



COUNCIL AGENDA: 04/13/2021

ITEM: 4.1

FILE NO: 21-697

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Toni J. Taber, CMC
City Clerk

SUBJECT: SEE BELOW

DATE: April 13, 2021

SUBJECT: Police Department Duty Manual Updates Report

Recommendation

As recommended by the Public Safety, Finance and Strategic Support Committee on March 18, 2021, accept a report on updates to the Police Department's Duty Manual, including but not limited to Section S4312 Sexual Assault Cases and Section S4313 Domestic Violence, for the purposes of improving the Police Department's interaction with survivors of domestic violence, child abuse, sexual assault, human trafficking, and other vulnerable populations, including 1) requiring officers to respond to and investigate all calls for service for domestic violence, child abuse, sexual assault, and human trafficking for potential high lethality and write a police report if a crime occurred, and 2) ensuring a trauma-informed approach to an officer's response by providing survivors with access to an in-person advocate and/or a referral to such advocate by telephone, pamphlet, or resource card before the officer leaves the scene regardless if the survivor asks for the referral services.

CEQA: Not a Project, File No. PP17-009, Staff Reports, Assessments, Annual Reports, and Informational Memos that involve no approvals of any City action. (Police)
[Public Safety, Finance and Strategic Support Committee referral 3/18/2021 - Item (d)2]



Memorandum

**TO: PUBLIC SAFETY, FINANCE, AND
STRATEGIC SUPPORT
COMMITTEE**

FROM: David Tindall

**SUBJECT: POLICE DEPARTMENT DUTY
MANUAL UPDATES REPORT**

DATE: March 9, 2021

APPROVED

Angela Maguire

DATE

3-10-21

RECOMMENDATION

1. Accept a report on updates to the Police Department's Duty Manual, including but not limited to Section S4312 Sexual Assault Cases and Section S4313 Domestic Violence, for the purposes of improving the Police Department's interactions with survivors of domestic violence, child abuse, sexual assault, human trafficking, and other vulnerable populations, including 1) requiring officers to respond to and investigate all calls for service for domestic violence, child abuse, sexual assault, and human trafficking for potential high lethality and write a police report if a crime occurred, and 2) ensuring a trauma-informed approach to an officer's response by providing survivors with access to an in-person advocate and/or a referral to such advocate by telephone, pamphlet, or resource card before the officer leaves the scene regardless if the survivor asks for the referral services.
2. Refer the Police Department Duty Manual Updates Report to the April 13, 2021, City Council Meeting for full adoption.

BACKGROUND

The San Jose Police Department is committed to providing the highest level of service to survivors of domestic violence, child abuse, sexual assault, and human trafficking. As such, the Department has adopted a trauma-informed approach in responding to these types of incidents. A trauma-informed approach recognizes the impact of the event on the survivor not only physically, but also emotionally, socially, and psychologically. This type of response promotes an environment of healing and recovery. An emphasis is placed on respecting the individual and responding in a manner so as to not re-traumatize the survivor.

As directed by the City Council with the approval of Councilmember Arenas' memorandum on August 18, 2020, the Public Safety, Finance, and Strategic Support (PSFSS) Committee work plan for March 2021 included updates to the Duty Manual for the purpose of improving the Police Department's interactions with survivors of domestic violence, child abuse, sexual assault, human

trafficking, and other vulnerable populations, consistent with the trauma-informed approach described above. The work plan language for this item includes the following two objectives:

- (1) Requiring officers to respond to and investigate all calls for service for domestic violence, child abuse, sexual assault, and human trafficking for potential high lethality and write a police report if a crime occurred, and
- (2) Ensuring a trauma-informed approach to an officer's response by providing survivors with access to an in-person advocate and/or a referral to such advocate by telephone, pamphlet, or resource card before the officer leaves the scene regardless if the survivor asks for the referral services.

This memorandum provides information to the PSFSS Committee on Duty Manual changes related to these two objectives as well as recent Duty Manual changes on closely related topics.

