

The State of Maryland Sexual Assault Kit Initiative



Survivor Notification Protocol

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Survivor Notification Protocol

This document is a draft version. MCASA will be accepting comments regarding this protocol and its implementation through September 30, 2021. Please consider submitting any comments regarding obstacles and successful experiences to notification@mcasa.org

Introduction

The National Sexual Assault Kit Initiative (“SAKI”) is a Bureau of Justice Assistance (“BJA”)-led program that assists states in addressing backlogs of unsubmitted and untested sexual assault evidence kits (“SAEKs”). Maryland joined the initiative when the Sexual Assault Evidence Kit Policy and Funding Committee (“SAEK Committee” or “Committee”) led by the Maryland Office of the Attorney General (OAG), Maryland Coalition Against Sexual Assault (MCASA), Maryland State Police (MSP), and the Governor’s Office of Crime Prevention, Youth, and Victim Services was awarded \$2.6 million dollars in grant funding. This funding supports multiple project initiatives including a statewide inventory of unsubmitted SAEKs, the submission of SAEKs for forensic testing, the implementation of an evidence tracking system, the investigation and prosecution of cold cases, and victim services.

The SAEK Committee serves as a statewide Sexual Assault Response Team (SART) that consists of a broad cross-section of stakeholders including law enforcement, forensic scientists, medical professionals, crime victim rights attorneys, victim advocates, prosecutors, agency officials, and legislators. The Committee is charged with creating uniform statewide policies regarding the collection, testing, and retention of forensic evidence in sexual assault cases and increasing access to justice for survivors of sexual assault. The SAEK Committee oversees the implementation of the SAKI project, including the development of trauma-informed policies, the survivor notification process, and best practices to prevent a future backlog.

Notifying survivors regarding the testing of their previously unsubmitted SAEK is critical to this project. Notification must be recognized as an ongoing commitment to support survivors as complex psychological and legal issues arise.

Purpose

The goal of the SAKI project is two-fold: 1) that all survivors will have access to their case information, if desired, regardless of the amount of time that has passed and 2) that trauma-informed best practices regarding SAEK testing is used moving forward. This Survivor Notification Protocol was developed to provide local law enforcement agencies and victim advocates with the framework to conduct survivor notifications in a trauma-informed and victim centered manner.

This protocol is recommended for use in all cases where a previously unsubmitted SAEK has been sent for forensic analysis. For cases that do not fall under the SAKI grant, the policies and

procedures outlined in this protocol represent best practices and it is recommended that agencies utilize this protocol for all victim notifications and survivor engagement. This will ensure a coordinated statewide approach to survivor notification.

Agencies that need assistance in completing survivor notification can utilize the MCASA SAKI advocates for training, technical assistance, and notification assistance.

Guiding Principles

When conducting a survivor notification, each individual will respond differently. The survivor may experience a wide range of emotions including anger, joy, and sadness. It is necessary to be prepared for all potential reactions. The following protocol aims to reduce re-traumatization by implementing trauma-informed and victim-centered best practices.

Trauma-Informed:

An approach that tends to the survivor's emotional and physical safety by acknowledging the role trauma may play in an individual's life while promoting an environment of healing and recovery and actively working to avoid re-traumatization.

Victim-Centered:

- The survivor is at the center of all decisions regarding their recovery and involvement with the criminal justice system.
- The survivor's choices, safety, and well-being are the focus of the investigative process.
- Meeting the needs of the victim is everyone's concern and a collective effort--not just the task of one partner.

Survivor Notification

The SAEK Committee recommends that **all** survivors be notified regarding the testing of their kit. This recommendation is supported by research in which survivors indicated that they prefer widespread notification, giving every survivor the opportunity to be notified (Busch-Armendariz et al. 2015). Additionally, a study conducted by the Joyful Heart Foundation found that survivors felt strongly that the information regarding their SAEK test results belonged to them and should be shared regardless of the outcome (Joyful Heart Foundation, 2016).

