



Memorandum

TO: PUBLIC SAFETY, FINANCE, AND
STRATEGIC SUPPORT COMMITTEE

FROM: Anthony Mata

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

DATE: September 7, 2021

Approved

Date

9/9/21

RECOMMENDATION

Accept a status report on the implementation of updates made to the Police Department's Duty Manual 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.

BACKGROUND

The San José Police Department is committed to providing the highest level of service to survivors of domestic violence (DV), child abuse (CA), sexual assault (SA), and human trafficking (HT). As such, the Department has adopted a trauma-informed approach when 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 agenda for March 18, 2021 included a report on updates to the Duty Manual related to the following two objectives:

- (1) Requiring officers to respond to and investigate all calls for service for DV, CA, SA, and HT for potential high lethality and write a police report if a crime occurred, and;

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- (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 report was cross-referenced by the PSFSS Committee to the April 13, 2021 City Council meeting. At that meeting the Council directed staff to "return to the PSFSS Committee no later than February 2022 with an update to the Police Department's Duty Manual amendments to report on the status of Duty Manual completions to ensure implementation." Pursuant to this direction, this memorandum provides a status report to the PSFSS Committee on the implementation of updates made to the Department's Duty Manual related to the two objectives above, to the Duty Manual changes on closely related topics, and to other work items which relate to Duty Manual updates. A full list of relevant Duty Manual amendments, including a short summary of each amendment, is provided below. The entire San José Police Department Duty Manual, including full text of the following sections, can be found on the Police Department's website at <https://www.sjpd.org/records/documents-policies>.

Section	Type	Description
A 3003 Duties of the CSO	Revision (Completed)	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 (Completed)	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.
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.

Section	Type	Description
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 (Completed)	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.

Section	Type	Description
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.
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.

ANALYSIS

The Sexual Assault Investigations Unit (SAIU), Special Victims Unit (SVU), and Family Violence Unit (FVU) coordinated on these Duty Manual amendments. A brief description of how these objectives were implemented is provided below.

Implementation Overview

The Department has implemented the Duty Manual revisions and additions through various means. To begin, the San José Police Department's Research and Development Unit sent a Department-wide email with all the listed Duty Manual updates. Department members are obligated to understand the content of the policy changes. Further, supervisors have the responsibility to ensure any new policy is understood and being implemented. These responsibilities are clearly established through duty manual sections A 1104 – Employee Responsibility, E 1106 – Duty Manual, A 2602 – General Responsibilities, A 2604 – Information to Subordinates, A 2605 – Training & Assistance, and A 2312 – Training Bulletins. Therefore, the email distribution serves as a means to train Department members on new and revised policy.

The Department took various other measures to ensure that Department members understood the changes in policy. The following are examples of the measures undertaken by the Department to ensure awareness and compliance of the Duty Manual updates:

1. SAIU, SVU, and FVU personnel are now instructing their respective academy Learning Domains (LD) to ensure new police recruits are being trained by personnel who are assigned

to the units and who investigate the cases that are being taught. The following academy courses are now being taught by members of SAIU, SVU, and FVU:

- a. LD 9 – Crimes Against Children (SVU)
- b. LD 10 – Sex Crimes (SAIU)
- c. LD 25 – Domestic Violence (FVU)

The ability to reach police recruits by those who are investigating the crimes being taught will improve the quality of service the Department provides survivors. On February 13, 2021, SAIU personnel completed their first 10-hour academy training in LD 10 – Sex Crimes and incorporated the two objectives outlined in the Background section above.

2. SAIU, SVU, and FVU members have participated in training for patrol personnel as part of the Bureau of Investigations (BOI) Mini Academy. This forum allows for investigative units to reach patrol officers in 1.5-hour blocks to provide officers with updates, such as the Duty Manual Updates. To date, two BOI Mini Academy sessions have been conducted reaching over 182 patrol officers.
3. SAIU, SVU, and FVU personnel have attended patrol briefing to discuss changes in policy. In addition to providing policy updates, attending briefing allows for officers to ask questions and receive answers, creating a better understanding of policy.
4. SAIU, SVU, and FVU members have attended “sergeant staff” to explain policy changes. Sergeant staff are regular meetings held by patrol lieutenants and sergeants to provide Department messaging. This forum produces great results due to the presence of sergeants, who supervise the officers and review the officers’ police reports.
5. SAIU, SVU, and FVU members review all the patrol-initiated reports and make note when policies (such as the Duty Manual Updates) are not being followed. When officers fail to comply with new policy changes, those individual officers and their sergeants are contacted and mentored by the respective unit personnel. On occasion, teams of officers have requested training to better understand policy and protocol changes.
6. SAIU utilizes its monthly newsletter to disseminate various types of information. The newsletter has addressed items related to the Duty Manual Updates.

These implementation efforts have yielded important results. Revisions to duty manual sections L 6009 Notification to Survivors, L 6010 Notification to a Survivor Advocate, and L 6017 Advocacy Referrals along with corresponding changes to SAIU’s Standard Operating Procedures (SOPs) sought to increase referrals to YWCA from SAIU. Fiscal Year 2019-2020 saw 89 referrals to YWCA, while Fiscal Year 2020-2021 saw 315 referrals, constituting an increase in referrals of 253%.

In-Person Training

There are occasions where in-person training is needed to implement the specific Duty Manual amendments. Examples of in-person training include:

CSO Training:

SAIU sergeants provided the Community Service Officers (CSOs) with a 2-hour training on how to respond, collect, book, and report non-investigative sexual assault reports. This section was also highlighted in SAIU’s newsletter. This training facilitates implementation of Duty Manual sections A 3003 Duties of the CSO and A 3007 Dispatchable Calls for CSOs.