ANALYSIS

The Sexual Assault Investigations Unit, Special Victims Unit, and Family Violence Unit coordinated Duty Manual amendments that achieve the two objectives described above. A brief description of how these objectives are accomplished is provided below, along with a description of other related Duty Manual amendments and a matrix summarizing all amendments discussed in this memorandum. The full text of these amendments is included in Attachment A.

Response to Work Plan Language

1. Requiring officers to respond to and investigate all calls for service for domestic violence, child abuse, sexual assault, and human trafficking for potential high lethality and write a police report if a crime occurred

Officers are required to respond to, investigate, and document all calls for service involving domestic violence pursuant to Duty Manual section L 7307 DOMESTIC VIOLENCE REPORTING. This was a preexisting section and did not require modification to achieve this goal. However, the requirements to respond, investigate, and document were also added to Duty Manual section L 7300 DOMESTIC VIOLENCE. Duty Manual section S 4313 DOMESTIC VIOLENCE was updated to interview survivors in a private setting and require investigation in accordance with section L 7300, described above.

Duty Manual section L 3024 PHYSICAL CHILD ABUSE, ENDANGERMENT, OR NEGLECT was modified to require officers to respond to, investigate, and document all calls for service for physical abuse, sexual abuse, endangerment, child neglect, unjustifiable mental suffering, emotional abuse, child death, parental kidnapping or child abduction. This is achieved through both a reference to the requirements of the Santa Clara County Child Abuse Protocol, as well as explicit language in the policy.

Duty Manual section L 6000 INVESTIGATION OF SEX CRIMES was modified to require officers to respond to, investigate, and document all calls for service involving sexual assaults. Duty Manual section S 4312 SEXUAL ASSAULT CASES was updated to specify using a multidisciplinary

interview for juvenile survivors of sexual assault, interview survivors in a private setting, and require investigation in accordance with section L 6000, described above.

Duty Manual section L 6018 HUMAN TRAFFICKING was added to require officers to respond to, investigate, and document all calls for service involving sexual assaults.

2. Ensuring a trauma-informed approach to an officer's response by providing survivors with access to an in-person advocate and/or a referral to such advocate by telephone, pamphlet, or resource card before the officer leaves the scene regardless if the survivor asks for the referral services.

For each type of incident listed above, officers are reminded of their individual responsibility to assist survivors through a trauma-informed approach, offer and explain resources to the survivor, conduct appropriate investigative tasks, make arrests when allowed by law, and properly document the incident whenever suspected domestic violence, child abuse, sexual assault, or human trafficking is discovered or otherwise reported. This language was added to each of the four types of incidents under L 7300 DOMESTIC VIOLENCE, L 3024 PHYSICAL CHILD ABUSE, ENDANGERMENT, OR NEGLECT, L 6000 INVESTIGATION OF SEX CRIMES, and L 6018 HUMAN TRAFFICKING. In addition, each type of incident discusses the applicable Santa Clara County Protocols, in which a trauma-informed approach is weaved throughout the prescribed response.

For domestic violence, Duty Manual sections L 7308 NOTIFICATION TO SURVIVOR and L 7311 ASSISTANCE TO SURVIVORS OF SEXUAL ASSAULT both explicitly discuss providing survivors with access to an in-person advocate and/or a referral to such advocate by telephone, pamphlet, or resource card before the officer leaves the scene regardless if the survivor asks for the referral services.

For sexual assaults, Duty Manual sections L 6009 NOTIFICATION TO SURVIVOR and L 6010 NOTIFICATION TO A SURVIVOR ADOVATE both explicitly discuss providing survivors with access to an in-person advocate and/or a referral to such advocate by telephone, pamphlet, or resource card before the officer leaves the scene regardless if the survivor asks for the referral services. Consistent with these sections, Duty Manual section L 6017 ADVOCACY REFERRALS has been added to create a requirement for Department members to provide advocacy referrals to survivors of sexual assault and domestic violence before leaving the scene.