Maryland will utilize two types of notification processes to connect with survivors and provide information regarding their previously unsubmitted SAEKs. This two-system approach will be victim-centered by providing every survivor with the opportunity to initiate contact with the MCASA SAKI Team, through an opt-in process known as Survivor Initiated Notification. During the opt-in process survivors will outline the conditions in which they wish to be contacted. However, as not all survivors will utilize the opt-in process, the second process will be an Advocate Initiated Notification process. This process was developed in an effort to prevent survivors from being overlooked.

Survivor Initiated Notification

The SAKI information line and email support gives survivors the opportunity to control the circumstances of notification including the time, place, and method. The information line and email support will also provide survivors with local and state level community resources, such as counseling and therapy services with their local certified rape crisis and recovery center. This will help address any anxiety or trauma associated with notification about testing of their SAEK.

Tip: Use MCASA's digital toolkit, flyers, and brochures to inform survivors' that the SAKI information line and email support are open, and SAKI advocates are available to help.

Visit MCASA's website to download the digital toolkit and order brochures or request a copy by emailing support@mcasa.zendesk.com.

SAKI Advocates:

The MCASA SAKI Notification Team (MCASA SAKI Team) will be responsible for the direct oversight and survivor contact made through the information line and email support.

SAKI Advocates will be trained in the neurobiology of trauma, trauma-informed care, and crisis intervention. All MCASA SAKI staff will have thorough knowledge of local and state resources that survivors may need throughout this process.

Hours of Operation and Response Time:

Advocates will be taking information line calls during regular business hours of 9:00am to 6:00pm on Monday - Friday. Survivors that contact the information line outside of regular business hours, or when an advocate is not available to take their call, will be prompted to leave a voicemail and a SAKI Advocate will return their call within two business days.

Information Line and Email Support Response Language and Language Services

The MCASA SAKI Team will use a language line, or a similar service, to assist non-English speaking survivors and those who use English as a second language. SAKI Advocates will be trained to provide services to survivors in the language they are most comfortable with and will acquire necessary language services as needed.

Survivor Opt-in/Opt-Out

Upon initial contact with the survivor, the responding advocate will explain the SAKI project, the notification process, and the survivors' ability to opt-in/opt-out of notification. This opt-in/opt-out process will allow survivors to dictate whether they receive information regarding

their SAEK, when they receive that information, and how they receive that information. SAKI Advocates will not discuss investigative processes or case statuses during these calls.

Responding advocates will inform each survivor of their ability to change their opt-in/opt-out preferences at any time through the information line, email support, or advocate assigned to their case.

Tip: Be mindful of life changes and circumstances that may impact a survivors' communication with you. Confirm the survivors current contact information and contact preferences during every interaction.

Survivors that utilize the opt-in/opt-out information line or email support will be contacted in accordance with their preferences once their SAEK has been tested. All notification attempts will be documented in the Maryland SAKI Individualized Survivor Notification Plan – Opt-In Preferences Available (Appendix III).

Advocate Initiated Notification

The goal of the SAKI Advocate initiated notification process is to provide all survivors with case information. This form of notification is initiated by a notification team and remains trauma-informed and victim-centered. All notification teams are trained in notification protocol and provide information so that the survivor can dictate how, when, and where information will be provided to them in the future.

Advocate Initiated Notification: Initial Contact

The advocate initiated notification process will begin when the law enforcement agency receives the SAEK testing results. Upon obtaining this information, the law enforcement agency is responsible for contacting the MCASA SAKI Team to determine if the survivor has provided notification preferences through the opt-in process. If a survivor has not utilized the opt-in system, MCASA and the responsible law enforcement agency will create an individualized notification plan. Once the individualized plan is finalized, an MCASA SAKI advocate will initiate the notification process.

