

Las Cruces Police Department
GENERAL ORDERS
EVIDENCE & PROPERTY VOLUME 3
GO-300 SEXUAL ASSAULT EVIDENCE (Critical)
Revised 08/04/2020

301 SEXUAL ASSAULT EVIDENCE

PURPOSE

The purpose of this General Order is to establish guidelines and procedures for the handling and control of sexual assault evidence collected and held by the Las Cruces Police Department.

POLICY

It is the policy of the Las Cruces Police Department to follow the laws, rules, regulations, and best practices for the collection, control, and retention of evidence and property held in our custody.

APPLICABILITY

This General Order applies to all employees who handle evidence and property.

REFERENCES

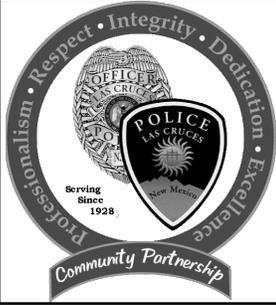
- New Mexico Municipal League - NMML ADM.17.01 – 17.06
- 30-9-19 NMSA Sexual Assault – Law Enforcement Agency Policies
- House Bill 145
- International Association for Property and Evidence, Inc. at www.iape.org

DEFINITIONS

SAEK - Sexual Assault Evidence Kits

DFSA – Drug Facilitated Sexual Assault

NON- Reported SAEK - A non-reported SAEK is from a sexual assault victim who at the time of the examination did not want to file a police report. The SANE Program informs the sexual assault victim of the non-reported process, noting that if a victim does not file a police report within a year, the non-reported SAEK will be disposed after one year and the victim will not be notified of this action; the SANE obtains the victim signature and keeps this form as part of the SANE Medical Record. A sample form is attached. Please note for adolescents, the requested storage of a non-reported SAEK is one year after their 18th birthday. It is the responsibility of the victim to contact either/both SANE and the Las



Las Cruces Police Department
GENERAL ORDERS
EVIDENCE & PROPERTY VOLUME 3
GO-300 SEXUAL ASSAULT EVIDENCE (Critical)
Revised 08/04/2020

Cruces Police Department. If they convert the SAEK to reported, SANE may assist the victim in converting the non-reported to reported.

301.01 SEXUAL ASSAULT EVIDENCE

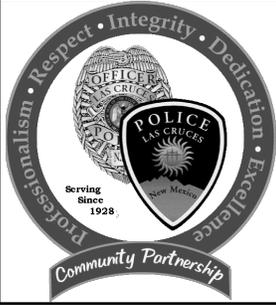
In most cases, investigations on sexual assault cases will be conducted by an investigator. These investigations shall be conducted per applicable departmental procedures specific to sexual assault biological evidence.

301.02 COLLECTION AND PRESERVATION OF SEXUAL ASSAULT EVIDENCE

A. The following guidelines should be applied when collecting evidence of sexual assault:

1. The Sexual Assault Evidence Kit should be completed by a Sexual Assault Nurse Examiner (SANE) or licensed physician if the SANE nurse is unavailable.
2. Items such as bedsheets, pillowcases, blankets, rugs or other moveable items at the scene of the sexual assault should be photographed, collected and packaged separately in paper bags.
3. The victim's clothing left at the crime scene shall be photographed, collected, and placed in a paper bag.
4. An offender Sexual Assault Evidence Kit should be completed by a Sexual Assault Nurse Examiner (SANE) or by medical personnel at the Dona Ana County Detention Center.
5. The suspect's clothing left at the crime scene shall be photographed and placed in separate paper bags. Clothes the suspect is wearing shall be collected by SANE and included in the Sexual Assault Evidence Kit.
6. Any other object which the suspect may have touched should be considered evidence and treated as such.

B. The Sexual Assault Evidence Kit may be retained by SANE to allow the evidence collected time to dry and stabilize for transportation. SANE shall notify the Evidence Unit when the Sexual Assault Evidence Kit is ready to be retrieved. The evidence technician who retrieves the Sexual Assault Evidence Kit shall be responsible for entering the evidence into the Evidence Unit completing all required paperwork and notifying the case agent that the Sexual Assault Evidence Kit is in department custody.



Las Cruces Police Department
GENERAL ORDERS
EVIDENCE & PROPERTY VOLUME 3
GO-300 SEXUAL ASSAULT EVIDENCE (Critical)
Revised 08/04/2020

301.03 SEXUAL ASSAULT EVIDENCE KITS (SAEK)

A. Biological evidence from a sexual assault can sometimes be found at the scene, from the victim(s), the suspect(s) or both. SAEKs are used to obtain biological evidence from victims and suspects. If collected, biological evidence should be gathered within the following time frame of the assault:

1. Victim: 120 hours or 5 days for adults and adolescents 13 years and older.
2. Victim: 72 hours or 3 days for children 12 years and younger.
3. Suspect: within 72 hours or 3 days if collecting trace DNA; no time frame if collecting suspect standard, i.e. buccal swab.

