NOPD CONSENT DECREE MONITOR
NEW ORLEANS, LOUISIANA

202.747.1904 direct

March 22, 2019

File Number: 37PA-191555

Deputy Superintendent Danny Murphy
Compliance Bureau, New Orleans Police Department
714 Broad Street
New Orleans. LA 70119

Dear Superintendent Murphy:

This letter constitutes confirmation that the Office of Consent Decree Monitor ("OCDM ") has reviewed and provided comments on Chapter 83.1 - Collection and Preservation of Evidence. The OCDM has no objection to the policy as written.

We believe that Chapter 83.1 - Collection and Preservation of Evidence, incorporates all requirements of the Consent Decree and sets forth clear and appropriate rules to guide officer conduct. We will continue to assess the adequacy of this policy following its implementation. If we identify any concerns following implementation, we will present those concerns to you and the Department of Justice. Additionally, we note that, pursuant to the Consent Decree, NOPD has agreed to review and revise policies and procedures as necessary upon notice of a significant policy deficiency. We also note NOPD's obligation to review this policy after a year of implementation to ensure it "provides effective direction to NOPD personnel and remains consistent with the Agreement, best practices, and current law." Consent Decree at ¶ 8.

We appreciate your team's effort, cooperation, and responsiveness throughout this process.
Very truly

Very truly yours,

David L. Douglass
For SHEPPARD MULLIN RICHTER & HAMPTON LLP*
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NEW ORLEANS POLICE DEPARTMENT OPERATIONS MANUAL

CHAPTER: 83.1

TITLE: COLLECTION AND PRESERVATION OF EVIDENCE

EFFECTIVE:
REVISED: Replaces Policy/Procedure 808

PURPOSE

The purpose of this Chapter is to establish guidelines for the collection, identification, transportation, and preservation of physical evidence so that such evidence can be handled appropriately and so that the chain of evidence can be maintained for later use in court.

POLICY STATEMENT

1. Effective law enforcement and subsequent prosecution necessitates that information and evidence be obtained through the application of best practices and proven scientific methods.

2. In the handling of all evidence, a Chain of Custody (commonly referred to as Chain of Evidence) shall be maintained. The record of transfer for each item of evidence shall contain the following:
   (a) Date, time, and location of recovery or confiscation;
   (b) Name of individual recovering or confiscating the item;
   (c) Name of individual transporting and/or transferring the item to its proper destination;
   (d) Date and time of all transfers of the item to or from an individual or location;
   (e) Receiving person's name, assignment, and reason for the item's transfer;
   (f) The forensic examination requested, if applicable; and
   (g) If applicable, date, location, and name of laboratory if not the New Orleans Police Department SCIS.

3. The NOPD - Scientific Criminal Investigation Section (SCIS - Crime Lab) shall maintain a crime scene processing capability 24 hours per day 365 days per year.

4. Vehicles used by Crime Scene Technicians for transportation to and processing of crime scenes shall be, at a minimum, equipped for the:
   (a) Proper retrieval of fingerprints;
   (b) Photographing of scenes (both in lighted areas and in darkness);
   (c) Proper retrieval and packaging of evidence; and
   (d) Sketching of the scene.

5. On crime scenes where large or extremely bulky evidence is recovered, the officer in

charge of the investigation is responsible for requesting assistance to confiscate the evidence. Large trucks, tow wagons and flatbed trucks are available through the MSB – Facility Support Services, or City of New Orleans Streets Department. Use of a vehicle other than an NOPD or City of New Orleans vehicle shall be approved by the investigating officer's supervisor and documented in the EPR or Crime Scene Technicians Report.

6. The authority of the Crime Scene Technician does not supersede the authority of the investigator or supervisor in charge of the scene. Generally, the technician will process a scene and attempt to accommodate any special request of the investigator. The investigator may instruct a technician what to process; however, the technician shall determine the best method to properly process the evidence to be collected.