Tip: *Connecting with the MCASA SAKI Team*

All communication regarding testing results and notification developments should be sent to the MCASA SAKI Team at support@mcasa.zendesk.com. This is a secure system that will be utilized by the MCASA SAKI Team to organize and track survivor notification requests, on-going attempts, and completions.

The initial contact with a survivor will be conducted by phone. Mail or in-person notifications can be decided on a case-by-case basis and should be discussed with all members of the notification team.

The SAKI advocate will document all notification attempts in the Maryland SAKI Individualized Survivor Notification Plan – Advocate Initiated - No Opt-In Preferences (Appendix IV).

Tip: MCASA SAKI Advocates will be trained to conduct survivor initiated notifications with local law enforcement agencies. However, **Local Certified Rape Crisis and Recovery Centers** may choose to conduct survivor notifications. This decision may vary by jurisdiction and case. The Rape Crisis and Recovery Centers and MCASA will collaborate and establish appropriate protocol, including a memorandum of understanding, as needed.

Advocate Initiated Notification: Follow-up Meeting/Second Contact

The goal of the follow-up meeting is for the notification team to provide the survivor with the following:

- SAEK testing results,
- Options for involvement moving forward,
- Contact information for the investigator and advocate,
- Appropriate referrals and contact information for the local certified rape crisis and recovery center, or other agencies, that can provide support and legal services,
- Written explanation of victim's rights.

Tip: Notification teams should meet to discuss each case prior to the scheduled follow-up meeting. It is during this meeting that all parties should be briefed on case specifics and issues that may arise during notification. This may include, but is not limited to, the following:

- SAEK testing results,
- Survivor experiences, good or bad, during the initial investigation,
- Offender relation such as significant other, family member, or roommate,
- Offender status such as death or incarceration.

Follow-up meetings are preferably conducted in-person. However, notification teams should be mindful of barriers such as travel, childcare obligations, and employment requirements that may reduce a survivors' ability to meet in-person. Barring confidentiality concerns follow-up

meetings may be held via phone, or virtual meeting platform, in order to meet the survivors needs.

Offer an Apology

National SAKI Projects have found that offering an apology to survivors affected by the backlog of untested SAEKs is a powerful tool that can help restore trust, support healing and recovery, and encourage engagement in the criminal justice system.

Providing an apology under these circumstances can be difficult. However, advocates and law enforcement with a full understanding of the affects the backlog has had on survivors should be able to empathize with, and provide support to, each survivor.

Tip for Advocates: An apology from an advocate is just as powerful, and necessary, as one from law enforcement. A survivor whose SAEK was not submitted for testing may never have received the services and support they needed after the assault. Be prepared to apologize and demonstrate the collaborative effort of advocates and law enforcement moving forward.

Try saying:

“I’m sorry for the pain and uncertainty you experienced after reporting the sexual assault. I am available to support you and provide information for local resources that are available.”

Tip for Law Enforcement: Offer an apology to each survivor for the pain and uncertainty they experienced. Although you may not have been involved in the original investigation, it is important that your apology is sincere, and that you acknowledge an understanding of this systemic failure. Doing so will help restore lost trust and build rapport.

Try Saying:

“I am sorry for the original handling of your case and I apologize on behalf of the police department. We are changing our policies to ensure that all investigations are thorough, and that is why we have tested your kit. I’m here to support you and answer any questions you may have.”

Remember, the goal of the SAKI project is not solely about successful prosecutions. These notification meetings are an opportunity to make sure the survivor is supported, informed of case updates, has access to community services, and to avoid retraumatization. If the case will be moving forward, a more detailed follow-up investigative interview will take place after the survivor has had time to process the new information.

Impact of DNA Results on Notification

Notifications will differ depending on the results of the SAEK testing. The following can be used for guidance on what information should be provided in each scenario.

1. DNA Negative:

- Advise the survivor that no DNA was recovered from their SAEK. Inform the survivor whether the case will proceed without the DNA evidence or if the case will remain closed.

