrigerated.
- C. LEAs will maintain custody of the unprocessed VAWA/NIR SAFE kits, toxicology request envelopes and evidence indefinitely or until the victim chooses to convert to a standard report.

VI. MANDATED REPORTING FOR NON-INVESTIGATIVE REPORTS (not anonymous)

- A. Prior to the victim being discharged from the SAFE facility, the SAFE/SANE will contact the law enforcement agency with jurisdiction and do the following:
 - 1. Report to dispatch that a patient has been seen for an NIR and does not want to report to law enforcement
 - 2. Obtain a case or incident number
 - 3. Obtain the dispatcher's name and ID number
 - 4. Request that an officer be dispatched to pick up the evidence as soon as possible.

- B. The SAFE/SANE will complete the Suspicious Injury Report Form (Cal OES 2-920) (See Appendix E).
 - 1. Information included will meet the minimum California mandated reporting requirements.
 - 2. The completed form will be marked as NIR and mailed to the jurisdictional law enforcement agency.

Human Trafficking

Human trafficking is a form of modern-day slavery in which traffickers use force, fraud, or coercion to control victims for the purpose of engaging in commercial sex acts or labor services against his/her will. Trafficked persons may be victims of sexual assault, regardless of the type of service they are forced to perform. In 2017, The Polaris Project classified trafficking into 25 distinct services (<https://polarisproject.org/typology>). These include:

- A. Recreational facilities
- B. Health care
- C. Forestry and logging
- D. Carnivals
- E. Factories and manufacturing
- F. Commercial cleaning services
- G. Arts and entertainment
- H. Illicit activities
- I. Landscaping
- J. Hotels and hospitality
- K. Construction
- L. Health and beauty services
- M. Personal sexual servitude
- N. Remote interactive sexual acts
- O. Agriculture and animal husbandry
- P. Peddling and begging
- Q. Restaurant and food service
- R. Traveling sales crews
- S. Pornography
- T. Bars and strip clubs
- U. Domestic work
- V. Residential
- W. Outdoor solicitation
- X. Illicit massage and beauty
- Y. Escort services

II. To determine if human trafficking is a component of a sexual assault case, consider if the victim:

- A. Is being deprived of their personal liberty
- B. Is made to have sex with others for drugs, money, or other commercial gain (if the person is under the age of 18 there does not need to be force, fraud, or coercion present)
- C. Is withdrawn, afraid to talk, or their communication is censored by another person
- D. Is allowed freedom of movement
- E. Lives and works in the same place
- F. Owes a debt to their employer
- G. Is restricted by security measures to control who they can contact
- H. Is not allowed access to their own government-issued identification or worker/immigration documents

III. Santa Clara County's Human Trafficking Protocol provides the following with respect to human trafficking cases that intersect with sexual assault crimes:

- A. Evidence collection and preservation in a sex trafficking case is and should be treated as a sexual assault investigation. Evidence of labor trafficking should also be collected.
- B. The victim should be offered medical care and a sexual assault medical forensic exam should be considered, if not already requested by the victim.
- C. Refer to the Human Trafficking Protocol for comprehensive guidance.

Appendix A: Definitions

Acute evidentiary exam: A physical examination conducted within a specified time frame after a physical or sexual assault, with the purposes of examining, photographing, collecting, preserving, and documenting evidence for criminal investigation and prosecution purposes.

Choking: A form of asphyxia in which the internal airways are obstructed.

Combined DNA Index System (CODIS): An electronic database of DNA profiles obtained from evidence samples from solved and unsolved crimes, known individuals convicted of particular crimes, and in some states, from arrestees. CODIS also contains samples from missing persons and relatives of missing persons.

Confidential/Jane Doe Report: Reporting a crime without identifying one's self. This may also refer to situations where a third-party reports a crime on behalf of a victim who wishes to stay anonymous. This is NOT a non-investigative report, or VAWA exam.

Consent: Requires that a person or persons must act freely and voluntarily and know the nature of the act.

DNA evidence: In DNA analysis, any tissue that contains nucleated cells can be linked to an individual, usually on the statistical exclusion of all other individuals. DNA can be recovered from sperm, nucleated blood cells, and cells from soft tissue, teeth, bone, fingernails, saliva, urine, and hair.

Drug-facilitated sexual assault (DFSA): The use of drugs or alcohol to incapacitate or render a person unconscious in order to subject them to non-consensual sexual acts.

Medical only exam: In cases where the survivor chooses not to have evidence collected, they may still have a medical exam for evaluation and treatment, including STI prophylaxis.

Non-acute exam: Forensic examination that takes place beyond the defined time limit of an acute evidentiary examination.

Non-Investigative Report (NIR): The term used in Santa Clara County for a sexual assault forensic medical exam done in accordance with the Federal Violence Against Women Act (see VAWA). Due to California mandated reporting laws, this type of exam is not considered anonymous in Santa Clara County but will not move forward without the consent of the victim.

Post-Traumatic Stress (PTS): Survivors often experience a range of reactions after experiencing trauma, yet most will recover from initial symptoms over time. Survivors who continue to experience symptoms may be diagnosed with PTS, which may be short-term (acute) or ongoing (chronic). A person may feel stressed or frightened, even when not in danger. Symptoms of PTSD may overlap with the following:

1. Rape trauma syndrome (RTS): This is a pattern of behavior in survivors following attempted or completed sexual assault. It is a stress reaction to the trauma of sexual assault that can manifest in emotional, physical, and behavioral behaviors, including: hyperalertness, memory impairment, disruption of sleep patterns, avoidance of activities, guilt about surviving the assault, etc. For additional information, see <https://www.infotextmanuscripts.org/falserape/false-rape-714.pdf>

- B. Child Sexual Abuse Accommodation Syndrome: a pattern of behavior commonly seen in child sexual assault victims, which shed light on a child's response prior to disclosing sexual assault and on some behaviors seen after the disclosure. Categories of behavior include: (1) secrecy, (2) helplessness, (3) entrapment and accommodation, (4) delayed, conflicted and unconvincing disclosures, (5) retraction. For the full article: <https://www.abusewatch.net/Child%20Sexual%20Abuse%20Accommodation%20Syndrome.pdf>

Rape: Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Rape Culture: is a sociological concept where rape is pervasive and normalized due to societal attitudes about gender and sexuality. Behaviors that are commonly associated with rape culture include: victim blaming, sexual objectification, trivializing rape, and refusing to acknowledge the harm caused by forms of sexual violence.

Rape myth: A set of notions defined as "prejudicial, stereotyped, or false beliefs about rape, rape victims, and rapists. These notions can impact the perspectives of those within the criminal justice system (investigators, jurors, judges, attorneys). Such false beliefs can impact a person's determination of guilt of the perpetrator and potentially lead to victim blaming, shaming, and questioning the integrity of the victim.

Sexual Abuse: Sexual activity that is deemed improper or harmful, as between an adult and a minor or with a person of diminished mental capacity.

Sexual Assault: Any sexual act performed by one person on another without consent. Legal elements may contain use or threat of force, violence menace, duress, threats to a third party, and incapacitation due to specified reasons preventing the victim from giving consent. The crime of sexual assault is codified in all 50 states with variations in phrasing and penalties.

Sexual Assault Counselor/Advocate: A person trained to provide confidential counseling, crisis intervention services, information, referrals, accompaniment, and support to survivors of sexual assault. These advocates are often associated with community-based rape crisis centers.

Sexual Assault Forensic Evidence Tracking (SAFE-T): Database designed to allow local law enforcement agencies to log and track the status of sexual assault kits that are collected during the forensic medical exam.

Sexual Assault Forensic Examiner (SAFE): Licensed healthcare professional with additional training to competently perform sexual assault medical forensic exams. Qualified providers are restricted to registered nurses, nurse practitioners, physician assistants, and physicians.

Sexual Assault Forensic Exam (SAFE) Kit: Refers to all of the supplies and equipment needed to collect and store forensic evidence. The contents of the evidence collection kit vary by state and jurisdiction, but may include a kit container, instructions, evidence collection/analysis forms, materials for collecting and preserving evidence, and swabs.

Sexual Assault Forensic Medical Examination: A single exam with an overarching purpose to address patients' healthcare needs and collect evidence when appropriate for potential use within the criminal justice system. A legal procedure that is ordered by Penal Code § 13823.95 to be the financial responsibility of the law enforcement agency in whose jurisdiction the sexual assault occurred.

Sexual Assault Nurse Examiner (SANE): Professional registered nurse, who has been trained to provide comprehensive and compassionate care to victims of sexual assault. They demonstrate clinical competence in the collection of forensic evidence from child and adult victims, as well as suspects. SAFE is the recommended term.

Sexual Assault Response Team (SART): A multi-disciplinary interagency sexual assault response team composed of public and private partners who form a team to employ a coordinated, collaborative response to sexual assault.