7. The recovery of forensic evidence from a crime scene cannot be accurately reconstructed once the scene has been processed and is no longer secured. For any major incident investigation, it is always preferable to take the opportunity to collect as much trace evidence as necessary than to create the possibility where probative evidence which may have been present was not collected and is therefore lost. An investigator or scene supervisor may direct that any possible trace evidence is collected from a scene, secondary scene, victim, witness or suspect, as he or she determines necessary to maximize the possibility of getting the most accurate forensic result from the investigation. Any objections to the subsequent forensic testing of the collected samples will only be addressed after the samples are collected, secured and preserved.

8. Challenged requests or disputes as to the methods and capabilities of the technician shall be referred to an SCIS Supervisor at the time the request is made and the dispute arises.

9. All items submitted to the Crime Laboratory for forensic analysis shall be documented with the appropriate laboratory request form.

10. All items of evidence at crime scenes which are perishable and are to be processed for forensic testing by the SCIS shall not be disturbed by the investigating officer or other individuals at the scene. These items shall only be processed by Crime Scene Technicians (ex. blood, blood stained objects, tissue, biological material, etc.).

DEFINITIONS

Control Sample—Those items taken from known materials for comparison purposes to unknown specimens found at the scene.

Crime Scene—A crime scene is any location that may be associated with a crime. It can be the place where the crime took place, or any area where evidence of or from the crime itself may potentially be found. Crime scenes can contain physical evidence that is pertinent to criminal investigations, which may be retrieved by a law enforcement agency, crime scene investigators, a community member, or, in some circumstances, a forensic scientist.

Crime Scene Technician / Evidence Technician—A trained specialist, providing on-site support services to officers in the collection, marking, processing, and securing of physical evidence at a crime scene.

Evidence—Property as defined herein, including documentary or oral statements, material objects admissible as testimony in a court of law, and items taken or recovered in the course of an investigation that may tend to prove or disprove the facts of a case.

Hazardous Materials—Any chemically unstable explosive, corrosive acid, poison, flammable or biologic material which is capable of causing injury or death.

Property—Any object of value, however slight, whether tangible or intangible.

CONTROL SAMPLES

11. The Crime Scene Technician shall be responsible for the collection and preservation of all control samples. Control samples are typically needed in cases involving hair, fibers, fabrics, paint, glass, wood, soil, and tool marks. Control samples shall be taken from an area not affected by the scene but adjacent to or near the scene. Control samples shall be packaged the same as evidence specimens and clearly marked as “control sample.”

12. Control samples involving medical exams, such as sexual assaults or child abuse, shall be coordinated by the on-scene investigator/detective and the doctor or medical professional conducting the exam. Accepted methods of marking, identifying, and packaging shall be utilized by investigators prior to submitting evidence to the Crime Lab. Investigators having questions relative to the proper handling of retrieved evidence shall contact the Crime Lab for instructions prior to handling. Examples of such exams are the collection of hair, blood, other body fluids, or tissue.

13. Control samples collected during the execution of a search warrant shall be collected by a Crime Scene Technician in the presence of the affiant officer noted on the warrant.

14. Evidence recovered from medical professionals, or other professional scientific personnel not employed by NOPD, shall be preserved by the on-scene investigator. The evidence shall be packaged, labeled, and secured in a manner not jeopardizing its evidentiary value. The items shall be transported to Central Evidence and Property (CE&P) and submitted as evidence. A Request for Laboratory Examination form shall be filled out if further processing is needed.

OFFICER RESPONSIBILITY AT CRIME SCENE

15. All commissioned personnel shall be held responsible for basic knowledge of crime scene protection and proper handling of evidence. See **Chapter 46.20 – Crime and Disaster Scene Integrity** for on scene officer’s responsibilities at a crime scene.

16. Upon arrival of the Crime Scene Technician, he/she shall be apprised of the facts surrounding the incident and what actions are requested of him/her by the investigator. The Crime Scene Technician shall secure any additional areas deemed necessary and restrict access to unauthorized or unnecessary individuals, including officers. Once on the scene, the Crime Scene Technician shall be responsible for proper handling of all evidence and maintaining the chain of evidence for later use in court.

PROCESSING SCENE

17. Processing of evidence procedures should be determined by the progression of the tasks, such as photographs, sketches, fingerprints, marks, and collection, if possible.