Tip: Cases with DNA Negative results may be difficult. Remember that the goal of notifications is not only to prosecute offenders, but to restore relationships with survivors, provide support and opportunities to heal.

2. DNA Positive, CODIS Ineligible

- Advise the survivor that a DNA profile was recovered from their SAEK but it is not eligible to be uploaded into CODIS. Be prepared to explain what this means for their case, including if suspect DNA collections will occur or if the case will remain closed.

Tip: Be prepared to explain what this means for the survivor's case, including if DNA collections from consensual partners will occur due to the presence of multiple foreign DNA profiles or if the case will remain closed.

3. DNA Positive, uploaded into CODIS:

- Advise the survivor that a DNA profile was recovered from their SAEK. Explain that the DNA profile found was uploaded into CODIS to match or link the suspect to other crimes. Explain that at this time no match has occurred. Inform the survivor whether the case will proceed without a CODIS hit or if it will remain closed pending a future suspect identification from CODIS.

Tip: It is important to inform the survivor that a DNA match to the offender or other crimes could occur at any time. Obtain their notification preferences and contact information in the case of a future CODIS hit. Inform the survivor that if a hit does occur in the future, decisions regarding criminal charges and prosecution will be made at that time

4. CODIS Offender Match/Hit:

- Advise the survivor that a DNA profile was recovered from their SAEK. Explain that the DNA profile was uploaded into CODIS and it was matched to a suspect linked to another crime. Inform the survivor what this means for their case currently, including if the case will remain closed.

Tip: A survivor whose SAEK produced an offender hit may be eager to discuss next steps, including prosecution. Be prepared to discuss the investigative process and acknowledge that prosecution, including whether the suspect will be found guilty, is not guaranteed.

5. CODIS Forensic Hit:

- Advise the survivor that a DNA profile was recovered from their SAEK. Explain that the DNA profile was uploaded into CODIS and it matched the DNA from another crime or series of crimes but the suspect has not yet been identified. Inform the survivor that although no suspect has been identified, an offender match may occur at any time.
- Inform the survivor that if a hit does occur in the future, decisions regarding criminal charges and prosecution will be made at that time.

Tip: All cases are not solely dependent on a CODIS Offender Hit. A Forensic Hit has unique investigative effects. Be prepared to answer questions about the investigative process, including the possibility that an investigation will occur, without an identified offender or that a suspect may be identified at a later time as a result of investigative leads associated with the other case.

If the status of the case or next steps for an investigation are not known at the time of the notification the survivor should be informed that their case will be reviewed. Be sure to inform the survivor that they will be contacted via their preferred notification method once their case has been reviewed and next steps have been determined.

[Notification Meeting Cancellation or Rescheduling](#)

Ideally there will not be any need to cancel or reschedule a follow-up notification meeting. However, we recognize that emergency circumstances may arise for either the survivor or the notification team members. In these instances, see the below guidelines for how to proceed with rescheduling.

[Survivor Request for Cancellation or Rescheduling](#)

A survivor may cancel, reschedule, or not show up to the follow-up meeting. This does not mean that they do not want to be involved in the case and should not impact future notification or investigative decisions.

Notification teams must allow a minimum of 30 minutes for the survivor to arrive at the scheduled meeting. During this time, the SAKI advocate should attempt to contact the survivor via their preferred contact method and, if contact is unsuccessful, the notification team may leave the meeting location. The notification team should consider traffic conditions or public transportation issues that may cause the survivor to be late before leaving the meeting location. If the advocate successfully contacts the survivor the notification team should do their best to wait for the survivor to arrive or, if necessary, reschedule the meeting based on the survivor's availability.

If a survivor does not respond to attempted contact, the notification team can leave the meeting location. The case will remain open and advocates should continue attempts to make contact via the survivor's preferred method. Contact attempts should occur at appropriate intervals that do not overwhelm the survivor. All contact attempts must be documented in the individualized plan. If the survivor can no longer be reached after four (4) attempts, or two (2) months, attempted contact should cease. If the survivor reaches out at a later date the notification process can resume.