Sexual Battery: Any non-consensual touching (i.e., physical contact with another person either directly with the skin or through the clothing) for the purpose of sexual arousal, sexual gratification, or sexual abuse, of the intimate part(s) of another person.

“Intimate part” means a sexual organ, anus, groin, or buttocks of any person, and the breast of a female. The crime of sexual battery is codified in all 50 states with variations in phrasing and penalties.

Sexually transmitted infections (STI): An infection that can be transferred from one person to another through sexual contact. The organisms that cause STIs may pass from person to person in blood, semen, or vaginal and other bodily fluids.

Smothering: A form of suffocation in which the external airways (nose and mouth) are compressed or blocked preventing the inspiration of air.

Spousal rape: Sexual assault within marriage when there is lack of consent by the victim.

Statutory rape: The National Incident-Based Reporting System (NIBRS) definition of statutory rape is “non-forcible sexual intercourse with a person who is under the statutory age of consent.

Strangulation: Asphyxiation characterized by external pressure on the neck that compresses the airway and/or blood vessels supplying and draining blood to the head.

Support Person: A friend, partner, family member or other representative who provides emotional support and reassurance. They are not bound by confidentiality rules and are not an advocate.

Suspect exam: A forensic examination performed on a suspected perpetrator of a crime, for example, an exam of the purported assailant of a sexual assault.

Suffocation: Event where oxygen fails to reach the blood.

Toxicology evidence: biological specimens collected and analyzed for the purposes of determining the presence or absence of alcohol and/or drugs in someone's system. Results can be used to determine the effects of such substances on the person's physical and mental states. Toxicological analysis is typically performed on blood and urine samples, which are packaged in a toxicology request envelope, separately from the SAFE kit.

Victim – Patient – Survivor – Client: A person who has been sexually assaulted may be identified by different terms, depending on the agency or provider involved.

Victim Services Advocate: A person trained to provide support, information, and resources to victims of crime, including sexual assault. These advocates are employed by county agencies and are subject to certain reporting requirements, which may include pertinent patient information.

Violence Against Women Act (VAWA): A Federal Act, first passed in 1994, was amended in 2005 to provide that individuals self-identifying as victims of sexual assault have the right to a SAFE exam at no cost and with no obligation to participate with law enforcement or criminal justice proceedings. VAWA was last re-authorized in 2013.

Appendix B: Common Sexual Assault Charges

See code sections for full and exact languages

PENAL CODE	
187	Murder during rape or attempted rape, 286, 288, 288(a), 289
207	Kidnapping to commit 261, 286, 288, 288(a), 289
207(b)	Kidnapping of child under 14 to commit lewd, lascivious act
208(d)	Kidnapping with intent to rape, victim under 14 for 261, 286, 288, 288(a), 289
209	Kidnapping for ransom for 261, 286, 288, 288(a), 289
220	Assault to commit rape, sodomy, oral copulation, 264.1, 288, 289
220(a)	Assault to commit rape, sodomy, oral copulation
220(b)	Assault to commit rape during burglary
243.4(a) and (e)(1)	Sexual battery
243.4(b)	Sexual battery on medically institutionalized person
243.4(c)	Sexual battery with prior, or by fraud
245(a)(1)	Assault with deadly weapon or instrument other than a firearm
261(a)(1)	Rape of person incapable of consent because of developmental reason
261(a)(2)	Rape by force or fear
261(a)(2)	Rape of spouse by force or fear
261(a)(2)/264.1	Rape by force in concert
261(a)(3)	Rape of intoxicated individual
261(a)(4)	Rape of unconscious person
261(a)(6)	Rape by threat of retaliation
266	Enticement of minor female for prostitution
266(c)	Induce intercourse or sex act by false representation to create fear
266i(b)	Pandering where prostitute is under 16
266j	Procurement of under 16 for lewd or lascivious act

267	Abduction of a minor for prostitution
269(a)	Aggravated sexual assault with child under 14 for 261, 286, 288, 288(a), 289
272	Contributing to the delinquency of a minor for lewd or lascivious purpose
273.5	Corporal injury resulting in traumatic injury in a current or former partner
285	Incest
286(a)	Sodomy
286(b)(1)	Sodomy with a person under 18
286(b)(2)	Sodomy with a person under 16
286(c)	Sodomy with a person under 14
286(d)	Sodomy in concert with force
286(e)	Sodomy while confined in prison or jail
286(f)	Sodomy with unconscious person
286(g)	Sodomy with person incapable of giving consent
286(h)	Sodomy without consent of victim and defendant in mental facility
287(b)(1)	Oral copulation with person under 18
287(b)(2)	Oral copulation by person over age 21 with person under age 16
287(2)(A)	Oral copulation by force, violence, fear or duress
287(2)(B)	Oral copulation by force, violence, fear or duress on minor under age 14
287(2)(C)	Oral copulation by force, violence, fear or duress on minor 14 or older
287(d)(1)(A)	Oral copulation in concert by force or fear
287(d)(1)(B)	Oral copulation in concert by threat to retaliate
287(d)(1)(C)	Oral copulation in concert where victim is incapable of consent
287(d)(2)	Oral copulation in concert by force or fear on minor under age 14
287(d)(3)	Oral copulation in concert by force or fear on minor 14 or older
287(e)	Oral copulation with confined in prison or jail
287(f)	Oral copulation with victim who was unconscious, asleep or unaware due to fraud

287(g)	Oral copulation where victim incapable of giving consent
287(h)	Oral copulation without consent, victim and defendant in state hospital
287(i)	Oral copulation with intoxicated victim
287(k)	Oral copulation by threat of authority to arrest or deport
288(a)	Lewd or lascivious act with child under 14
288(b)(1)	Lewd or lascivious act by force or fear with child under 14
288(c)(1)	Lewd or lascivious act with child 14 or 15 years old
288.3(a)	Contact minor with intent to commit sex act
288.5(a)	Continuous sexual abuse of child
288.7(a)	Sodomy or sexual intercourse with child under 10
288.7(b)	Oral copulation or sexual penetration with child under 10
289(a)(1)	Sexual penetration with foreign object by force
289(a)(2)	Sexual penetration with foreign object by threat to retaliate
289(e)	Sexual penetration with foreign object with intoxicated victim
289(f)	Sexual penetration with foreign object where victim believes his/her spouse
289(h)	Sexual penetration with foreign object; victim under 18
289(i)	Sexual penetration with foreign object; victim under 16
289(j)	Sexual penetration with foreign object; victim under 14
311.11(a)	Possession of pornography of children in sexual acts
311.11(b)	Distribution of obscene matter depicting minor for commercial
311.11(c)	Possession of excessive amount of child pornography
314(1)	Indecent exposure
647.6(a)	Annoy or molest child under 18
WELFARE AND INSTITUTIONS CODE	
5512	Mentally disordered offender
6316	Commitment as mentally disordered offender