B. The following procedures will be followed for the victim and suspect SAEKs:

1. A SAEK may be collected from a victim based on the victim's consent if they present within the time frame noted above. This will be done by specially trained medical personnel.
2. If the suspect is identified.
 - a. Obtain consent or search warrant for a buccal swab standard of the suspect's DNA profile.
 - b. Within 72 hours and there is a reason to believe trace DNA or injury is present on the suspect's body, obtain consent to search or an evidentiary search warrant issued for body fluids and hair, have these items collected. This will be completed by specially trained medical personnel.
3. Biological material collected will be dried before packaging and will be stored in a secure place by the medical personnel.
4. Investigators are responsible for knowing what is in the kit and how it is relevant to the investigation. The kits will be opened by forensic lab personnel only.
5. The Las Cruces Police Department evidence section upon notice that a SAEK is available for pickup from medical personnel, will notify the case agent and ensure the kit is retrieved within seven days. The Las Cruces Police Department personnel are encouraged to work with medical personnel to know what was collected. If the victim has consented to a medical release of information, the case agent is



Las Cruces Police Department
GENERAL ORDERS
EVIDENCE & PROPERTY VOLUME 3
GO-300 SEXUAL ASSAULT EVIDENCE (Critical)
Revised 08/04/2020

encouraged to obtain and review the SANE medical record(s) as part of their case file investigation.

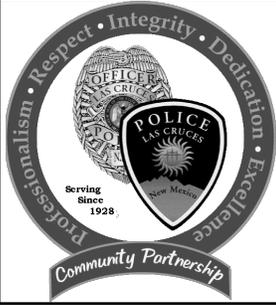
6. All SAEK kits will be submitted to a forensic lab within 30 days of receipt using the New Mexico Department of Public Safety State Laboratories Evidence Receipt. The laboratory will be contacted before submission for DNA authorization. The SANE medical record can assist law enforcement determination of what evidence is probative. Crime lab analysts can assist in determining what evidence is analyzed.
 - a. When SAEK kits are received by evidence an evidence technician will submit the kit to a lab and provide the Criminal Investigations Lieutenant with a copy of the submittal paper work.

Please Note: Details above are specific to the biological evidence collected by medical personnel for the NM Sexual Assault Evidence Kits (SAEK). Law enforcement may collect additional evidence from the scene; these items will be processed per usual departmental policies.

301.04 NON-REPORTED SAEK

Department personnel who are notified of the non-reported SAEK kit will adhere to the following practice:

- A. Obtain a report number from dispatch or records with the nature code listed as “Information”.
- B. The report will contain the name of the facility or person the SAEK is retrieved from. There will be no listing of the non-reporting victim, only a unique identifying number.
- C. The report narrative will detail the date of notification from SANE, the date retrieved, date entered into evidence and a notation that this is a non-reported case.
- D. Pick up the non-reported SAEK from the SANE unit and transfer to the Las Cruces Police Department evidence unit who will store the SAEK for a minimum of one year.
 1. The SANE Program will copy a redacted Informed Consent for Non-Reported SAEK as an assurance to law enforcement that the patient has been informed that the SAEK will be disposed of without further notification.



Las Cruces Police Department
GENERAL ORDERS
EVIDENCE & PROPERTY VOLUME 3
GO-300 SEXUAL ASSAULT EVIDENCE (Critical)
Revised 08/04/2020

E. Non-reported SAEKs are NOT delivered to the servicing crime lab unless/until the victim consents. If a victim changes his/her mind and files a subsequent police report, the SANE program will assist in obtaining a victim identifier and SANE medical record.

301.05 DRUG FACILITATED SEXUAL ASSAULTS (DFSA)

Drug-facilitated sexual assault samples accompany SAEKs in cases where the victim reported that drugs may have been used in the sexual assault. Due to the nature of the biological samples, the following procedure will be followed:

- A. Do not log the DFSA sample with the SAEK
- B. Form SLD TOX 500 will be completed by the certified medical personnel collecting the DFSA kit. Form SLD TOX 500 will be signed by an investigator to authorize the testing. Once the SLD TOX 500 form is signed by law enforcement, the medical provider may mail the DFSA kit OR if the DFSA is provided to law enforcement, the following procedure will be followed:
 - 1. If DFSA is collected during evidence hours, deliver directly to an evidence technician for storage. At the direction of the case agent, the sample will be sent the same day to the lab.
 - 2. If DFSA is collected outside of evidence hours, enter the DFSA kit in the temporary refrigerator provided in the evidence locker room. The evidence technician will send the DFSA on the next business day.
 - 3. The location for mailing or delivery of the DFSA kit is Scientific Laboratory Division Toxicology Bureau, at 1101 Camino De Salud NE, Albuquerque NM, 87102-4519. Please note, the DFSA kit does not go to the Crime Lab.