Cancelation or Rescheduling by Survivor Notification Team

The assigned notification team should do everything possible to refrain from cancelling or rescheduling follow-up meetings. However, in case of an emergency, the survivor must be informed of the cancelation and the need to reschedule at least 24 hours (1 day) in advance, when possible.

The meeting should be rescheduled for a date and time within two (2) business days of the original meeting. If this is not possible, the survivor notification team should work to schedule for the first date the survivor is available.

Contacting Survivors Prior to SAEK Testing

The SAEK Committee has determined that there are several circumstances in which a survivor should be contacted prior to the submission of their SAEK for testing. These specific circumstances were identified by SAEK Committee members as sensitive situations that, in order to return power and control to the survivor, warrant the survivor's input regarding testing.

In these circumstances, the survivor should be contacted in accordance with the protocol for SAEKs that have been tested and results are available. The only difference between the notifications is the timing and opportunity for the survivor to express their wishes regarding SAEK testing.

Exclusionary Samples

In some cases, survivors may have informed the forensic nurse examiner or assigned investigator that they had consensual sex around the time of the sexual assault. In these circumstances it is the responsibility of law enforcement to make an attempt to obtain DNA

samples from any, and all, of the survivor's consensual partners with whom they had sex with within 15 days of the collection of the sexual assault evidence kit.

If these exclusionary DNA samples were not obtained during the original investigation, law enforcement and SAKI advocates will conduct notifications in accordance with survivor provided opt-in preferences or the advocate initiated notification process.

Tip: Collection of exclusionary samples should not begin prior to successful notification. It is essential that the survivor is informed by an advocate and law enforcement officer, rather than a third party, that their case is being revisited and their SAEK will be sent for testing.

Declined to Participate

The SAEK Committee recognizes that until recently, the use of waiver of investigation forms by law enforcement agencies was a common practice in sexual assault cases. These forms, which have since been identified as an inappropriate practice, were used to document if a survivor stated they did not want to pursue a criminal investigation or prosecution. Research on this practice has shown that these forms were potentially used inappropriately and prematurely during initial survivor interviews, possibly because responding officers did not believe the survivor or think the case was worth pursuing.

IMPORTANT: Effective October 1, 2020 Maryland law enforcement agencies are no longer permitted to use waiver of investigation forms during sexual assault investigations.

Maryland aims to empower survivors that signed a waiver of investigation form, or otherwise expressed a decision to no longer participate in the criminal investigation, by providing them with an opportunity to reconsider the testing of their SAEK.

In order to provide survivors with this opportunity, law enforcement and SAKI advocates will conduct notifications in accordance with survivor provided opt-in preferences or the advocate initiated notification process. At the time of notification, survivors will have the opportunity to determine if their kit will be submitted for testing.

Documenting Notification Preferences and Attempts

It is essential that all survivor notification preferences and notification attempts are appropriately documented and updated.

MCASA SAKI advocates are responsible for documenting survivor notification preferences provided through the opt-in information line or email support. This information will be stored on a secured server that only the MCASA SAKI Team will be allowed to access.

Once notification attempts begin a client file will be created including the survivor's individualized notification plan (Appendices III and IV). The SAKI advocate and assigned investigator will develop these plans collaboratively and in accordance with survivor opt-in preferences, if available.

Law enforcement agencies will be responsible for documenting necessary notification information in the appropriate case file.

Important: Any information documented in the law enforcement case file is potentially discoverable by the defense if the case proceeds to prosecution. Based on *Brady v. Maryland*, 373 U.S. 83 (1963) the state must turn over to the defense any information that is favorable to the accused if it is material to guilt or punishment.

Successful Notification: On-Going Contact

All successful notifications, those in which the survivor is contacted and provided information regarding the testing of their SAEK, should close with a discussion regarding the survivor's level of involvement moving forward.