18. The method of scene processing, including but not limited to photography, scene sketches, fingerprints, searching, marking, and collecting, shall conform to current scientific and legal methods. A Menu of Services provided by the SCIS - Crime Lab shall be available to all commissioned personnel (refer to www.nopd.org for access to the Crime Lab Menu of Services).

19. Photographs and/or video of the overall crime scene shall be considered. Where indicated, individual photographs shall be taken of items in the position found prior to collection. BWC footage of the first officers on the scene can be important documentation of the scene integrity during processing.

20. Photographs shall also be taken of tool marks, footprints, tire marks, blood spatter, serial numbers, latent fingerprints prior to being lifted, and any other related items of potential evidentiary value where possible. Two photographs of sufficient quality to serve as permanent record shall be taken in series, the first in its true or natural state and the second to scale. A ruler or other appropriate measuring instrument shall be used for scaled photographs.

21. Sketches shall be drawn to accurately depict the location and placement of evidence. Sketches need not be to scale. Sketches shall be made in addition to any photographs or videotapes made of the crime scenes as directed by the lead investigator.

22. Sketches shall include the following information:
    (a) General layout
    (b) Offense or case number
    (c) Title or description of area
    (d) Date
    (e) Sketcher's name
    (f) Scale of measurement (to scale or not to scale)
    (g) Location of items or other significant features
    (h) Compass direction
    (i) Names of streets or landmarks or both
    (j) Person who prepared the final diagram
    (k) Person(s) who took the measurements

23. The scenes of all major incidents shall be digitally photographed by a Crime Scene Technician. All photographs shall be taken by one technician to maintain the Chain of Custody for the digital images and later to simplify court testimony.

24. Employees assigned to process crime scenes shall be trained and proficient in current techniques for the retrieval of latent or patent fingerprints from crime scenes. Normally, Crime Scene Technicians will be assigned the duty of retrieving fingerprints from the scenes of crimes, but the task may be performed by trained district fingerprint officers.

COLLECTING FINGERPRINTS

25. Crime Scene Technicians or district fingerprinting officers charged with the retrieval of fingerprint evidence shall determine which technique is to be utilized in the retrieval of this evidence. If advanced techniques beyond the ability or expertise of the Crime Scene Technician or district fingerprinting officers are needed to retrieve the prints, he/she shall handle, package, and submit the items to CE&P instead and complete the appropriate Crime Lab request forms.

26. Requests to fingerprint a body or lift prints from a live individual shall be made through the Crime Lab supervisor. (This may require a Search Warrant in some cases.)

27. All retrieved fingerprint evidence shall be processed according to current Crime Laboratory procedure as it pertains to handing, labeling, and maintaining the chain of evidence.

REPORTS – CRIME LAB TECHNICIAN

28. Reports shall be generated by the Crime Scene Technician whenever services are rendered by Crime Lab personnel as it pertains to the retrieval of physical evidence, its handling, and processing. All reports shall conform to Louisiana Revised Statute 15 Art. 501 relative to Evidence from Criminalistics Laboratories, section 499, certificate of analysis.

29. The Scientific Criminal Investigations Section (Crime Lab) and the Latent Print Unit shall produce a written report on all forensic processing – comparisons and analysis – whether or not a particular suspect is included or excluded as a possible contributor to the trace evidence being tested and whether or not the results materially aid the investigation. Each report, regardless of the result, shall be sent to the investigating officer or supervisor on the case as well as to the Records and Identification Division, regardless of the investigator's request for a report, and shall be made part of her or his case file.

30. The original report shall be forwarded to the Records and Identification Division which is the storage facility for all SCIS - Crime Laboratory Reports.

31. Requests for copies of crime analysis reports and subpoenaed copies of reports shall be made through the Custodian of Records - Records and Identification Section.

CENTRAL EVIDENCE AND PROPERTY

32. All evidence examined, analyzed, or otherwise processed by the Crime Lab shall be turned over to the Central Evidence and Property Section for storage after testing. All guidelines pertaining to the documentation of the Chain of Evidence shall be adhered to when evidence is transferred from facility to facility.