Mental Wellness & Trauma-Informed Care Training:

All members of the Department are being trained in a 4-hour course on mental wellness and trauma-informed care. To date, approximately 558 police officers, CSOs, and professional personnel have been trained. This training facilitates implementation of multiple Duty Manual sections that require a trauma-informed approach, including sections L 3024 Physical Child Abuse, Endangerment, or Neglect, L 6000 Investigation of Sex Crimes, L 6018 Human Trafficking, L 7300 Domestic Violence.

Dispatcher Training:

FVU personnel present information to the San José Police Communications Dispatch Academy regarding the police response to calls concerning intimate partner violence (IPV), CA, and elder abuse. The information identified and relayed to police officers in the field assists the Department in identifying specific crimes and the reporting of the identified crimes. This assists officers in the reporting of crimes related to IPV, CA, and elder abuse. By properly identifying the type of call (via communications), officers can conduct the proper lethality assessments. This training aids in implementing Duty Manual section L 7311 Assistance to Survivors of Domestic Violence.

Main Lobby Officer Training:

Previously, interviews of survivors who came to the Department's Main Lobby were occurring in public in the Main Lobby. The Duty Manual was revised to address this issue, with Duty Manual section S 4312 Sexual Assault Cases now specifying that "any interview of a survivor shall be conducted in a private setting, outside the presence of other civilians in the Main Lobby." To implement this Duty Manual section, the Main Lobby sergeant has provided training on this issue to all Department members assigned to the Main Lobby. Furthermore, interview rooms in the witness center were updated and provided for officers to interview survivors in a private, comfortable setting.

Related Efforts

The Department is involved in a number of efforts that complement the Duty Manual revisions. These efforts are briefly summarized below.

Pediatric SART Exams:

SAIU personnel worked with the partner agencies to ensure that "all children [are] offered medical care related to their sexual assault in a coordinated way, full and timely mandated reporting, and increased communication between the police and medical staff on these issues."¹ The Children's Advocacy Center's has established new guidelines on Pediatric SART approvals that are similar to SAIU's Standard Operating Procedures (SOPs) on that topic. In addition, SAIU personnel recommended all pediatric cases use the 10-day standard for SART referrals (this standard involves making a referral within 10 days of a suspected incident) instead of a hybrid approach that uses a 72-hour standard for children 0-11 and a 10-day standard for children aged 12-17. Applying the 10 days to all pediatric cases eliminates confusion and affords more children access to forensic examinations. The suggestion was well-received by the Pediatric Medical Team and adopted by the Department.

¹ Santa Clara County District Attorney's Office ADA James Gibbons-Shapiro letter to Councilmember Arenas and Supervisor Chavez regarding Pediatric SART Examinations. The letter was in response to a request to identify barriers in Pediatric SART approvals.

Continuous Improvement:

SAIU is committed to providing the highest level of service to survivors of sexual assault. As such, SAIU has continued to make updates to Duty Manual Sections to bring the Department into compliance with best practices. Many sections are being added, revised, or deleted and are being reviewed through the chain of command. FVU also reviewed the Duty Sections Related to DV, CA, and Elder/Dependent Adult Abuse. Recommended revisions to these sections are in draft form and being reviewed by the Department.

Resource Cards:

FVU members have worked with the District Attorney's Office and the Domestic Violence Protocol Update Committee to update the Domestic Violence Resource Card. The card was updated and is expected to be published soon. The cards will be produced in English, Spanish, Vietnamese, and Mandarin.

SAIU members have worked with the District Attorney's Office, the YWCA, and community partners to revise the Sexual Assault Resource Card. The draft card has also been shared with members of the City of San José Auditor's Office. The final product will be provided to the District Attorney's Office for final approval the week of September 6, 2021. The cards will be produced in English, Spanish, Vietnamese, and Mandarin.

Intersectionality Tool Update:

The "Domestic Violence, Sexual Assault, and Human Trafficking Assessment" template established in Duty Manual sections L7307, R1536, and R1536.5, also known as the intersectionality tool, was implemented in January 2020. The purpose of the template is to ensure that survivors of IPV who are also survivors of human trafficking are identified as such and connected to the appropriate community service providers by the initial patrol officer or the assigned detective conducting an investigation. The template has identified 701 potential survivors and, after being forwarded to the HT unit for review, resulted in 31 being assigned for follow-up investigation. An audit of the intersectionality form in 2020 revealed the opportunity for system improvements, which could increase the HT unit's probability of identifying and arresting human traffickers and automating analytical data.

In early 2021, Councilmember Sylvia Arenas asked if the Department could expand the use of the intersectionality tool. As a result, the Department is creating new policy to be able to use the intersectionality tool in cases involving DV, SA, and HT. The policy change is to have officers ask questions related to the intersectionality of DV, SA, and HT in all cases of IPV reported to the Department and to increase the reporting of cases which would have otherwise not have been reported.

Non-Investigative Reports (NIRs):

SAIU and SVU personnel attended several SART Committee meetings to create the Duty Manual Section L 7307 Domestic Violence Reporting, related to the investigation of non-investigative reports (NIRs). A NIR occurs when an individual receives a SART exam, but does not wish to generate a law enforcement investigation. SART Committee members include the District Attorney's Office, the YWCA (and other advocacy groups), various other police agencies, Crime Laboratory members and SAFE team members. Though collaboration, SAIU and SVU members were able to create policies for the Department to document NIRs.

In addition to CSO's being trained to collect the evidence, police call-takers and dispatchers also received training on how to receive and dispatch NIRs. Lastly, this section was highlighted in SAIU's newsletter.

CONCLUSION

The implementation of 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/
ANTHONY MATA
Chief of Police

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