Re-engaging with the Criminal Justice System

Notification teams must recognize that not all survivors will be eager to re-engage in the criminal justice process. In fact, survivors may have conflicting emotions that prevent them from making decisions regarding their involvement at the time of notification. The notification team is responsible for informing survivors that they do not have to make an immediate decision and for providing the contact information for both the investigator and advocate along with an open invitation to contact either individual with questions or concerns.

Tip: If a survivor is unsure about re-engaging in the criminal justice process, ask if you can contact them at a later date to check-in. If the survivor agrees, discuss when and how this contact will be made.

The SAKI project does not change which entity has responsibility for the charging and prosecution of an offender. However, a survivor centered response dictates that you respect a survivor's wishes regarding the criminal justice process. If a survivor is not interested in re-engaging in the criminal justice process their decision should be acknowledged respectfully. The law enforcement officer and advocate should still provide their contact information and inform the survivor that they are available for questions at any time.

Tip for Advocates: Your presence during victim notifications is important so that you can provide the survivor with referrals to local services as well as emotional support which is crucial during this process. You may also choose to meet in private, at the survivors' request, to discuss the information provided during the meeting.

Tip for Law Enforcement: Your presence is essential in all notifications, including those cases in which no criminal investigation will take place moving forward. Make sure you are available to discuss the meaning of the SAEK test results, the effect of those results on the investigation, and to provide an opportunity to re-establish trust.

Unsuccessful Notification

There will be cases in which a survivor cannot be located or does not respond to contact attempts. If a survivor does not respond the SAKI Advocate is responsible for documenting the contact attempts in the individualized notification plan. It is recommended that contact be attempted four (4) times. After the fourth attempt, notification efforts may cease, and testing of the kit will proceed. If the survivor contacts law enforcement, the local certified rape crisis and recovery center, or the MCASA information line and email support at a later date, notification efforts can resume accordingly.

Leaving a message or written notice may risk a survivors' privacy and safety. Advocates, and law enforcement officers, are encouraged to use their best judgement regarding leaving a message. If deemed appropriate to leave a message, information provided should be limited to the caller's name, phone number, and a request for a call back.

Appendix I: Certified Rape Crisis and Recovery Centers

Allegany County

- Family Crisis Resource Center
- Hotline: 301-759-9244

Anne Arundel County

- YWCA of Annapolis & Anne Arundel County
- Hotline: 410-222-6800

Baltimore City

- TurnAround, Inc.
- Hotline: 443-279-0379

Baltimore County

- TurnAround, Inc.
- Hotline: 443-279-0379

Calvert County

- Crisis Intervention Center
- Hotline: 410-535-1121; 301-855-1075

Caroline, Dorchester, Kent, Queen Anne's,

Talbot Counties

- For All Seasons, Inc.
- Hotline: 410-820-5600
- Toll free: 1-800-310-7273
- Para Español: 410-829-6143