Appendix C: Decision Algorithms

CHART A: SART Call-Out Procedure: Law Enforcement Receives Call First

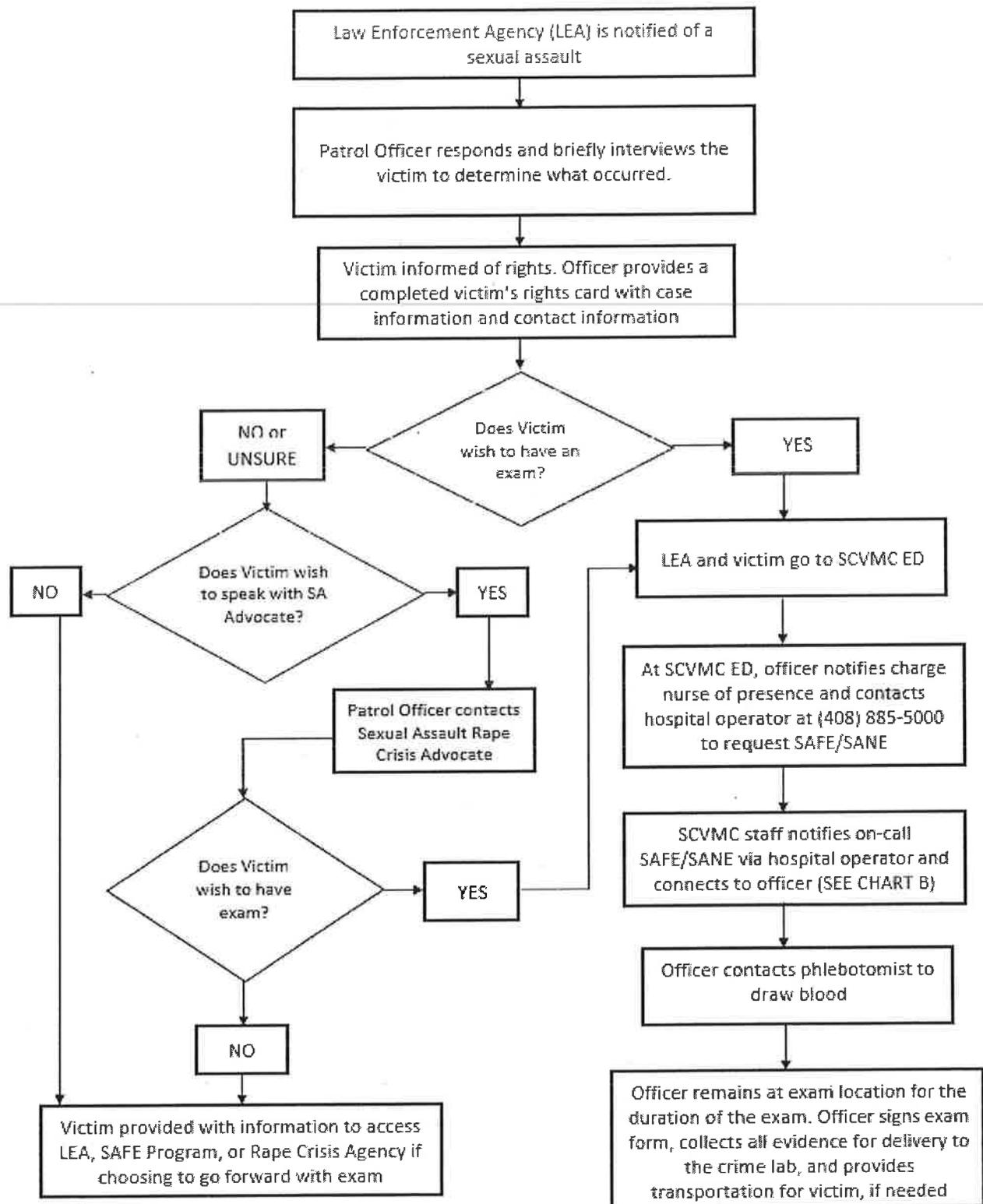


CHART B: SART Call-Out Procedure: Victim Presents at Emergency Department First

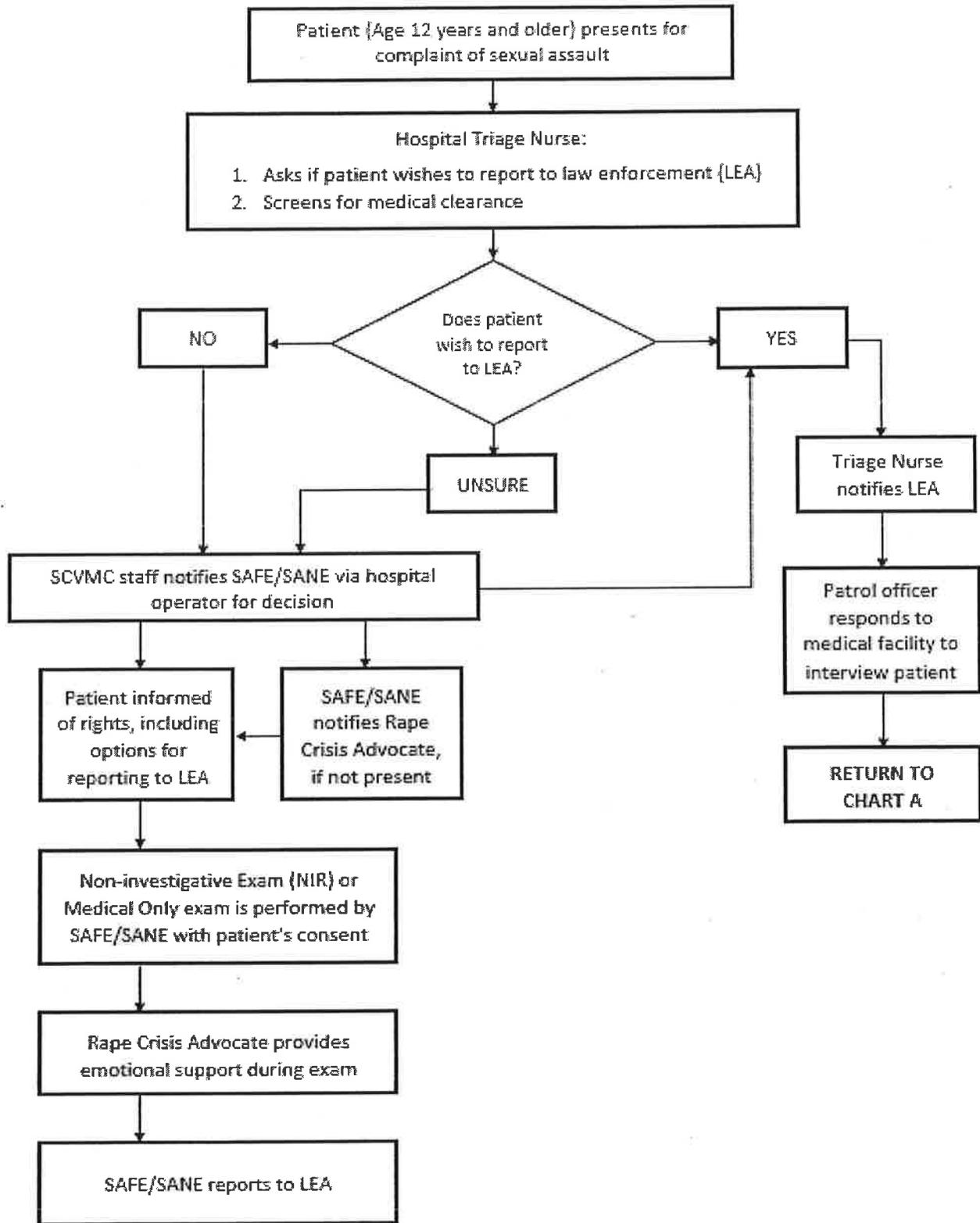
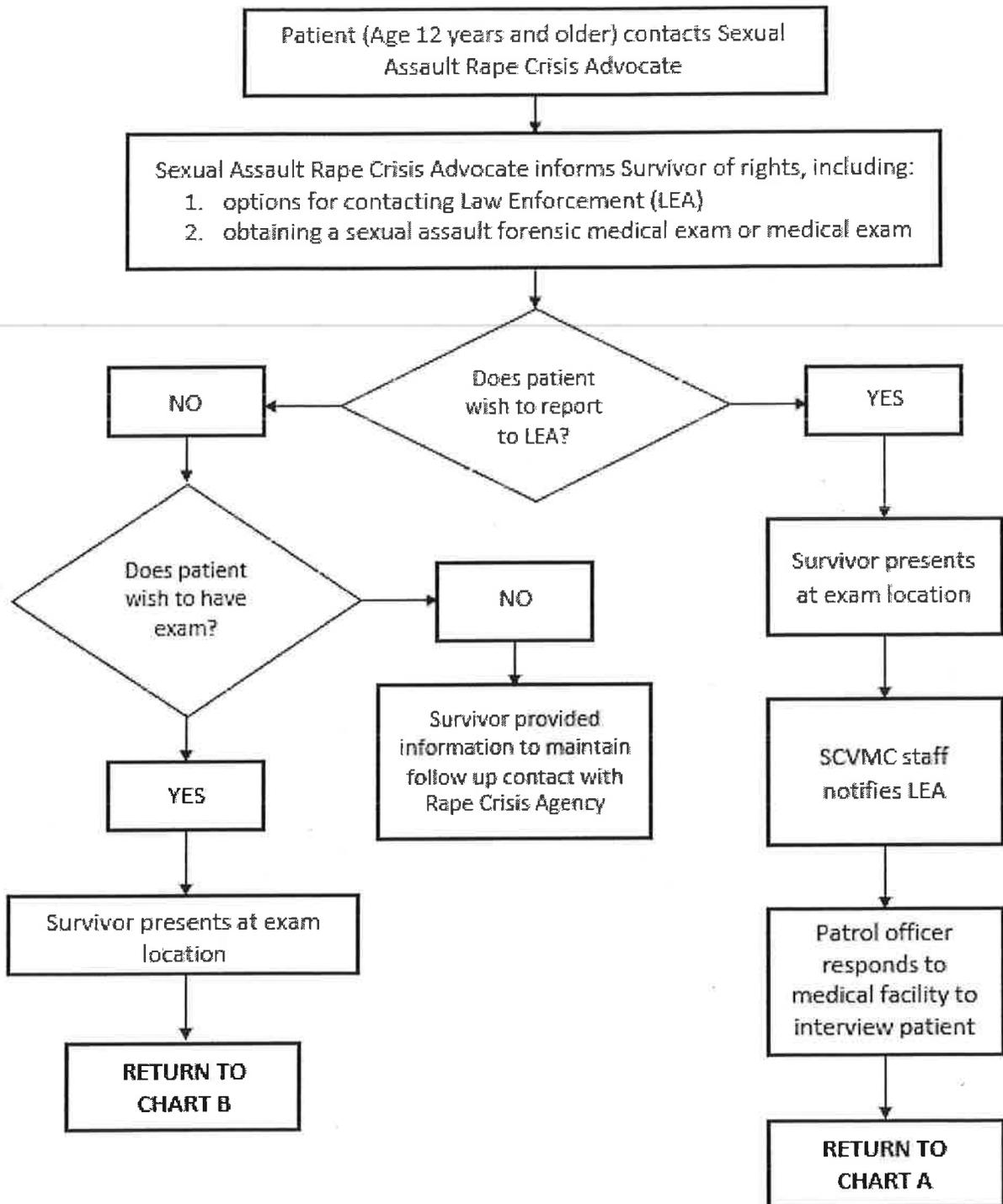


