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100241

**DATE:** February 11, 2020  
**TO:** Board of Supervisors  
**FROM:** Jeffrey F. Rosen, District Attorney  
**SUBJECT:** SART Kit Testing Report

**RECOMMENDED ACTION**

Under advisement from May 8, 2018 (Item No. 13) and June 12, 2018 (Item No. 130): Receive report relating to testing of Sexual Assault Response Team (SART) kits. (Office of the District Attorney)

**FISCAL IMPLICATIONS**

There are no fiscal implications associated with the acceptance of this report.

**REASONS FOR RECOMMENDATION**

Based on Board direction described in more detail in the Background section of this report, the District Attorney's Office (DAO) is providing this report as to the testing of SART kits that had been awaiting testing in the DAO's Crime Laboratory, the time required for processing SART kits, and other information in response to Board referrals related to SART kit testing. This represented a fundamental shift in philosophy, with our Crime Lab committing to testing every SART kit presented in connection with a criminal case, in order to honor the survivors' wishes and to reduce the possibility of a crime going unsolved.

**Backlog**

When the Board approved funding on June 12, 2018 to address the backlog, there were 269 SART kits awaiting processing at the Crime Lab. All of these kits have now been tested and the backlog has been eliminated.

In June 2018, in accordance with the workplan laid out in the DAO's May 8, 2018 report, a dedicated SART kit testing team was established. Prior to this change, kits assigned for DNA testing were assigned to Criminalists who were also responsible for other types of DNA analysis. As a result, a SART kit competed for testing resources against evidence from other violent crimes, leading to inconsistent turnaround times.

The original dedicated team consisted of three Criminalists. The Board's funding action provided two additional new Criminalist positions, as well as providing \$300,000 in one-time funding for a contract to allow an outside lab to provide some of the testing as well.

Using these resources, 63 of the original kits were processed by the selected contractor, Bode Cellmark Forensics. The other 206 kits were processed by the in-house team. This work involved analyzing each kit for the presence of DNA and uploading all DNA eligible profiles into the national Combined DNA Index System (CODIS).

### **Turnaround Time**

At the time of the Board's action, average testing time for SART kits was 94 days. The Board directed that a goal of 30 days be set. As of December 31, 2019, average testing time had been reduced to 16 days.

This significant reduction has been achieved in spite of a 23% increase from 2017 to 2019 in the average number of kits submitted per month (from 26 per month to 32). This increase is consistent with a general rise in sexual assault reports. In 2018 alone, there was a 20% increase over the prior year in the number of police reports received by the DAO for review for criminal filing. The DAO is confident that the dedicated resources in place, along with its new SART kit testing policy described below, will allow the Crime Lab to keep up with the increase in SART submissions.

The DAO's SART Kit Testing Policy became effective in May 2018. The policy calls for a target turnaround time of 30 days for cases, unless they are designated as "Priority 1." Priority 1 cases are those cases identified by the reporting law enforcement agency and the DAO as warranting immediate testing due to imminent public safety concerns. These cases are to be processed in-house within seven (7) days. This goal has been met, and the Crime Lab has no backlog of Priority 1 cases.

The 30-day turnaround target for all other SART kits has also been met, and there is no backlog for these cases as well.

### **Information Regarding Other Related Board Referrals**

At the meeting of May 8, 2018, Supervisor Chavez asked the DAO to report relating to the expansion of SART clinics, including the timeline for expansion; and the timeline for developing an interview location at the Downtown Health Clinic for children who are victims of sexual assault, as well as associated financial and space needs.

#### **SART Clinic Expansion**

The DAO has coordinated with Health and Hospital staff regarding this referral. The Santa Clara Valley Medical Center (SCVMC) Sexual Assault Forensic Examination (SAFE) Program will expand its response to North County beginning on February 1, 2020 at Stanford Hospital. This will provide an especially convenient location for SAFE exams for sexual assault victims in North County. Previously, North County sexual assault victims were provided SAFE exams at SCVMC.

In South County, sexual assault victims in Morgan Hill, San Martin and Gilroy were provided SAFE exams in Gilroy, but any additional medical care was provided at SCVMC.