301.06 OTHER EVIDENCE

- A. If the victim has disclosed consensual sex 120 hours (5 days) before the assault, an attempt should be made to identify and collect a buccal swab from the consensual partner as an elimination/exclusionary swab. The SANE medical record may include the name or initials of the consensual partner.
- B. Law enforcement will attempt to identify and collect an elimination/exclusionary swab from the consensual partner, and even if unsuccessful, the attempt must be documented. Documentation of the collection or attempted collection of elimination/exclusionary



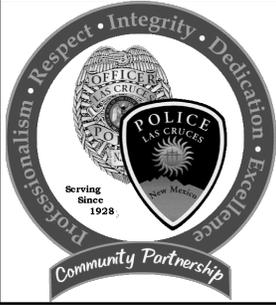
Las Cruces Police Department
GENERAL ORDERS
EVIDENCE & PROPERTY VOLUME 3
GO-300 SEXUAL ASSAULT EVIDENCE (Critical)
Revised 08/04/2020

swabs is required before the upload and comparison of probative profiles to the CODIS database.

- C. Proceed with submitting the SAEK to the Crime Lab whether elimination/exclusion swab is obtained or not. If an elimination/exclusion swab is not collected at the time the SAEK is submitted, the Crime Lab will re-request this from law enforcement when they start an analysis of the SAEK. The analysis may proceed if requests for exclusionary swabs are documented.
- D. A field investigator or crime scene specialist may collect biological evidence from the scene which needs to be packaged and maintained by law enforcement. Scene evidence may also include photographs, witness interviews, etc. which are part of the law enforcement investigation file.

301.07 DATA ENTRY & REPORT UPDATES

- A. Complete all necessary and timely data entry and documentation at appropriate milestones during the collection and transference of sexual assault biological evidence.
 - 1. Obtaining a report number from dispatch or records.
 - 2. Update SAEK form with current information as it is discovered.
 - 3. Update case file and supplemental reports every time a pickup, transfer, or destruction of any SAEKs is occurs.
 - 4. Provide a copy of the victim destruction notification authorization to the records and evidence section.



Las Cruces Police Department
GENERAL ORDERS
EVIDENCE & PROPERTY VOLUME 3
GO-300 SEXUAL ASSAULT EVIDENCE (Critical)
Revised 08/04/2020

Attachments:

**INFORMED CONSENT FOR ITEMS COLLECTED FROM SANE EXAM FOR
NON-REPORTED SEXUAL ASSAULT CASES**

Date of Sexual Assault: _____
Scheduled Date of Destruction: _____

SANE Record #: _____
For patients 18 years+ only!

I _____ received a SANE Exam that included the collection of items. I do not want to be interviewed by law enforcement at this time and I am not ready to file a police report at this time.

I have read and understand the following:

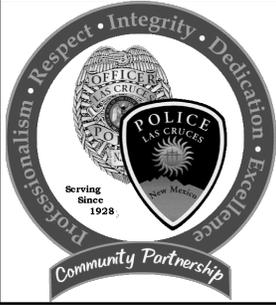
A. I will not be billed for the items collected.

B. I understand that the **benefits** of filing a police report with law enforcement at this time include:

1. Law enforcement will have an opportunity to collect evidence from the crime scene and the suspect.
2. Witnesses may be interviewed in a timely fashion.
3. I may qualify for Crime Victims Reparation Funds to pay for eligible expenses relating to this crime.

C. I understand that by delaying an interview and **not filing a police report** at this time, the following may occur:

1. Evidence that would normally be collected by law enforcement will be permanently lost.
2. Suspects and witnesses will not be interviewed, and they may not be identifiable at a later time.
3. It will be extremely difficult, if not impossible, for charges to be filed against the suspect if I delay filing a police report.



Las Cruces Police Department
GENERAL ORDERS
EVIDENCE & PROPERTY VOLUME 3
GO-300 SEXUAL ASSAULT EVIDENCE (Critical)
Revised 08/04/2020

- D. I understand that law enforcement officials do not have any information that will link the sexual assault evidence kit to me nor do law enforcement officials have access to such information.

- E. I understand that law enforcement will not make requests to SANE to release identifying information nor will law enforcement be liable in the event SANE misidentifies any evidence collected and transferred on my behalf to law enforcement.

- F. I understand that law enforcement will hold the sexual assault evidence kit collected from the SANE exam for at least one year (365 days) from the date of the assault.
 - 1. Storage of the evidence collection kit does not mean that the kit has been accepted as evidence of a crime or that a crime will be prosecuted by the State of New Mexico.

 - 2. If I decide to file a police report within the 365 days, it is my responsibility to make two phone calls: 1) the SANE Program who will release my identifying information on the items being held **AND** 2) the appropriate law enforcement agency to file a police report.

 - 3. If I need more than one year to decide whether to file a police report, it is my responsibility to submit my request in writing before the one year has expired to the SANE Program. SANE will be responsible for notifying the police department of my request for more time.

 - 4. Unless I've asked for more time, one year from the date of the assault, law enforcement will dispose of items that were collected during the SANE exam without any further notification to me or the SANE Program.

My signature below indicates my understanding of the details above and this document will serve as authorization for law enforcement to dispose of items collected from the SANE exam after one year from the date of the assault.

Patient Signature

Date

SANE Signature

Date