CHART C: SART Call-Out Procedure: Rape Crisis Center Receives Call First



Appendix D: Non-Investigative Report (NIR) Checklists

Overview – NIR Checklist for Law Enforcement

- Individuals **12 and older**, who present to the SCVMC Emergency Department or SAFE Clinics and report sexual assault but decline to speak with law enforcement, will be offered the option of **NIR**
- Written consent for the collection and documentation of evidence under **NIR** will be obtained by the sexual assault forensic/nurse examiner (SAFE/SANE).
- Informed consent will include the benefits and challenges of **NIR**.
- A forensic medical exam, including completion of a SAFE kit and toxicology envelope, will be performed.
- Upon completion of the exam, the SAFE/SANE will contact the jurisdictional law enforcement agency (JLEA) to dispatch an officer.
- The dispatched officer will present to the exam location to collect the evidence and kit, then transport to the JLEA's evidence room.
- A suspicious injury report will be submitted to law enforcement within two days.
- The JLEA will not initiate an investigation or contact the patient, if over 18 years of age. Minor victims of sexual assault/abuse may be contacted by law enforcement.
- The evidence and kit and envelope will be stored by the jurisdictional law enforcement agency **indefinitely**
- At any time, the victim may decide to convert to a standard report.
- If the victim chooses not to convert to a standard report, the custodial LEA will maintain the evidence

Evidence

- Evidence collection under **NIR** will be the same performed with a standard report exam.
- Upon completion of an **NIR** exam, the SAFE will contact the jurisdictional law enforcement agency (JLEA) to report the allegation of sexual assault and obtain a case number.
- All evidence will be identified by a unique NIR SAFE kit ID and the JLEA's case number. No other identifying information will be placed on the evidence. All paperwork will be sealed inside the kit.
- The officer dispatched to collect the evidence will transport the kit and any associated evidence, including toxicology envelopes, to the JLEA's property room and log into evidence per department procedures.
- JLEA will store evidence, according to county protocols, indefinitely. Toxicology envelopes should be refrigerated.
- If the patient wishes to convert to a standard report, the SCVMC SAFE Program Coordinator will notify the JLEA of the victim's decision and provide an **NIR** release form signed by the patient. A copy of the signed release must accompany the kit and any associated evidence when submitting it to the crime laboratory.

Decision to Prosecute

- At any time, the victim may decide to initiate a standard report. It is recommended that the victim first contact the Advocacy Service or SCVMC SAFE Program.
- Any entity contacted by a victim who indicates that evidence has been collected without previously reporting to law enforcement, ***will immediately contact or instruct the victim to contact the SCVMC SAFE Program or Advocacy Service*** AND relay any identifying information they have received (e.g. victim name, SAFE kit ID, JLEA case number, date of exam, etc.)
- Based on the information, the SCVMC SAFE Coordinator will identify the individual reporting the assault and provide that information to the jurisdictional law enforcement agency.
- The JLEA will locate the evidence and proceed with the investigation as in a standard report.

Documentation

- All evidence will be labeled with two identifiers: the JLEA's case number and the NIR SAFE kit number.
- The JLEA will maintain records documenting dates that evidence for an **NIR** exam was retrieved, booked, or released.
- The SCVMC SAFE Program will maintain a copy of the victim's records, including any photographs.

Overview – NIR Checklist for Sexual Assault Advocate

- If an individual **12 and older** presents to the SCVMC Emergency Department or makes arrangements to meet at an SCVMC SAFE Clinic with a complaint of sexual assault, **the sexual assault forensic/nurse examiner (SAFE/SANE) will immediately contact the appropriate Rape Crisis Center** and request that an on-call Sexual Assault Advocate be dispatched.
- If the Victim/Survivor presents to the SCVMC Emergency Department or SCVMC SAFE Clinic with a complaint of sexual assault but does not first report to law enforcement, and is reluctant to speak with law enforcement, the Advocate will offer the individual the following options to ensure all information is provided regarding:
 - The right to a medical forensic exam with immediate reporting to law enforcement,
 - The right to a medical forensic exam as an **NIR**, or
 - The right to medical treatment only
- If the Victim/Survivor chooses the **NIR** option, the survivor will be fully informed of the following:
 - The benefits and challenges of and **NIR**,
 - The length of time evidence will be stored, which is indefinitely, and
 - The process to convert from an **NIR** to a Standard Report.

Procedure

- If an Advocate is the first point of contact for the Survivor, the Advocate will inform the Survivor of all options, including: 1) reporting to law enforcement, 2) not reporting to law enforcement, 3) obtaining a standard forensic medical exam, 4) obtaining an **NIR** forensic medical exam, or 5) obtaining medical treatment only.
- At first contact, the Advocate will introduce self and discuss: the role of the Advocate, the right of the Survivor to have an Advocate present, and the services provided by the Advocate.
- The Advocate will provide support and information concerning available options for: 1) the examination process, 2) emergency contraception, 3) follow-up services, 4) counseling, and 5) reporting methods.
- An assessment will be done for safety and the need for safety planning.
- Crisis intervention, support, and referrals will be provided to the Survivor, family and friends.
- The Survivor will be assessed for immediate needs, including: 1) food/beverage (after checking in with the SAFE/SANE), 2) clothing, 3) shelter, 4) transportation, and 5) access to services, resources, or referrals.
- The Survivor will be offered follow-up services and, if desired, consent for advocate services will be obtained.
- The SAFE/SANE will contact dispatch for the jurisdictional law enforcement agency (JLEA) at the **end** of the forensic medical exam to dispatch an officer to the exam location to collect the SAFE kit and other evidence.
- The SAFE/SANE will provide the Survivor with the two identifiers used for **NIR**: the JLEA case number and a unique NIR SAFE kit number, assigned by the SAFE/SANE.
- The Advocate will reinforce the importance of saving the identifying information indefinitely, or until the Survivor chooses to convert to a standard report.
- The Advocate will discuss with the Survivor their rights related to speaking/not speaking with law enforcement and converting from an **NIR** to a Standard Report.
- In the event the Survivor contacts an Advocate to assist with converting to a Standard Report, the Advocate will **immediately** instruct the Survivor to contact the SCVMC SAFE Program at (408) 885-6466.
- If the Survivor wishes to convert to a standard report, the SCVMC SAFE Program Manager will notify the JLEA of the victim's decision and provide an **NIR** release form signed by the Survivor.

Documentation and Evidence

- Advocate will document the provision of services and obtain consent in accordance with agency protocol

Overview – NIR Checklist for Sexual Assault Forensic/Nurse Examiner (SAFE/SANE)

- Individuals **12 and older**, who present to the SCVMC Emergency Department or SAFE Clinics reporting sexual assault, **may choose not to interact with law enforcement at the time of the exam.**
- A forensic medical exam (FME) may be performed without law enforcement approval, including the collection and documentation of evidence, if the patient consents to an **NIR**.
- Once the SAFE/SANE ensures the patient is fully informed of their rights and obtains informed consent, the FME will be completed in the same manner as a Standard exam but without the presence of law enforcement.
- The SAFE/SANE will contact the jurisdictional law enforcement agency (JLEA) to dispatch an officer.
- A suspicious injury report will be submitted to law enforcement within two days.
- The JLEA will not initiate an investigation or contact the patient if over 18 years of age. Minor victims of sexual assault/abuse may be contacted by law enforcement
- The evidence and kit will be stored by the jurisdictional law enforcement agency (JLEA) indefinitely, following the date of the forensic medical exam.

