

GENERAL ORDER 55.2.1

Melissa's Law – Victim Notification & SAFE Kit Protocol

GENERAL ORDER CROSS-REFERENCE: 55.1.1

SUMMARY

Describes Melissa's Law; Explains procedure for collection, retention, testing, and destruction of Sexual Assault Forensic Evidence (SAFE) kit(s), including "Anonymous" and "untested" kits; which includes procedures for testing of historical inventories of same; Explains employee responsibilities regarding notification of victims/survivors of sexual assault when testing reveals suspect information, and also identifies the ISD supervisor as the designated point of victim and law enforcement contact/liaison for inquiries regarding the testing of SAFE kits. Ensures that eligible SAFE kit testing results are entered into the Combined DNA Index System (CODIS).

DISCUSSION

Pursuant to Oregon Senate Bills 1571 & 960, the department will prioritize the testing of all untested sexual assault forensic evidence kits currently in our possession/inventory, and we will see that any incoming inventory is subjected to testing with the same priority. Additionally, the Department will protect the intentions of those victims submitting the Anonymous SAFE kits, and shall not permit any testing of these Anonymous SAFE kits.

For purposes of this discussion, the term "Anonymous kit" refers to a sexual assault forensic evidence kit collected from a victim who has not participated with a law enforcement agency in the creation of a report of the sexual assault.

It is important to remember that a known victim does not need to indicate they wish to press charges and be a victim in order for Law Enforcement to seize the kit. They can also elect to "participate in the report" at any time. When a victim, who originally did not wish to participate with Law Enforcement in the creation of a Sexual Assault report, subsequently participates, this will reclassify the kit as "nonanonymous".

The Lane County District Attorney's office has primary responsibility for the provision of victim assistance; the Springfield Police Department has the goal of immediately providing victims with referral information so that the victim may obtain full benefits afforded by law. In addition, the Investigations Services Division (ISD) sergeant or designee will be designated as the point of contact within the Department for victims seeking information concerning the testing of sexual assault forensic evidence kits. The ISD sergeant is the sole point of contact for this purpose and no Department employee will refer any victim to the forensic laboratory that performed testing of SAFE kits, anonymous or otherwise, and may not publicize any information about the forensic laboratory used to perform such testing.

As soon as practicable, the Property Control Unit shall ensure that the results from eligible SAFE kit testing are shared with the Oregon State Police to be entered into the Combined DNA Index System (CODIS). Beginning July 1, 2019, the ISD Lieutenant shall provide a written report to the interim committees of the Legislative Assembly related to the judiciary describing the Department's progress in entering results from testing SAFE kits into the Combined DNA Index System.

No later than January 15th of each calendar year, the ISD Lieutenant shall provide a written report to the interim committees of the Legislative Assembly related to the judiciary detailing the Department's progress made on the backlog of untested SAFE kits. This report shall include the number of new kits that have been received by the agency during the previous calendar year, the number of kits that have been tested during that year, and the number of untested kits in the possession of the department.

POLICY

The following procedures shall apply to the collection, submission for testing, retention and destruction of SAFE kits:

I

1. Department personnel shall obtain and secure as evidence, immediately and within reason, any SAFE kit collected by a medical facility within our jurisdiction. By state statute, the SAFE kit has to be collected within seven days of the report by the hospital regardless of whether the victim requests an investigation, or says he or she would like to participate in the creation of a report, or the prosecution of the perpetrator. The SAFE kit must then be logged into our evidence facility.

2. SAFE kits must be submitted to the Oregon State Police Forensic laboratory for testing within 14 days of the collection of the kit unless the kit is an anonymous kit, in which case it will not be submitted for analysis.

