

# CITY of ALBUQUERQUE

## TWENTY SECOND COUNCIL

COUNCIL BILL NO. R-16-143 ENACTMENT NO. \_\_\_\_\_

SPONSORED BY: Patrick Davis

1 RESOLUTION

2 RESOLUTION TO PROVIDE JUSTICE TO VICTIMS OF SEXUAL ASSAULT BY  
3 ESTABLISHING TIMEFRAMES AND PRACTICES FOR PROCESSING SEXUAL  
4 ASSAULT EVIDENCE KITS BY THE ALBUQUERQUE POLICE DEPARTMENT.

5 BE IT RESOLVED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF  
6 ALBUQUERQUE:

7 SECTION 1. FINDINGS

8 WHEREAS, according to a *Special Audit of Untested Sexual Assault Evidence*  
9 *Kits in New Mexico* by the Office of the State Auditor, “Sexual assault is a  
10 massive problem across the country and in New Mexico, where one in every  
11 four women and one in every 20 men experiences an attempted or completed  
12 sexual assault in their lifetime and 65% of sexual assault victims are minors”;  
13 and

14 WHEREAS, there are currently 3,948 Sexual Assault Evidence Kits (SAE Kits)  
15 that remain untested by the Albuquerque Police Department; and

16 WHEREAS, testing historically untested SAE Kits aids with investigations,  
17 enhances public safety by developing CODIS, honors the victims, and fosters  
18 public trust.

19 SECTION 2. The following is adopted and added to the Albuquerque Code  
20 of Resolutions at Section 3-11-6:

21 “(A) SHORT TITLE.

22 Section 3-11-6, shall be known as the “Sexual Assault Evidence Kit Testing  
23 Resolution”.

24 (B) DEFINITIONS.

25 ANONYMOUS SEXUAL ASSAULT EVIDENCE KIT. For purpose of this  
26 resolution means a physical evidence recovery kit, commonly known as a “rape

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1 kit,” that is collected from a victim of sexual assault through a forensic medical  
2 examination where the victim elects, at the time of the examination, not to report  
3 the sexual assault offense to a law-enforcement agency.

4 **SEXUAL ASSAULT EVIDENCE KIT.** For purpose of this resolution means  
5 evidence collected from a victim of sexual assault through a forensic medical  
6 examination where the victim elects, at the time of the examination or at any  
7 point while the evidence is in storage pursuant to this resolution, to report the  
8 criminal sexual assault offense to a law-enforcement agency, or evidence  
9 collected by the Office of the Chief Medical Examiner during death  
10 investigations to collect evidence from decedents who may be victims of sexual  
11 assault.

12 **(C) STORAGE OF ANONYMOUS SEXUAL ASSAULT EVIDENCE KITS.** Unless  
13 otherwise required by state law, the Police Department shall store any  
14 anonymous physical evidence recovery kit received for a minimum of two (2)  
15 years. After two (2) years, the Department may destroy the anonymous physical  
16 evidence recovery kit or, in its discretion or upon request of the victim may  
17 elect to retain the anonymous physical evidence recovery kit for a longer period  
18 of time. Nothing in this shall be interpreted to require the Police Department to  
19 contact a victim who has chosen to remain anonymous with updates on the  
20 storage or destruction of an anonymous kit.

21 **(D) SUBMISSION OF EVIDENCE KITS IN CRIMINAL CASES.** Unless otherwise  
22 required by state law, when the Albuquerque Police Department receives a  
23 sexual assault evidence kit in connection with the investigation of a criminal  
24 case, the department must submit evidence from the case within ten (10)  
25 business days of receipt to forensic laboratory or a laboratory approved and  
26 designated by the Chief of Police.

27 **(E) ANALYSIS OF EVIDENCE.** All sexual assault evidence kits submitted  
28 pursuant to Section 2(D) of this resolution shall be analyzed within three (3)  
29 months after submission.

30 **(F) AUTHORITY AND RESPONSIBILITY.** The Chief of Police is directed to  
31 execute agreements or contracts with forensic laboratories to ensure that  
32 sufficient testing resources are available to adhere to the testing schedule in  
33 Section 2(E).

1 (G) REPORTING. The Chief of Police shall, at the end of each fiscal year,  
2 publish online and in an annual report the number of rape kits collected in  
3 connection with a criminal case, the average number of days from submission  
4 to testing and a count of the number of untested kits pending either submission  
5 or testing.”

6 SECTION 3. SEVERABILITY. If any section, paragraph, sentence, clause,  
7 word, or phrase of this resolution is for any reason held to be invalid or  
8 unenforceable by any court of competent jurisdiction, such decision shall not  
9 affect the validity of the remaining provisions of this resolution. The Council  
10 hereby declares that it would have passed this resolution and each section,  
11 paragraph, sentence, clause word phrase irrespective of any provisions being  
12 declared unconstitutional or otherwise invalid.

13 SECTION 4. COMPILATION. The resolution set forth in Section 2 above shall  
14 amend, be incorporated in and made part of the Albuquerque Code of  
15 Resolutions.

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