Procedure

- SCVMC staff will contact the on-call SAFE/SANE for every individual presenting with disclosure of sexual assault.
- Law Enforcement should initially be called by the SAFE/SANE.
- The SAFE/SANE or designated staff will contact the on-call Sexual Assault Victim Advocate. It is not necessary to ask the patient if they would like an Advocate to be present, prior to making the call to request an Advocate.
- Written consent for the collection and documentation of evidence under **NIR** will be obtained by the SAFE/SANE, after discussing the patient's rights.
- Informed consent, obtained by the SAFE/SANE, will include the benefits and challenges of **NIR**.
- A medical forensic examination, including completion of a sexual assault forensic evidence (SAFE) kit and any associated evidence, will be performed.
- Upon completion of the exam, the SAFE/SANE will contact the jurisdictional law enforcement agency (JLEA) to report the allegation of sexual assault and obtain a case/incident number.
- The SAFE/SANE will ensure the forensic medical exam documentation includes the two identifiers used for **NIR: the JLEA case number and a unique SAFE kit number.**
- Evidence that is placed inside the SAFE Kit and any additional evidence will be marked with patient labels that have personal identifiers (name, date of birth, gender, age, medical record number and date of service).
- A **COPY** of the medical forensic exam documentation will be placed inside the kit, and the kit sealed.
- Once the kit and any envelopes are sealed, place the JLEA name and case number, SAFE kit number, and date of service on the outside. **DO NOT PLACE ANY PERSONAL IDENTIFIER ON KIT or ENVELOPE.** Indicate NIR on each item
- If there are additional evidence bags, place the JLEA case number, the SAFE kit number, and the date of service on each bag. **DO NOT PLACE ANY PERSONAL IDENTIFIERS ON EVIDENCE.** Indicate NIR on the outside of all evidence.
- Contact the JLEA to have an officer dispatched to the exam location to take custody of the evidence, which will be stored indefinitely, following the date of the forensic medical exam.
- At any time, the victim may decide to convert to a standard report.
- If the victim does not choose to convert to a standard report, the custodial law enforcement agency will maintain the evidence indefinitely.

Documentation and Evidence

- The SCVMC SAFE Program will maintain a copy of the patient's records, including any photographs.
- The JLEA will maintain records documenting dates that evidence for an **NIR** exam was retrieved, booked, and either released or destroyed.

Appendix E: SART System Forms

Police SART Process: Quick Reference Guide:

Laminated Pocket Cards are available from the District Attorney's office

- I. **Adult/Adolescent Victims of Sexual Assault**, ages **12 AND older**, should have a forensic medical exam *immediately* but can be seen for an *acute* exam **within 10 days of sexual assault**.
 - A. Law enforcement (LE) should seek immediate SART exam. Record on-scene interview then transport victim to VMC Emergency Department.
 - B. If possible, the victim should NOT eat, drink, wash, or brush their teeth prior to the exam.
 - C. Collect all first void urine samples and save for the SART nurse.
 - D. At VMC, notify ED charge nurse of SART. Ensure victim is registered in the hospital computer. Accompany victim to the Family Room in the ED.
 - E. Call VMC Operator at **408-885-5000** (say "Operator") or dial "**0**" from hospital phone and request to speak with the on-call SART nurse.
 - F. SART nurse will notify the sexual assault advocate, if LE has not already done so.
 - G. Notify department blood tech to respond and draw blood for LE. Request 3 additional tubes (2 "gold"+1 "lavender") be drawn and save them for the SART nurse.
 - H. LE should remain at VMC until the exam is completed and evidence/paperwork are collected from the SART nurse.
 - I. Book evidence at Crime Lab or responding LE's evidence room to ensure it is preserved and refrigerated.

- II. **Pediatric Victims of Sexual Abuse:**
 - A. **(ACUTE exam) Children 11 years and younger within 72 hours of sexual abuse—**
Call the Pediatric SART examiner at 408-885-5000 (say "Operator") for an acute Pediatric SART exam. Do not draw blood without consulting the Pediatric SART examiner.
 - B. **(ACUTE exam) Teens 12 years and older within 10 days of sexual assault—**
Follow the protocol for "Adult/Adolescent Victims of Sexual Assault" (see above).
 - C. **(NON-ACUTE exam) Children/teens 0-18 years with disclosures of sexual abuse that happened outside of the acute time frames above—**
Call the Pediatric SART examiner to schedule an appointment for a non-acute exam at 408-885-6460 or through the VMC Operator at 408-885-5000.
It is NEVER too late to do an exam!
 - D. First responder need not get anything more than simple disclosure.
 - E. The investigating detective should schedule a Child Interview Center (CIC) interview as soon as reasonably possible before or after the exam.

III. **ANY QUESTIONS?**

Adult SART (12 & older): 408-885-6466

DA Adult Offender Team: 408-792-2793

North/Central Advocate: 800-572-2782

Pediatric SART (11 & under): 408-885-6460

DA Juvenile Team: 408-792-2911

South County Advocate: 877-363-7238

Sexual Assault Survivor's Rights Card:

Available online at:

<https://www.sccgov.org/sites/da/prosecution/DistrictAttorneyDepartments/Documents/SCCSARTOnlineCard0818.pdf>

Sexual assault medical forensic exams are available through
Santa Clara Valley Medical Center
(408) 885-5000
Exam Locations:
Gilroy · San Jose

Survivor Resources in Santa Clara County:

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

Call or look up offender information here:

Santa Clara County Jail Booking 408-299-2306
VINELink.com

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: _____
Police Report No.: _____
Officer & Badge: _____
Officer Phone Number: _____
Notes: _____

SCCSART Ver. 0818

YOUR RIGHTS as a Survivor of Sexual Assault Santa Clara County

You have the right to get answers, the right to information, and the right to know. This card explains your rights, options, and helpful resources available to you under California Law (Penal Code 680.2).

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.

You Have the Right To:

- **Seek an Emergency Protection Order** to help keep you safe. Ask a law enforcement officer if you would like one.
- **Seek a Civil Protection Order** with the support of a sexual assault counselor OR at the Restraining Order Help Center at: [408-534-5709](tel:408-534-5709) or www.sccscourt.org
- **Request sex offender registry information** from the prosecutor, if your assailant is convicted and required to register as a sex offender.
- **Seek Financial Assistance** from the California Victim Compensation Board (CalVCB) to cover the costs arising from your assault and the process for applying. Contact Victim Services Unit at: [\(408\) 295-2656](tel:408-295-2656) or victims.ca.gov
NOTE: You may have to take part in the criminal case to qualify for CalVCB.

You Have the Right To:

- **Have a Confidential Sexual Assault Counselor** (Victim Advocate) AND a person of your choice present during any exam or investigative interview.

You can reach a **Sexual Assault Advocate** 24 hours a day by calling:
YWCA Silicon Valley 1-800-572-2782
(Serving North County and Central County)
www.ywca-sv.org
Community Solutions 1-877-363-7238
(Serving South County and San Benito County)
www.communitysolutions.org

- **Request a person of the same or opposite gender** as you to be present in the room during any interview with law enforcement or the District Attorney.

You Have the Right To:

- **Request in writing and receive** a free copy of the initial crime report.
- **Ask the status and results** of the testing of all evidence related to your assault. For results contact the law enforcement agency.
- **Know that DNA evidence** on the body, clothing, and other items may last from 12 hours to 7 days. DNA and other evidence can breakdown over time due to exposure to heat, water, and other materials.
- **Know the evidence related to your assault will be tested.** By law, evidence should be taken to the Crime Lab within 20 days by Law Enforcement and tested within 120 days.
- **Know that evidence related to your assault must be kept for 20 years, or until age 40 for victims under age 18.** In Santa Clara County, the evidence will be kept indefinitely.

Santa Clara County Strangulation Resource Card:

Available through the Santa Clara County Office of Women's Policy at: owp@ceo.sccgov.org

If you have been a victim of strangulation, confidential support services are available to you. The following organizations provide a comprehensive range of free and confidential services.

MAITRI
Helpline 1-888-8MAITRI or
1-888-862-4874
maitri@maitri.org
www.maitri.org
www.facebook.com/maitribayarea
Languages: English and South Asian
languages

**NEXT DOOR SOLUTIONS TO
DOMESTIC VIOLENCE**
24-Hour Hotline (408) 279-2962
www.nextdoor.org
www.facebook.com/NextDoorSolutions
Languages: English, Spanish, and
Vietnamese

Community Solutions
24-Hour Hotline 1-877-363-7238
or 1-877-END-SADV
www.communitysolutions.org
www.facebook.com/CommunitySolutions
Services provided in Morgan Hill, San
Martin and Gilroy
Languages: English and Spanish

AACI Asian Women's Home
24-Hour Hotline 408-975-2739
www.dv.aaci.org
www.facebook.com/AACIorg
Languages: English, Vietnamese,
Chinese and other Asian languages

YWCA SILICON VALLEY
24-Hour Hotline 1-800-572-2782
www.ywca-sv.org
www.facebook.com/ywcasv
Languages: English and Spanish

SAFECHAT
SILICON VALLEY

Visit www.safechatsv.com for a secure,
one-on-one live online chat with a
confidential advocate

COUNTY OF SANTA CLARA STRANGULATION RESOURCE CARD

Information for Victims
of Strangulation

Facts About Strangulation

- Strangulation is an extremely dangerous and potentially deadly form of violence. It can take less than 20 seconds for a person to lose consciousness as a result of strangulation, and death can occur in just under 5 minutes.
- You may not experience any visible injuries, and symptoms of internal injuries may take up to 72 hours to appear.
- Internal injuries can be serious or fatal and may cause brain damage due to lack of oxygen. Symptoms can take hours, days or even weeks to develop.
- Seek immediate medical attention or call 911 if you experience difficulty breathing, speaking, swallowing or experience nausea, vomiting, lightheadedness, headache, involuntary urination and/or defecation, especially if you are pregnant.