In addition, Duty Manual sections R 1526 DOMESTIC VIOLENCE RESOURCE CARD and R 1527 SEXUAL ASSAULT REPORT RECEIPT were modified to require officers to not only provide the cards to the survivor, but explain them as well. In addition, Duty Manual section R 1526.5 was added, requiring officers to provide resources to survivors of strangulation and/or suffocation.

3. Other Related Duty Manual Updates

Duty Manual sections A 3003 DUTIES OF THE CSO and A 3007 DISPATCHABLE CALLS FOR CSOs are being modified to expedite documentation of non-investigative sexual assault reports. These sections also expedite the collection and booking of evidence from the sexual assault forensic examinations in these incidents. We are expecting this to be completed within the next two weeks.

Duty Manual sections L 4113 GUN VIOLENCE RESTRAINING ORDERS and L 5704 BOOKING FIREARMS FOR SAFEKEEPING – DOMESTIC VIOLENCE INCIDENTS were added, creating a requirement for officers to inquire if any firearms are accessible and/or on the premises of a domestic violence incident. If there are, officers are directed to take custody of those firearms, pursuant to a Gun Violence Restraining Order, and book them for safekeeping.

Duty Manual section L 6002.5 NON-INVESTIGATIVE REPORT is being created to establish a new means by which survivors may report a sexual assault, while remaining anonymous. In the event they later decide to move forward with prosecution, the original incident was documented and the evidence necessary for prosecution was collected and booked. This ensures a trauma-informed approach for survivors. We are expecting this to be completed within the next two weeks.

Duty Manual section L 7307 DOMESTIC VIOLENCE REPORTING was modified to implement a new intersectionality tool. In recognizing the nexus between domestic violence and sexual assault, officers now ask about sexual assault at all domestic violence incidents. This policy was later updated to provide for the most streamlined approach to routing reports to the Sexual Assault Investigations Unit, Special Victims Unit, and the Family Violence Unit.

Duty Manual section R 1536 DV SUPPLEMENTAL TEMPLATE AND DV SEXUAL ASSAULT HUMAN TRAFFICKING ASSESSMENT TEMPLATE and section R 1536.5 DOMESTIC VIOLENCE FIELD REPORTING GUIDE (FORM 204-24C), AND SEXUAL ASSAULT HUMAN TRAFFICKING ASSESSMENT (FORM 204-26) were revised to update domestic violence forms for use of the intersectionality tool.

Duty Manual Amendment Summary Matrix

The following is a list of the Duty Manual sections revised discussed in the above three sections. Full text of these sections is provided in Attachment A.

Section	Type	Description
A 3003 Duties of the CSO	Revision (Pending)	Update to allow CSOs to respond to non-investigative sexual assaults. This expedites the documentation, collection and booking of evidence.
A 3007 Dispatchable Calls for CSOs	Revision (Pending)	Update to allow CSOs to respond to non-investigative sexual assaults. This expedites the documentation, collection, and booking of evidence.
L 3024 Physical Child Abuse, Endangerment, or Neglect	Revision (Completed)	Updated to require a trauma-informed approach by offering and explaining resources, conducting an investigation, making arrests when allowed by law, and properly documenting the incident.