Beginning in February 2020, any needed medical care associated with SAFE exams completed in the Gilroy response location will be provided by St. Louise Hospital in Gilroy. SCVMC continues to be the response location for SAFE exams in central Santa Clara County, as well as the location for general operations of the SAFE Program.

### Interview Center for Child Victims

Subsequent discussions have clarified the County's plan regarding an interview location for child victims of sexual assault, and the focus has moved to the establishment of a Child Advocacy Center, to be located at 455 O'Connor Drive in San Jose.

The goal of the Child Advocacy Center is to provide services for child sexual/physical abuse victims at one location instead of at a variety of locations throughout the county. This will include forensic medical examinations, forensic child interviews, victim advocacy, mental health services, appointments with police agencies, and meetings with staff from the Department of Family and Children's Services.

The District Attorney's Office has paid an architect and is working with Facilities and Fleet to develop draft floor plans to renovate the unoccupied ground floor of 455 O'Connor Drive. A stakeholders' meeting was scheduled for February 3, 2020 (this report was written prior to that date) to receive input on the draft floorplan. The next step will be to bring the renovation cost estimate to the Board of Supervisors for approval. The goal is to open the Child Advocacy Center in December 2020.

At the meeting of June 12, 2018, Supervisor Chavez asked the DAO to include in this report information relating to the collaboration among law enforcement departments to promote the prompt submittal and testing of SART kits.

### Law Enforcement Agency Collaboration

This referral was made because the meeting included a discussion of SART kits located in Santa Clara County law enforcement agencies' evidence rooms that had not previously been submitted to the Crime Lab and are not attached to any pending investigation. While these kits may have been collected years ago, the new Policy described above dictates that all SART kits should be tested.

At the time of the Board discussion, the law enforcement, prosecution, medical, and laboratory justice partners tended to operate in silos regarding their SART kit practices. Each agency was focused on its respective responsibilities and communication was need-focused rather than process-focused.

In response to the referral, the DAO asked all law enforcement agencies in the County to provide an accounting of historic cases and to submit those historic cases for testing, as long as they qualify for testing under the terms of the SART Kit Testing Policy. On December 3, 2019, 48 historic kits submitted by law enforcement agencies in response to this appeal were submitted to Bode, and are currently being tested.

## **CHILD IMPACT**

The recommended action, in terms of the acceptance of the report, will have no/neutral impact on children and youth. However, the report provides information on actions likely to be recommended to the Board in the future involving the Child Advocacy Center, which would have a major impact in enhancing County services to children who are victims of sexual assault and physical abuse.

### **SENIOR IMPACT**

The recommended action will have no/neutral impact on seniors.

### **SUSTAINABILITY IMPLICATIONS**

The recommended action will have no/neutral sustainability implications.

### **BACKGROUND**

At its meeting of February 27, 2018, the Board approved a recommendation by Supervisor Chavez to direct the DAO to analyze the resources needed to reduce SART kit analysis turnaround time to no more than 30 days. The Board also directed that the DAO develop an outreach plan to law enforcement agencies to speed the submittal of SART kit evidence to the DAO's Crime Lab, that Administration report on the feasibility of providing additional SART examination locations, and that the DAO submit a progress report to the Board.

At its meeting of May 8, 2018, the Board received a report from the DAO detailing resources needed to meet the 30-day turnaround goal. The Board, upon Supervisor Chavez's motion, directed the Administration to review the DAO's report and to incorporate funding in the FY 2018-2019 budget if necessary, and directed the Administration to report on SART clinic expansion.

At its meeting of June 12, 2018, the Board approved the Administration's recommendation to add two Criminalists and \$300,000 in one-time contractual funding to the DAO budget for FY 2018-2019 in order to carry out the recommended workplan regarding SART kit testing. The Board also directed the DAO to provide information as to its collaboration with law enforcement agencies to accelerate SART kit testing processes.

### **CONSEQUENCES OF NEGATIVE ACTION**

The Board would not receive this report regarding SART kit testing.