* A medical evaluation may be crucial in detecting internal injuries and saving your life, and the life of your unborn child if you are pregnant.

- Stay with someone you trust for the first 24 hours and have them monitor your signs and symptoms.
- Strangulation is a significant predictor for future lethal violence in intimate relationships. If your current or former partner has strangled you, your risk of being killed by them is 7 times higher.
- Screening and counseling for domestic violence are covered under the Affordable Care Act as preventive health care.
- The cost of your medical care may be covered by your state's victim compensation fund. For more information about this resource call (408) 295-2656 or email victimservices@dao.sccgov.org.
- Strangulation may not only be a felonious assault, but it may be an attempted homicide.

You always have the right to file a police report, press charges for an assault or seek a restraining order against someone who is choosing to be abusive towards you.

See your doctor as soon as you can, especially if you have:

- a sore throat, hoarseness, difficulty breathing or swallowing
- discoloration on your tongue
- neck pain, bruising on the neck or behind your ears
- ringing in your ears
- bloodshot eyes
- dizziness
- memory loss
- drooling
- nausea or vomiting
- incontinence
- a seizure
- a miscarriage
- changes in mood or personality like agitation or aggression
- changes in sleep patterns
- changes in vision such as blurriness or seeing double
- fainted or lost consciousness
- Shaking (especially of the legs when trying to maintain balance)
- Headaches

Consent Form for Forensic Examiner to Perform Suspect Exam:

Consent Form for Suspect Forensic Examination

(INSERT AGENCY NAME)

CONSENT FOR EVIDENCE COLLECTION

I, _____, born on _____
(PRINT first and last name of client) (Date of Birth)

freely and voluntarily hereby authorize (INSERT AGENCY NAME) and agents of (INSERT AGENCY NAME) to obtain from me the following evidence (boxes checked) and immediately release this evidence to the investigating agency listed below.

- | | | |
|---|--|--|
| <input type="checkbox"/> Buccal Swab | <input type="checkbox"/> Body Swab(s) | <input type="checkbox"/> Foreign Material(s) |
| <input type="checkbox"/> Oral Swab | <input type="checkbox"/> Pubic Hair Combing/Plucking | <input type="checkbox"/> Photographs |
| <input type="checkbox"/> Head Hair Standard | <input type="checkbox"/> Scrotal Swab | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Hand Swabs | <input type="checkbox"/> Penile Swab | <input type="checkbox"/> _____ |

_____	_____
(Client Signature)	(Date)
_____	_____
(Parent/Guardian Signature, if applicable)	(Date)
- OR -	
Search Warrant Information: _____	
(Attach Copy)	

Evidence collected by: _____
(Print Examiner Name)

(Examiner Signature)

On this date: _____ at _____ AM / PM

Requesting Agency/Jurisdiction: _____

Officer Name (printed): _____ S/N: _____

Officer Signature: _____

Non-Investigative Report Patient Release Form:

**SCVMC SAFE Program Forensic Medical Examination:
NON-INVESTIGATIVE REPORTING RELEASE TO LAW ENFORCEMENT**

STANDARD REPORT TO LAW ENFORCEMENT

In reference to:

Victim Name:
Law Enforcement Agency:
Incident/Case Number:
SAFE ID Number:
Date of Incident:
Date of Exam:

Please initial if you agree to the following:

- I am choosing to make a standard report to law enforcement.
- I give permission to the Santa Clara Valley Medical Center SAFE Coordinator to provide my name and other identifying information to law enforcement agencies involved in investigating this case or prosecuting the assailant(s).
- I give permission for the SAFE program to contact me if there are any problems carrying out the above requests.

CONTACTING YOU

Please indicate how you wish to be contacted:

Preferred method of contact:

Can caller leave message?

Cell phone _____

Yes No

Landline phone _____

Yes No

Email _____

U.S mail: Street Address / P.O. Box _____

City/ State/ Zip _____

ACKNOWLEDGEMENT OF UNDERSTANDING:

- I understand that by providing law enforcement with my identifying information, the evidence and information obtained during my medical forensic exam will also be made available.
- I understand that this dated authorization is effective upon return to the Santa Clara County SAFE Program Manager.
- I understand a photocopy, fax, or email version of this form is the same as the original.

Patient signature: _____ Date: _____

Witness: _____ Date: _____

A copy of this completed form must accompany all evidence when submitted to Crime Laboratory

Unable to Contact Victim Letter (English):

DATE

NAME

ADDRESS

ADDRESS

Dear NAME:

This letter is to notify you that the AGENCY has tried to contact you multiple times regarding Case# AGENCY CASE # in which you were reported as a victim on INCIDENT DATE. Additional information from you is required before this case can proceed. In order to successfully complete the investigation, your cooperation with law enforcement efforts is needed.

Please contact DETECTIVE'S NAME at PHONE NUMBER to schedule an interview (DETECTIVE'S HOURS). Without your cooperation, the AGENCY will not be able to proceed with this investigation and the case will be closed.

Sincerely,

DETECTIVE'S NAME

AGENCY

Sexual Assault Investigations Unit

PHONE NUMBER Main

PHONE NUMBER Desk

Investigation Outcome Letter – Victim (English):

(DATE)

(VICTIM NAME)
(VICTIM ADDRESS)
(CITY STATE, ZIP CODE)

Re: [LAW ENFORCEMENT AGENCY: (INSERT CASE NUMBER)]
Date of Incident: (DATE OF INCIDENT)

Dear (VICTIM NAME):

The above referenced case, which you reported to us on (INSERT DATE), was recently referred to the Santa Clara County District Attorney's Office. They reviewed this case and declined to pursue criminal charges against the suspect. With the District Attorney's decision in mind, I will conclude the investigation.

Please feel free to contact me at the phone number listed below if you have any questions.
Thank you.

Sincerely,

(DETECTIVE NAME)
(LAW ENFORCEMENT AGENCY)
Investigative Services Bureau
Sexual Assaults Investigative Unit
(DETECTIVE PHONE NUMBER)

Investigation Outcome Letter – Victim (Spanish):

(DATE)

(VICTIM NAME)
(VICTIM ADDRESS)
(CITY STATE, ZIP CODE)

Re: [LAW ENFORCEMENT AGENCY: (INSERT CASE NUMBER)]
Fecha del Incidente: (DATE OF INCIDENT)

Estimado (VICTIM NAME):

El caso mencionado anteriormente, que se denunció a nuestra oficina el (INSERT DATE), se refirió recientemente a la Oficina de la Fiscalía del condado de Santa Clara. Ellos revisaron el caso y se negaron a presentar cargos penales contra el presunto sospechoso. Con la decisión del Fiscal en mente, voy a concluir la investigación.

Por favor llámeme a el número de teléfono que aparece a continuación si usted tiene alguna pregunta.

Gracias.

Atentamente,

(DETECTIVE NAME)
(LAW ENFORCEMENT AGENCY)
Investigative Services Bureau
Sexual Assaults Investigative Unit
(DETECTIVE PHONE NUMBER)

Investigation Outcome Letter - Suspect (English):

(DATE)

(SUSPECT NAME)
(SUSPECT ADDRESS)
(CITY STATE, ZIP CODE)

Re: [LAW ENFORCEMENT AGENCY: (INSERT CASE NUMBER)]
Date of Incident: (DATE OF INCIDENT)

Dear (SUSPECT NAME):

The above referenced case was reported to our office on (INSERT DATE) and was recently referred to the Santa Clara County District Attorney's Office. They reviewed this case and declined to pursue criminal charges against you due to the insufficiency of the evidence. With the District Attorney's decision in mind, I will conclude the investigation.

Please feel free to contact me at the phone number listed below if you have any questions.
Thank you.

Sincerely,

(DETECTIVE NAME)
(LAW ENFORCEMENT AGENCY)
Investigative Services Bureau
Sexual Assaults Investigative Unit
(DETECTIVE PHONE NUMBER)

Emergency Protection Order:

Available online at: <http://www.courts.ca.gov/forms.htm?filter=EPO>

EPO-001

ONE copy to court, ONE copy to restrained person, ONE copy to protected person, ONE copy to leasing agency

LAW ENFORCEMENT CASE NUMBER:

EMERGENCY PROTECTIVE ORDER (See reverse for Important notices.)