33. All new evidence generated or discovered by Crime Lab personnel or uncovered by scientific processing techniques shall be delivered to the Central Evidence and Property Section for storage.

34. All new evidence generated by non-crime lab personnel shall be packaged, labeled and otherwise handled as per this Chapter and current CE&P procedure relative to the handling of evidence.

HAZARDOUS MATERIALS

35. Poisons may be stored only if appropriate safe packing is available after they have been properly sealed and packaged by a Crime Scene Technician rendering them safe to be processed by Central Evidence and Property personnel.

36. In instances where large quantities of poisons are confiscated for evidence, a small portion will be extracted for Crime Lab testing and evidentiary processing. The remainder shall be disposed of in accordance with Federal and State guidelines by a qualified entity. The method of destruction and individual responsible for destruction shall be documented in the appropriate file(s) by Central Evidence and Property members.

37. Explosives, acids, and flammable substances shall be processed and transported by SOD - Bomb Technicians or other governmental agencies utilizing an approved vehicle and transportation technique to be determined by the technician and considered safe. (See also: **Chapter 46.3 – Bomb Calls**).

38. SOD - Bomb Technicians shall determine if a sampling of the explosive compound or chemical agent can be safely extracted for evidentiary processing.

39. If a sampling of the substance can be safely retrieved for forensic testing, it shall be the Bomb Technician's or other governmental agency's responsibility to transport the sample to the Crime Lab or other appropriate facility for processing. Explosives are not permitted to be delivered to nor retained at CE&P. Hazardous materials and explosives are processed by NOFD or SOD / Bomb Squad as per **Chapters 46.3 – Bomb Calls** and **Chapter 46.3.4 – Hazardous Materials Exposure and Response**.

40. Substances where samples cannot be safely extracted shall be disposed of in a manner considered safe by the Bomb Technician or other governmental agency and in accordance with Federal and State Law. The process of disposal shall be documented in writing and photographed. The photographs shall be deposited as evidence in the Central Evidence and Property Division.

41. Explosives, acids, flammable substances and other hazardous materials shall not be processed, transported, or stored as evidence. Scenes where these compounds pose a hazard to the public shall be processed by the appropriate Federal or State agency or competent independent contractor. In the case of clandestine or illegal drug labs the investigating officer is responsible for securing the scene and rendering it safe for processing by the Crime Lab. Once a clandestine or illegal drug lab is secured, the New Orleans Fire Department can assist with decontamination, evidence collection or scene mitigation. (See also: **Chapter 46.3.4 – Hazardous materials Exposure and Response**).

AUTOMOBILE FATALITIES / ACCIDENTS

42. Fatalities are handled in their entirety by the Traffic Division Fatality Unit. Crime Scene Technicians shall only be dispatched to the scene to assist the investigator if requested.

43. The Fatality Investigator is responsible for the processing of the scene and handling of all evidence recovered.

44. When requested, Crime Scene Technicians shall assist in the retrieval of evidence in those instances which are outside the expertise of the Traffic Division investigator.

45. Within the limits of their forensic testing capability, the Crime Laboratory shall conduct scientific analysis/examination of evidence submitted and generate the appropriate reports.

46. Crime Scene Technicians will not photograph auto accidents involving police vehicles unless requested by the investigating officer assigned to the Traffic Investigations Unit. When requested, technicians may assist with measuring skid marks and other relevant information; however, they are not required to generate a Crime Scene technician Report or list this information in their report. All information relative to the actions taken by the Crime Scene Technician shall be documented by the investigating officer in his/her report.

AUTO THEFTS

47. On all arrest cases involving stolen vehicles, under any signal, where the vehicle is present, available and has a broken / defeated steering column or ignition, the investigator shall contact SCIS to have a Crime Scene Technician photograph the

broken / defeated steering column or ignition.

BURGLARIES

48. Crime Scene Technicians will assist the investigator on burglary scenes and shall process scenes and the evidence as needed.

49. After the evidence is processed and/or collected and packaged, it shall be the investigator's responsibility to either:
    (a) Place the evidence in the Central Evidence and Property Section: or
    (b) Release the evidence to the owner as appropriate to the item.

