



**SANTA CLARA
VALLEY MEDICAL CENTER**
Hospital & Clinics

**COUNTY OF SANTA CLARA
CHILDREN, SENIORS, AND FAMILIES COMMITTEE**

SPECIAL JOINT MEETING WITH
**THE CITY OF SAN JOSE PUBLIC SAFETY, FINANCE, AND
STRATEGIC SUPPORT (PSFSS) COMMITTEE**

Friday, November 5, 2021

**eliminating racism
empowering women**

ywca

Golden Gate Silicon Valley



PRESENTERS: Assistant DA Terry Harman, SJPD Sexual Assault Unit Lt. Jaime Jimenez,
Director of SCC Adult SAFE Kim Walker, YWCA Director of Support Services Lindsey Manfield.

APPLICABLE LAWS

**SHOULD A SURVIVOR WHO WANTS A SEXUAL
ASSAULT FORENSIC EXAM (SAFE) GET ONE FREE OF
CHARGE?**

YES. (PC 13823.95(A))

**SHOULD IT MATTER WHETHER THE SURVIVOR IS
COOPERATING WITH LAW ENFORCEMENT?**

NO. (PC 13823.95(b)(1))



APPLICABLE LAWS

Penal Code § 13823.5 directs the Governor's Office of Criminal Justice Planning (CalOES) to establish a protocol for the examination and treatment of sexual assault victims, and the collection and preservation of evidence.

- **Recommended methods for meeting the minimum standards for evidential exams (Penal Code § 13823.11)**
- **Development of standard forms to record findings from evidential exams.**
 - **CalOES 923 Form (Acute Adult/Adolescent)**



LOCAL PROTOCOL

SART PROTOCOL

- **ADOPTED SEPTEMBER 2019**
- **SIGNATORIES: DA, VMC CEO, CHAIR OF POLICE CHIEF'S ASSOCIATION, CRIME LAB DIRECTOR, YWCA CEO, COMMUNITY SOLUTIONS CEO.**
- **Penal Code §13898 – SART Committee**
 - **Forum for inter-agency cooperation, facilitate improved communication and working relationships.**
 - **Collaborative methods to ensure that the needs of both the victim and the criminal justice system are accommodated.**



CHILDREN'S ADVOCACY CENTER

CAC AGREEMENT

Internal Work Flow Issues and Expectations with Timelines

- **“Acute”**
 - Within 72 hours for a child 11 and younger
 - Within 10 days for a child age 12-17 at last sexual contact
- **Authorization**
- Standard medical evidentiary examination will be authorized and performed in all cases within 10 days of the last sexual contact when there is evidence to suggest skin to skin contact, even if evidence so far does not include penetration, etc.



SEXUAL ASSAULT FORENSIC EXAM (SAFE)

ACCESS



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SAFE: THE WHO AND THE WHERE

SAFE PROGRAM: PEDIATRIC AND ADULT

- Pediatric (11 and under, unless non-acute case)
 - Serena Sy/Anna Anton
 - Locations:
 - Medical Clinic at the Children's Advocacy Center (CAC)
 - SCVMC
- Adult (12 and older)
 - Andrea Brollini/Kim Walker
 - Locations:
 - SCVMC, North County, South County (12/21)



SJPD PROCESS

SJPD is in compliance of all Duty Manual Sections and Standard Operating Procedures (SOPs) related to the approval of SAFEs in addition to the Santa Clara County Sexual Assault Protocol and the CAC-SJPD-Medical Team Agreement

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).

YOUR RIGHTS as a Survivor of Sexual Assault

You Have the Right To:

- **Request a person with a gender of your choosing** to be present in the room during any interview with law enforcement or the District Attorney.
- **Request in writing and receive a free copy** of the initial crime report.
- **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 Family Court Clinic in Santa Clara County at: [408-534-5709](tel:408-534-5709) or www.sccscourt.org
- **Know that DNA evidence** on the body, clothing, and other items may last from 12 hours to 7 days. DNA and other evidence can break-down 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.
- **Ask the status and results** of the testing of all evidence related to your assault. For results contact the law enforcement agency investigating your case.

Source: SCC Sexual Assault Protocol p. 33

[http://endviolence.sccgov1.acsifactory.com/sites/g/files/exjcpb506/files/SA%20Protocol](http://endviolence.sccgov1.acsifactory.com/sites/g/files/exjcpb506/files/SA%20Protocol%20v1.0.pdf)



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SEXUAL ASSAULT FORENSIC EXAM (SAFE)

AUTHORIZATION



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APPLICABLE GUIDANCE

**Law Enforcement Agencies are responsible for payment/reimbursement for exams they authorize.
(PC 13823.95(c))**

☐ **Authorization for Forensic Medical Exams:**

- ☐ CalOES forms are signed by a law enforcement officer
- ☐ Separate authorization form is signed by a law enforcement officer
- ☐ Telephone authorization
- ☐ Courtesy authorization between law enforcement agencies
- ☐ Contracts and Memorandums of Understanding (MOUs)



SAFE AUTHORIZATION

GUIDELINES

- SAFE exams are prioritized for medical care with evidence collection as applicable
 - 12 and older
 - Acute exams 10 days
 - Non-acute exams (12-17) “never too late”
 - Non-Investigative Report (NIR) 10 days
 - 11 and younger
 - Acute exams 72 hours
 - Non-acute exams 72 hours
 - Non-acute exams “never too late”
 - Non-evidentiary medical exams

blue denotes pt authorized exams



SAFE AUTHORIZATION

SURVIVOR AUTHORIZATION

- Survivors should not have to get law enforcement approval/permission/authorization for a SAFE.
- Requires a different funding source for those exams that fall outside law enforcement funded exams.
- There is no need for survivors to hear that their exam is not authorized.