1. PROTECTED PERSONS (insert names of all persons protected by this Order):

2. RESTRAINED PERSON (name):

Sex: M F Ht.: _____ Wt.: _____ Hair color: _____ Eye color: _____ Race: _____ Age: _____ Date of birth: _____

3. TO THE RESTRAINED PERSON:

- a. YOU MUST NOT harass, attack, strike, threaten, assault (sexually or otherwise), hit, follow, stalk, molest, destroy any personal property of, disturb the peace of, keep under surveillance, or block the movements of each person named in item 1.
- b. YOU MUST NOT contact, either directly or indirectly, by any means, including but not limited to by telephone, mail, e-mail or other electronic means, any person named in item 1.
- c. YOU MUST stay away at least: _____ yards from each person named in item 1.
 stay away at least: _____ yards from move out immediately from
(address): _____
- d. YOU MUST NOT own, possess, purchase, receive, or attempt to purchase or receive any firearm or ammunition. If you have any firearms, you must turn them in to a law enforcement agency or sell them to, or store them with, a licensed gun dealer.
- e. YOU MUST NOT take any action, directly or through others, to obtain the addresses or locations of any person named in item 1.

4. (Name): _____ is given temporary care and control of the following minor children of the parties (names and ages): _____

5. THIS ORDER WILL EXPIRE AT THE CLOSE OF THE COURT BUSINESS DAY ON:

6. TO THE PROTECTED PERSON: If you need protection for a longer period of time, you must request restraining orders from the court in the county where you live:

INSERT DATE OF FIFTH COURT DAY OR SEVENTH CALENDAR DAY, WHICHEVER IS EARLIER; DO NOT COUNT DAY THE ORDER IS GRANTED

(Name and address of court): _____

If you go to court to request restraining orders, take your copy of this form with you. If a juvenile petition is pending, file in that court.

7. Reasonable grounds for the issuance of this Order exist, and an emergency protective order is necessary to prevent the occurrence or recurrence of domestic violence, child abuse, child abduction, elder or dependent adult abuse, or stalking.

8. Judicial officer (name): _____ granted this Order on (date): _____ at (time): _____

APPLICATION

9. The events that caused the protected person to fear immediate and present danger of domestic violence, child abuse, child abduction, elder or dependent adult abuse (except solely financial abuse), or stalking are (give facts and dates; specify weapons):

10. Firearms were: observed reported searched for seized

11. The person to be protected lives with the person to be restrained and requests an order that the restrained person move out immediately from the address in item 3c.

12. The person to be protected has minor children in common with the person to be restrained, and a temporary custody order is requested because of the facts alleged in item 9. A custody order does does not exist.

By: _____
(PRINT NAME OF LAW ENFORCEMENT OFFICER)

(SIGNATURE OF LAW ENFORCEMENT OFFICER)

Agency: _____

Telephone No.: _____

Badge No.: _____

PROOF OF SERVICE

13. Person served (name): _____

14. I personally delivered copies of this Order to the person served as follows: Date: _____ Time: _____
Address: _____

15. At the time of service, I was at least 18 years of age and not a party to this cause. I am a California law enforcement officer.

16. My name, address, and telephone number are (this does not have to be server's home telephone number or address): _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME OF SERVER)

(SIGNATURE OF SERVER)

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Forms Available Online:

California Mandated Reporting Forms are available to review or download here:

- **Child Abuse (DOJ SS8572):**
http://ag.ca.gov/childabuse/pdf/ss_8572.pdf
- **Suspicious Injury (Cal OES 2-920):**
<https://www.ccfmtc.org/wp-content/uploads/2-920-Mandated-Suspicious-Injury-Report-1.pdf>
- **Dependent Adult/Elder Abuse (SOC 341):**
<http://www.cdss.ca.gov/cdssweb/entres/forms/English/SOC341.pdf>

California Forensic Medical Examination Forms below are available to review or download here:

<https://www.ccfmtc.org/forensic-medical-examination-forms/>

- Cal OES 2-920: Suspicious Injury Report
- Cal OES 2-923: Acute Adult/Adolescent Sexual Assault Exam
- Cal OES 2-925: Non-acute Child/Adolescent Sexual Abuse Exam
- Cal OES 2-930: Acute Child/Adolescent Sexual Abuse Exam
- Cal OES 2-950: Sexual Assault Suspect Examination

California Victim Compensation Board (Cal VCB) applications in 14 different languages are available to review or download here:

<https://victims.ca.gov/victims/howtoapply.aspx>

Victim Resources:

- **Marsy's Rights:**
<https://www.sccgov.org/sites/da/VictimServices/victimsbillofrightsof2008marsyrights/Pages/default.aspx>
- **Sexual Assault Survivor's Rights Card:**
<https://www.sccgov.org/sites/da/prosecution/DistrictAttorneyDepartments/Documents/SCCSARTOnlineCard0818.pdf>

Appendix F: Contact/Phone Directory

Law Enforcement Sexual Assault Investigations

California Highway Patrol: 408-467-5400
Campbell PD: 408-866-2101
Foothill – DeAnza College: 650-949-7513
Gilroy PD: 408-846-0310
Los Altos PD: 650-947-2770
Los Gatos / Monte Sereno PD: 408-827-3209
Milpitas PD: 408-586-2400
Morgan Hill PD: 669-253-4895
Mountain View PD: 650-903-6344
Palo Alto PD: 650-329-2406
San Jose PD: 408-277-4102
San Jose City – Evergreen College: 408-270-6468
San Jose State University PD: 408-277-3513
Santa Clara PD: 408-615-4800
Santa Clara County Sheriff's Office: 408-808-4500
Stanford DPS: 650-723-9633
Sunnyvale PD: 408-730-7120
West Valley – Mission College: 408-299-2311

Forensic Medical Exam Coordination

Santa Clara Valley Medical Operator: 408-885-5000
Adult / Adolescent Program: 408-885-6466
Pediatric Program: 408-885-6460

Rape Crisis Centers

Community Solutions: 1-877-363-7238
YWCA Silicon Valley: 1-800-572-2782

Victim Services Unit

408-295-2656

District Attorney Sexual Assault Unit

408-299-3099

Crime Laboratory

408-808-5900

Child Interview Center (CIC)

408-277-5688

Child Abuse Neglect Reporting Center (CAN)

1-833-722-5437 (833-SCCKIDS)

Court Support Dogs

(408) 792-2938

SPARK Clinic

(408) 977-4504

Department of Family and Children's Services

(408) 501-6300

Appendix G: References

LEGAL INTERSECTIONS:

AN OUTLINE OF FEDERAL LAWS, GUIDELINES, AND CALIFORNIA STATE LAW ON CAMPUS SEXUAL ASSAULT

	TITLE IX	CLEARY ACT	CALIFORNIA LAW
Who Must Comply?	All schools that receive federal funds. Almost all private and public colleges/universities	All colleges that universities that participate in the federal student aid program	All California colleges and universities that accept state financial assistance
Issues Covered	Discrimination based on sex, including sexual violence. Sexual violence can create a hostile environment therefore schools must take steps to remedy	Covers crimes on and around college and university campuses. Expanded and now includes sexual violence (domestic violence, sexual assault, stalking)	Covers crimes and discrimination based on sex and sexual violence (domestic violence, sexual assault, stalking)
Policy Requirements	Schools must have procedures in place for handling complaints of sex discrimination, which includes sexual violence	Colleges and universities must publish Annual Security Report. Campuses must include specific procedures for sexual violence cases	Colleges/governing boards must adopt victim-centered policies and protocols to address sexual violence
Required Response	Schools must take immediate action. Schools must have a Title IX Coordinator	Colleges and universities must have an emergency response, notification, and testing policy. Schools must provide prompt, fair, and impartial investigations and resolution that are conducted by officials who receive annual training on sexual violence	Colleges/governing boards must adopt victim-centered protocols to address sexual violence
Campus Warning or Notices	School processes must be available and must provide notice of their protocol and name the Title IX Coordinator	School process must provide timely warnings for campus threats. Schools must publish crime statistics	Schools must cross report to local law enforcement
Confidentiality	Schools designate confidential persons under Title IX (not required to Title IX report vs. those that must make a Title IX report). Local privilege (state laws) protections apply	Professional counselors and pastoral counselors do not have to report. Local privilege (state laws) protections apply	California state law privilege apply to sexual assault and domestic violence counselors as defined in California Evidence Code
Law Enforcement Involvement	Law Enforcement (LE) may be involved, but school needs own response protocol/investigation independent of LE investigation and criminal justice process	Campus crime statistics must be published annually, and can be done in coordination with local LE. Schools must have a Memorandum of Understanding (MOU) with LE.	Campus must immediately cross report to the designated LE agency. To the extent possible, schools must have an MOU with LE.
Investigation & Disciplinary Process	Schools have an independent responsibility to investigate sexual harassment and sexual violence. Internal/campus specific disciplinary process must be provided. Schools must provide prompt, fair, and impartial investigation and resolution that is conducted by officials receiving annual training on sexual violence	Schools must specify the procedures they will take in the case of sexual violence. Schools must identify the standard of evidence that will be used in the proceeding.	Internal/campus-specific disciplinary process required