SUICIDES

50. The Coroner's Investigator is responsible for the collection of any suicide note unless the investigating officer requests the suicide note be processed for fingerprints or DNA. Suicide notes shall be photographed at the scene and prior to processing for prints and DNA.

51. Collection of medications on the scene is the responsibility of the Coroner's Investigator unless the investigating officer requests the medication containers be processed for fingerprints or DNA. The medication containers shall be photographed at the scene and prior to processing for prints and DNA.

52. Suicides will not be sketched by the Crime Scene Technician unless specifically requested by the Coroner’s Investigator.

HOMICIDES

53. Clothing removed from a suspect or other individual by the investigating officer at a detention facility or elsewhere but away from the scene shall be properly separated, packaged and delivered to Central Evidence and Property by the investigating officer.

54. It is the responsibility of the Coroner's Office investigator to deliver any evidence removed from a body during an autopsy to Central Evidence and Property.

55. All homicide scenes shall be sketched by the assigned Crime Scene Technicians.

UNCLASSIFIED DEATHS

56. Unclassified deaths shall be processed in the same manner as homicides. Sketches will be completed if requested by the investigator.

DRUG VIOLATIONS

57. Crime Scene Technicians will not respond to calls of “found drugs” if there is no crime scene to process.

58. Crime Scene Technicians shall not respond for the sole purpose of collecting drugs but may assist in the packaging and photographing of drugs if requested by the investigating officer and the Crime Scene Technician platoon supervisor approves.

59. If an investigating officer requests that fingerprints or DNA be lifted on packaged drugs, the crime scene technician shall determine the best method by which the prints or trace DNA will be lifted.

60. The investigating officer shall be responsible for placing any recovered drug violation evidence at Central Evidence and Property unless the recovery involves forensic processing (i.e. fingerprinting or DNA). If the evidence was generated or created by the Crime Scene Technician, the CST shall log the evidence at CE&P.

ILLEGAL CARRYING OF FIREARMS / ILLEGAL DISCHARGE OF FIREARMS

61. Crime Scene Technicians shall not respond to signals of illegal carrying of firearms if there is no scene to process.

62. Technicians shall not respond to a scene for the sole purpose of collecting a weapon but may assist in the packaging of the items for forensic processing (fingerprints or DNA) and photographing of weapons if requested by the investigating officer and the Crime Scene Technician platoon supervisor approves.

SEARCH WARRANTS

63. When a crime scene technician is requested on a search warrant execution, the following guidelines shall apply:
    (a) The scene shall be secure prior to the arrival of the CST.
    (b) The affiant officer on the warrant must be present on the scene during all processing.
    (c) Technicians will assist with the photographing, collection, and proper packaging of evidence described in the warrant. This includes blood, hair, fibers, etc.
    (d) Technicians will be required to retrieve any trace evidence and package same.

64. To ensure the integrity of the chain of custody, evidence shall be submitted to the Central Evidence and Property Section by the officer/technician who collected, packaged or processed the evidence. The affiant of the search warrant shall be responsible for documenting all collected evidence on the warrant return.

SEIZED, IMPOUNDED VEHICLES AS EVIDENCE

65. The processing of vehicles as a scene or as evidence should be accomplished as soon as possible after seizure of the vehicle and on the crime scene itself if time and conditions permit.

66. If an investigator seizes a vehicle for evidence collection purposes, it shall be the investigator's responsibility to have the vehicle transported to the evidence cage at police headquarters. See **Chapter 61.22 – Impoundment of Motor Vehicle Involved in Criminal Activity**.

67. Prior to transporting a seized vehicle, the investigator should consult a Crime Lab supervisor to determine if the vehicle can be processed on the scene.

68. Prior to transporting a seized vehicle it shall be the responsibility of the investigating officer to complete an **Impounded Vehicle Laboratory Request form** (Form 211). The crime scene technician, if requested, shall assist the investigator in the completion of the form.

69. Copies of the Impounded Vehicle Laboratory Request form (Form 211) can be obtained from the **NOPD.org** Forms folder.