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Section	Type	Description
L 4113 Gun Violence Restraining Orders	Addition (Completed)	Created the requirement for officers to inquire if any firearms are accessible or on the premises of a domestic violence incident, and to take custody of those firearms and ammunition for safekeeping, when authorized by law.
L 5704 Booking Firearms for Safekeeping – Domestic Violence Incidents	Addition (Completed)	Created and implemented procedures to book firearms for safekeeping when they are taken pursuant to a Gun Violence Restraining Order at a domestic violence incident.
L 6000 Investigation of Sex Crimes	Revision (Completed)	Updated to require a trauma-informed approach by offering and explaining resources, conducting an investigation, making arrests when allowed by law, and properly documenting the incident.
L 6002.5 Non-Investigative Report	Addition (Pending)	Created a new report type and dispatch code for non-investigative reports. These allow survivors to provide evidence of an assault, while remaining anonymous. Upon later decision, the case may be reopened and investigated at the survivor's discretion.
L 6009 Notification to Survivors	Revision (Completed)	Updated to require advocacy referrals in all sexual assault cases via pamphlet, telephone, or in-person.
L 6010 Notification to a Survivor Advocate	Revision (Completed)	Updated to require Department members to ask the survivor if they would like an in-person advocate present during Sexual Assault Forensic Examinations, obtain the advocate if requested, and document the response.
L 6017 Advocacy Referrals	Addition (Completed)	Created the requirement for Department members to provide advocacy referrals to survivors of sexual assault and domestic violence before leaving the scene.
L 6018 Human Trafficking	Addition (Completed)	Created the requirement for human trafficking incidents to be investigated pursuant to the Santa Clara County Law Enforcement Human Trafficking Protocol. Required a trauma-informed approach by offering and explaining resources, conducting an investigation, making arrests when allowed by law, and properly documenting the incident.
L 7300 Domestic Violence	Revision (Completed)	Updated to require a trauma-informed approach by offering and explaining resources, conducting an investigation, making arrests when allowed by law, and properly documenting the incident.

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Section	Type	Description
L 7307 Domestic Violence Reporting	Revision (Completed)	Created and implemented the intersectionality tool asking questions about sexual assault during domestic violence incident investigations. A later update requires officers to route investigations to the Sexual Assault Investigations Unit, Special Victims Unit, and the Family Violence Unit as appropriate when a sexual assault is disclosed.
L 7308 Notification to Survivor	Revision (Completed)	Updated to require Department members to provide advocacy referrals to survivors of domestic violence before leaving the scene.
L 7311 Assistance to Survivors of Domestic Violence	Revision (Completed)	Updated to require Department members to advise survivors of domestic violence of their survivor rights, victim/witness information, information for the Family Justice Center, and 24-hour hotlines. Required use of the Lethality Assessment Tool. Required investigation of strangulation / suffocation. Required notification of advocate rights and the opportunity to have an advocate or support person.
R 1526 Domestic Violence Resource Card	Revision (Completed)	Updated to require providing and explaining the resource card to the survivor.
R 1526.5 Strangulation Resource Card	Addition (Completed)	Created and implemented a strangulation resource card for survivors of strangulation or suffocation.
R 1527 Sexual Assault Report Receipt (Form 200-45c)	Revision (Completed)	Updated to require providing and explaining the resource card to the survivor.
R 1536 DV Supplemental Template and DV Sexual Assault Human Trafficking Assessment Template	Revision (Completed)	Updated the domestic violence forms for use of the intersectionality tool.
R 1536.5 Domestic Violence Field Reporting Guide (Form 204-24C) and Sexual Assault Human Trafficking Assessment (Form 204-26)	Revision (Completed)	Updated the domestic violence forms for use of the intersectionality tool.
S 4312 Sexual Assault Cases	Revision (Completed)	Updated to specify using a multidisciplinary interview for juvenile survivors of sexual assault, interview survivors in a private setting, and require investigation in accordance with section L 6000 – Investigation of Sex Crimes.

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Section	Type	Description
S 4313 Domestic Violence	Revision (Completed)	Update to interview survivors in a private setting and require investigation in accordance with section L 7300 – Domestic Violence.

CONCLUSION

The above-listed Duty Manual revisions and additions are a great step forward in providing a trauma-informed, survivor-centered approach. The Department will continue to work with our advocacy and community partners in ensuring the highest level of support to our survivors of domestic violence, child abuse, sexual assault, human trafficking, and other vulnerable populations.

COORDINATION

This memorandum was coordinated with the City Attorney's Office.

/ s /
DAVID TINDALL
Acting Chief of Police

For questions, please contact Lieutenant Jaime Jimenez at (408) 277-4102

Attachments:

Attachment A: Duty Manual Amendment Text