3. When an employee contacts a victim in relation to the submission of any SAFE kit, the employee shall provide that person(s) with appropriate information, including printed material provided by the Springfield Police Department Investigations Services Division that contains the name and contact information (office telephone and email address) for the ISD sergeant or designee. This information will include their rights as a victim of sexual assault including the following:

- a) That victims may request and receive information concerning their SAFE kit, including but not limited to the location, testing date and testing results of the kit, whether a DNA sample was obtained from the kit, whether or not there are matches to DNA profiles in state or federal databases, and the estimated destruction date for the kit.
- b) That they are entitled to obtain any information the victim requests in a manner of communication designated by the victim, as soon as possible and within 30 days of the inquiry, unless disclosure of the information may interfere with the investigation or prosecution of the case. In which case, this information will be

shared with the requesting victim as well.

- c) That victim may provide written authorization to the ISD sergeant for a single designee of their choosing to access information concerning their case on their behalf.
- d) That victim may also request that a specified untested non-anonymous kit be reclassified as an anonymous kit, or that an untested anonymous kit be reclassified as a non-anonymous. In either case it is the responsibility of the ISD sergeant to then notify the Oregon State Police of the reclassification.

4. Additionally, all victims of sexual assault shall be treated with dignity and compassion. Each will be afforded service in a fair, sensitive and impartial manner.

II

Property Control Unit personnel will ensure SAFE kits submitted into evidence are submitted to the Oregon State Police for testing within 14 days of the collection of the kit unless the kit is an anonymous kit, in which case it will not be submitted for analysis.

Department personnel are prohibited from submitting any “anonymous” SAFE kit to the Oregon State Police for testing.

SAFE kits, including anonymous kits, shall be retained for no less than 60 years after the collection of the evidence.

III

The Investigations Services Division (ISD) sergeant is responsible for creating compliance with policies and procedures concerning contact with the victims and the provision of information to victims concerning SAFE kits. This may be accomplished via a qualified designee as determined by the ISD sergeant. This responsibility will include:

1. To receive all telephone inquiries concerning SAFE kits and shall serve as a liaison between the department and the Oregon State Police.
2. Ensure that at the time a SAFE kit is collected, or when department personnel first come in contact with the victim, department personnel shall notify the victim of the contact information for the Investigations Services Division sergeant. This contact information will include instructions describing how to a request and receive information concerning SAFE kits, including but not limited to the location, testing date and testing results of a kit, whether a DNA sample was obtained from the kit, whether or not there are matches to DNA profiles in state or federal databases and the estimated destruction date for the kit.
3. The Investigations Services Division sergeant shall, as soon as possible and within 30 days, respond to victim (or their designee) inquiries concerning their SAFE kit in a manner of communication designated by the victim, unless the ISD sergeant declines to provide the requested information because disclosure of the requested information would interfere with the investigation or prosecution of the case.

4. Victim notification: The ISD sergeant or his designee will notify victims concerning SAFE kit information, with in-person and telephonic notifications being the preferred methods. Confidentiality, practicality and the current life circumstances of the victim should guide the notification method.
5. Notification may include the following information, which may be provided in part in writing at the time of notification:
 - a. Any relevant possible new information that the victim did not otherwise know. This information may include discussion about why their kit was not tested earlier.
 - b. Inform victims to cope with any potential information that may result from their SAFE kit being tested and inform victims of their rights; Right to privacy, Right to refuse discovery, Right to protection, and Crime Victims Compensation Program.
 - c. Provide the victim a clear explanation of possible next steps and a timeline from the criminal justice perspective.
 - d. Notify the victim who might contact them and what their role may be, who will have access to the information collected in the SAFE kit, how they will receive updates on their case and who to contact with questions related to their case.
 - e. Special considerations – Be aware some victims may require special accommodations, culturally specific services or other considerations for successful communications (language translation, sign language, written communication, etc.)

IV

The Investigations Division Lieutenant has the authority and responsibility for administering and coordinating the Department's role in compliance with policies and procedures concerning the collection, submission for testing, retention and destruction of SAFE kits.

V

All newly hired personnel shall be given training in the Melissa's Law and SB 1571 & 960. All personnel shall receive refresher training regarding SB 1571 & 960 at least every 2 years.

Richard L. Lewis
Chief of Police