SEXUAL ASSAULT FORENSIC EXAM (SAFE)

COST



SAFE COST AND BILLING

VMC

	<u>SAFE Charge</u>	<u>After Offset</u>
• SART 1 Consultation	\$ 400	\$ 0
• SART 2 Standard	\$ 1450	\$ 323
• SART 3 Extensive	\$ 1950	\$ 823
• SART 4 NIR/VAWA	\$ 1450	\$ 539
• SART 5 Non-evidentiary Medical Exam	\$ NA	\$ NA
• IPV 1 Intimate Partner Violence Initial Exam	\$ 1000	\$ NA
• IPV 2 Intimate Partner Violence Follow-up Exam	\$ 500	\$ NA



SEXUAL ASSAULT FORENSIC EXAM (SAFE)

REIMBURSEMENT



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CAL OES REIMBURSEMENT

RECENT CHANGES

- **Cal OES will reimburse law enforcement to offset the cost of medical evidentiary examinations as follows:**
 - **Up to \$911** for victims that are undecided, at the time of an examination, whether to report the assault to law enforcement.
 - Examinations must have occurred on, or after, October 1, 2020.
 - **Up to \$1,127** for victims that have determined, at the time of the examination, to report the assault to law enforcement, **to the extent funds are available.**
 - Examinations must have occurred on, or after, July 1, 2021.



SEXUAL ASSAULT FORENSIC EXAM (SAFE)

CHALLENGES



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POLICE PERSPECTIVE

Challenges

- Speed of Policy Changes (NIR Sub Committee)
- Data Sharing
- Efficiency: Inability to receive medical reports via encrypted email or from a portal
- 43.5% of invoices will not be reimbursable per CAL OES regulations
- Impediments to Information Sharing with VMC
- Lack of immediate access to children 12-17 when there's an NIR report.
- Not enough victim advocates.



SAFE PERSPECTIVE

Challenges

- Timely notification to the SAFE teams to ensure such services are offered within the appropriate time frame.
- Regardless of law enforcement authorization, all survivors should have access and be provided with a timely medical evidentiary examination.
- No survivor should be charged for medical forensic services, regardless of being authorized or not.



SURVIVOR PERSPECTIVE

BARRIERS TO SAFE_s

- Money – Perception of Cost
- Stigma of Sexual Assault – Shame
- Lack of Public Knowledge Regarding Resources and Options
- Culture and Language
- Fear of Deportation
- Length of Time an Exam Takes
- Invasiveness of the Process
- Length of Time it may Take for LEA to Arrive as They are Attending to Other Urgent Community Needs
- All Kits Being Tested



DA OFFICE EXPECTATIONS

SAFE Access and Sexual Assault Investigation

- All survivors are entitled to a SART exam free of charge regardless of whether they participate in the criminal justice system.
- Timelines associated with exams, evidence collection, investigation are crucial.



SEXUAL ASSAULT FORENSIC EXAM (SAFE)

PROTOCOLS AND TRAINING



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SJPD TRAINING & ADHERENCE OF STANDARDS

- 1. Research and Development Unit sent a department-wide email with all Duty Manual updates**
- 2. Learning Domains (LD) Academy Instruction**
- 3. BOI Mini Academy**
- 4. Patrol Briefings**
- 5. Attended sergeant staff**



SJPD TRAINING & ADHERENCE OF STANDARDS

- 6. Review all patrol-initiated reports and make note when policies (such as the Duty Manual Updates) are not being followed**
- 7. Monthly newsletter to disseminate various types of information**
- 8. In-Person Training:**
 - CSO Training**
 - Dispatcher Training**
 - Main Lobby Officer Training**



SEXUAL ASSAULT FORENSIC EXAM (SAFE)

**FILLING THE
GAPS**



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GAPS

Training/Protocol/Resources

YWCA

- Training for Other Service Providers/Medical Centers and Community Clinics
- Advocate On-Site
- Capacity for all Responding Partners
- Availability and Quality of Interpreter/Translator Services



GAPS

Training/Protocol/Resources

- **SAFE Program**
 - Develop and update existing SAFE information resources for patients, SART partners, and community
 - Standard authorization process across all LEAs that prioritizes timely medical care
 - Address SART response challenges through the SART Committee
 - Streamline transfer of patients to SAFE response locations after arriving at non-SAFE facilities



GAPS

San Jose Police Department

- Increased funding to agencies that provide victim advocacy services
- Create a more efficient way to charge for and invoice SAFEs
- Improve methods to share data from adult SAFE Team
- Improve communication regarding mandated reporter information



GAPS

Training/Protocol/Resources

- **DA's Office**
- Safeguard the Survivor's Engagement in the Process.
- Message to Community: Evidence Preservation.
- Continued Development and Improvement of Victim App.



THANK YOU. QUESTIONS?



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