DNA EVIDENCE

70. Evidence suitable for DNA analysis can be found at many crime scenes and is a powerful investigative tool for linking suspects to crimes, eliminating suspects, and identifying victims. Officers shall be aware of common sources of DNA evidence, ways to protect against contamination of samples, and basic collection and packaging guidelines such as wearing a mask to avoid contamination through talking, sneezing, and coughing over evidence.

71. Blood and semen are the two most common sources of DNA evidence. However, other body tissues and fluids can be used for analysis even in microscopic quantities.

72. DNA is particularly sensitive and subject to contamination. First responders, in particular, must be familiar with the most likely actions/situations that can degrade, destroy, or contaminate DNA evidence and shall observe the following precautions:
    (a) Change protective gloves between collections of samples in different areas.
    (b) Use disposable instruments or clean instruments thoroughly with a 10 percent bleach solution before and after handling each sample.
    (c) Avoid touching the area where you believe DNA may exist.
    (d) Air-dry potential DNA evidence thoroughly before packaging. If it cannot be air-dried, refrigerate and submit to the laboratory within seven days.
    (e) Put evidence into new (unused) paper bags or envelopes, not into plastic bags.
    (f) Sterile swabs shall be used to collect liquid blood. Vials containing blood samples should be refrigerated as soon as possible but shall not remain unrefrigerated longer than seven days.
    (g) Bloodstains shall be first photographed, then packaged or wrapped carefully in paper so that the bloodstain is not dislodged or disturbed. Smaller bloodstained objects can be placed in envelopes or cardboard boxes.
    (h) Wet bloodstained materials must be dried prior to submission to a laboratory. Officers shall not use heaters, freestanding room fans, or intense light to facilitate drying, as this may destroy the evidentiary value of the samples. Low-humidity, cold environments that are well ventilated are suitable for this purpose. Drying cabinets for this purpose are maintained by CE&P.
    (i) If exigent circumstances dictate immediate action to prevent destruction of evidence, wet bloodstained materials may be rolled or folded in paper or placed in a brown paper bag or box, sealed, and labeled. Folding garments through stains shall be avoided.
    (j) Bloodstained articles and blood samples shall be transported as soon as possible and should never be stored in patrol vehicles or otherwise exposed to heat.
    (k) Use a cotton Q-tip or swab lightly moistened with saline solution to collect dried bloodstains on fixed objects too large to transport or on porous surfaces. If saline is not available, tap water may be used so long as a control standard of the water is collected for comparison.
    (l) As in the case of blood samples, clothing and bedding that may retain semen evidence shall be air-dried if wet and packaged separately in paper containers and labeled.

73. Common sources of potential DNA evidence include:

Evidence	**Possible Location of DNA on Evidence**	**Source of DNA**
Baseball bat or similar weapon	Handle, end	Sweat, skin, blood, tissue
Hat, bandanna, mask	Inside	Sweat, skin, hair, dandruff, blood
Eyeglasses	Nose or ear pieces, lens	Sweat, skin, blood
Facial tissue, cotton swab	Surface area	Mucus, blood, sweat, semen, ear wax
Dirty laundry	Surface area	Blood, sweat, skin, semen
Toothpick	Tips	Saliva, blood
Used cigarette	Cigarette butt	Saliva, blood
Stamp, paper, envelope	Licked area, paper	Saliva, blood
Tape, ligature	Inside/outside surface	Skin, sweat, skin, blood
Bottle, can, glass	Sides, mouthpiece	Saliva, sweat, blood
Used condom	Inside/outside surface	Semen, vaginal or rectal cells, blood
Blanket, pillow, sheet	Surface area	Sweat, hair, semen, urine, saliva, blood, skin.
Through-and-through bullet	Outside surface	Blood, tissue
Bite mark	Person's skin, clothing	Saliva, blood
Fingernail, partial fingernail	Scrapings	Blood, sweat, skin, tissue
Clothing worn or touched	Area where clothing grabbed or held or where clothing touches skin (gathered wrists, waistband, etc.)	Sweat, skin