Standard of Evidence	Preponderance of the evidence standard (it is more likely than not that sexual harassment or violence occurred)	Not specified, but must be included in Annual Security Report policy description	Preponderance of the evidence is standard (it is more likely than not that the elements of the complaint occurred.)
Prevention Requirements	Schools should take proactive measures to prevent sexual violence. The US Department of Education, Office of Civil Rights recommends all schools implement prevention education programs to make victim resources available	Requires notice of ongoing prevention and awareness programs in Annual Security Report. Prevention and education programming is required and must include education programs	Requires prevention education during new student orientation and encourages comprehensive prevention education and awareness.
Training of School Employees	Requires training for Title IX coordinators and persons involved in Title IX complaints and investigations	Requires annual training for officials conducting investigations. The training on the process must protect the safety of victims and promote accountability	Requires comprehensive, trauma-informed training program for campus officials involved in investigating and adjudicating sexual violence cases
Retaliation Provisions	Retaliation is a cause of action under Title IX. Campus can be liable for retaliation against the victim, witnesses, and whistleblower. This includes retaliation by accused student and 3 rd parties.	No retaliation is permitted by officer, employee, or agent of institution against victims, whistleblowers, or 3 rd parties. A retaliation claim is separate violation of the law subject to full penalties, and which may be invoked even if there are no other violations in the act	None
Enforcement	Complaints about schools response are investigated by the US Dept. of Education Office of Civil Rights (OCR). The OCR can issue warnings, compliance requirements, fines, and suspend federal aid. Individuals also have a cause of action (ability to sue) against the school for both injunctive (court ordered activities) relief and monetary damages.	US Dept. of Education is responsible for enforcing the Clery Act. The Department's Clery Act Compliance Division investigates complaints and can issue warnings, fines, and suspend federal aid.	California Dept. of Education can suspend school's access to state funds for student financial assistance for failure to comply with the law. Guidance on compliance comes from California's Office of the Attorney General.
Notification of Outcome	Must notify the complainant whether or not it found that the sexual violence occurred, any individual remedies offered or provided, any sanctions imposed on the respondent that directly relate to the complainant, and other steps the school has taken to eliminate the hostile environment and prevent reoccurrence.	Each institution is required to develop and distribute procedures for simultaneously notifying the accuser and the accused of the outcome of institutional disciplinary proceedings.	None specified.

Documented copied from CALCASA Publication: *Legal Intersections: An outline of federal laws, guidelines, and California state law on campus sexual assault.* Found at: <http://www.calcasa.org/resources/publications/>

Child Abuse Reporting Guidelines

This is a guide for mandated reporters and the information contained in this document is designed to assist those mandated by California Child Abuse Reporting Laws to determine their reporting responsibilities. It is not intended to be and should not be considered legal advice. In the event there are questions regarding reporting responsibilities in a specific case, the advice of legal counsel should be sought. This guide incorporates changes in the Child Abuse Reporting Law, effective January, 1998. For more detailed information refer to Penal Code Section 11164 & 11165.1 et al.

1. **Involuntary Sexual Activity** must always be reported.
2. **Incest**, even if voluntary, must always be reported. Incest is a marriage or act of intercourse between parents and children; ancestors and descendants of every degree; brothers and sisters of half and whole blood and uncles and nieces or aunts and nephews. (Family Code, § 2200.)
3. **Voluntary Sexual Activity** may or may not trigger mandated reporting. Even if the behavior is voluntary, there are circumstances where the behavior is abusive, either by Penal Code definition or because of an exploitive relationship, and this behavior must be reported. Review either section A, B or C and section D. In addition, if there is reasonable suspicion of sexual abuse prior to the consensual activity, the abuse must be reported.

A. Child is younger than 14 years old

"Child" refers to the person that the mandated child abuse reporter is involved with	Definitions and Comments	Mandatory Report	Not Mandatory Report
1. Partner is younger than 14 years old and of similar chronological or maturational age. Sexual behavior is voluntary and consensual. There are no indications of intimidation, coercion, or bribery, or other indications of an exploitive relationship	See, <i>Planned Parenthood Affiliates of California v. John K. Van De Kamp</i> (1986) 181 Cal. App. 3 rd 245 (1986) and <i>In re Jerry M.</i> 59 Cal. App. 4 th 289 Look for issues of neglect by caregivers that could trigger a mandatory report		X
2. Partner is younger than 14 years old, but there is disparity in chronological or maturational age, or indications of intimidation, coercion, or bribery, or other indications of an exploitive relationship		X	

3. Partner is 14 years or older		X	
4. Partner is alleged spouse and over 14 years of age	The appropriate authority will determine the legality of the marriage	X	

B. Child is 14 or 15 years old

“Child” refers to the person that the mandated child abuse reporter is involved with	Definitions and Comments	Mandatory Report	Not Mandatory Report
1. Partner is less than 14 years old		X	
2. Unlawful sexual intercourse with a partner older than 14 and less than 21 years of age, and there is no indication of abuse or evidence of an exploitive relationship	The larger the age difference, the more likely there is some degree of an exploitive relationship, neglect, or coercion, which could trigger a mandatory report “Not Mandatory Report” does not mean “Not Reportable”		X
3. Unlawful sexual intercourse with a partner older than 21 years of age		X	
4. Lewd and lascivious acts committed by a partner more than 10 years older than the child	The perpetrator has the intent of “arousing, appealing to, or gratifying the lust, passions, or sexual desires of the perpetrator or the child”	X	
5. Partner is alleged spouse and over 21 years of age	The appropriate authority will determine the legality of the marriage	X	

C. Child is 16 or 17 years old

"Child" refers to the person that the mandated child abuse reporter is involved with	Definitions and Comments	Mandatory Report	Not Mandatory Report
1. Partner is less than 14 years old		X	
2. Unlawful sexual intercourse with a partner older than 14 and there is no indication an exploitive relationship	The larger the age difference, the more likely there is some degree of an exploitive relationship, neglect, or coercion, which could trigger a mandatory report "Not Mandatory Report" does not mean "Not Reportable"		X
3. Unlawful sexual intercourse with a partner older than 14 years old and there is evidence of an exploitive relationship		X	
4. Partner is alleged spouse and there is evidence of an exploitive relationship	The appropriate authority will determine the legality of the marriage	X	

D. Child is under the age of 18

"Child" refers to the person that the mandated child abuse reporter is involved with	Definitions and Comments	Mandatory Report	Not Mandatory Report
1. Consensual sodomy, oral copulation, penetration or a genital or anal opening by a foreign object between minors of a similar age and there is no indication of abuse or evidence of exploitive relationship	The larger the age difference, the more likely there is some degree of exploitive relationship, neglect, or coercion, which could trigger mandatory report. "Not mandatory report" does not mean "not reportable"		X*

2. Sodomy, oral copulation, penetration of a genital or anal opening by a foreign object, even if consensual, with a partner 18 years or older		X	
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NOTE: Unlawful sexual intercourse is defined as any person who engages in an act of sexual intercourse with a minor. Penalties and reporting requirements vary depending on the ages of the participants.

While consensual sexual intercourse between a child (person under age 18) and an adult (person age 18 or older) is still a crime and thus subject to prosecution, California only requires that it be reported as child abuse if the child is under age 16 and the adult is over age 21.

County Protocols available through the District Attorney's Office:

Child Sexual Exploitation CSEC

- (contact DAO for copy)

Domestic Violence Protocol For Law Enforcement (March 2018)

- Searchable at: www.sccgov.org/sites/da/Pages/DA-office-site-home-page.aspx

Elder and Dependent Adult Abuse Protocol (June 2017)

- www.sccgov.org/sites/da/prosecution/DistrictAttorneyDepartments/Documents/Elder%20and%20Dependent%20Adult%20Abuse%20Protocol%20-%20June%202017.pdf

Human Trafficking Protocol For Law Enforcement (March 2016)

- Searchable at: www.sccgov.org/sites/da/Pages/DA-office-site-home-page.aspx

Santa Clara County Child Abuse Protocol for Law Enforcement (June 2019)

- <https://www.sccgov.org/sites/da/prosecution/DistrictAttorneyDepartments/Documents/Child%20Abuse%20Protocol%20for%20Law%20Enforcement%202019.pdf>