Carroll County

- Rape Crisis Intervention Service
- Hotline: 410-857-7322

Cecil County

- The Bridge
- Hotline: 410-996-0333

Charles County

- Center for Abused Persons
- Hotline: 301-645-3336

Frederick County

- Heartly House, Inc.
- Hotline: 301-662-8800

Garrett County

- Dove Center
- Hotline: 301-334-9000
- Toll free: 1-800-656-4673

Harford County

- Sexual Assault/Spouse Abuse Resource Center (SARC)
- Hotline: 410-836-8430

Howard County

- HopeWorks
- Hotline: 410-997-2272
- Toll free: 1-800-752-0191

Montgomery County

- Victim Assistance & Sexual Assault Program
- Hotline: 240-777-4357

Prince George's County

- DV/SA Center Dimensions Healthcare
- Hotline: 301-618-3154

St. Mary's County

- Southern Maryland Center for Family Advocacy
- Hotline: 240-925-0084

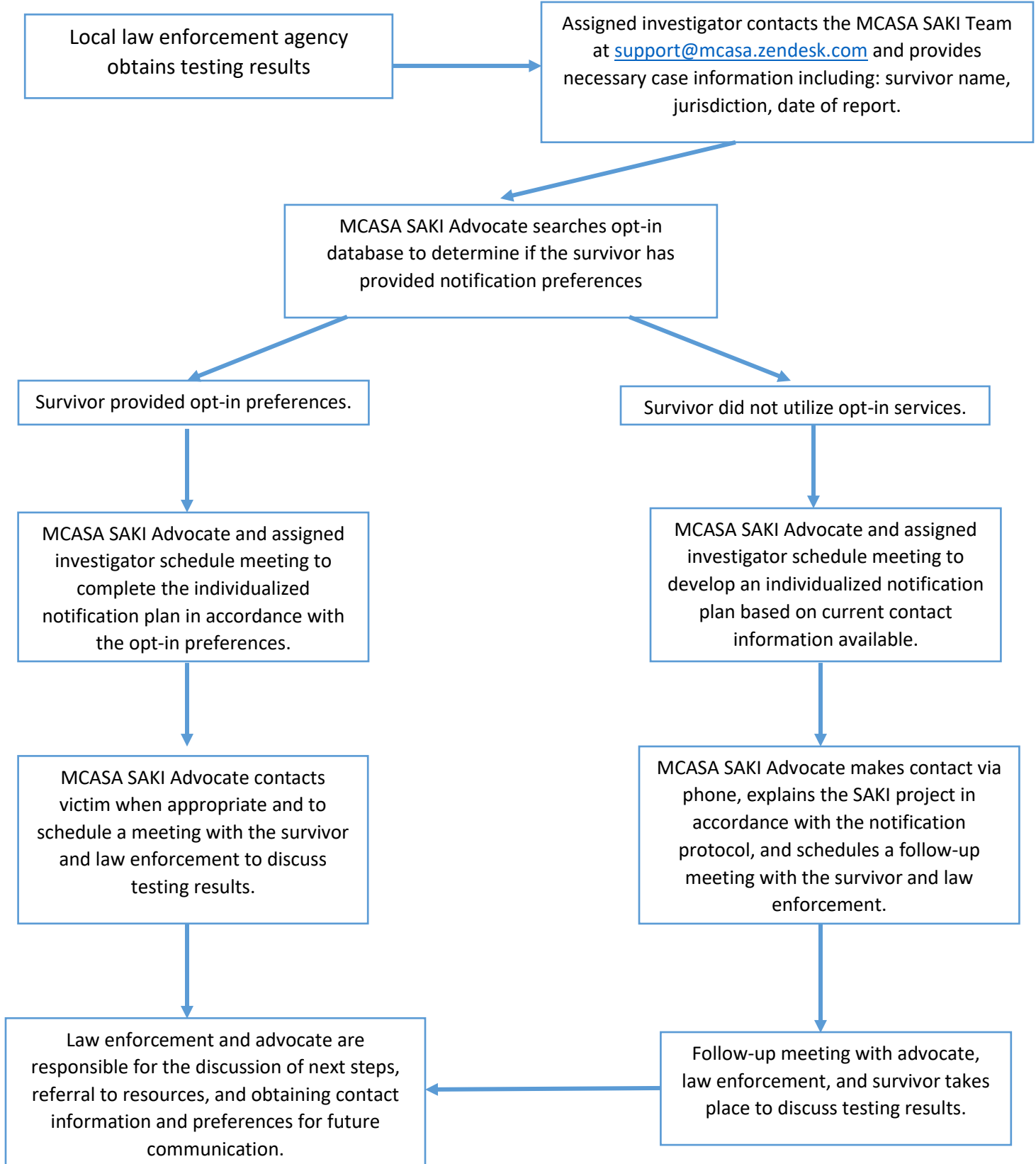
Somerset, Wicomico, Worcester Counties

- Life Crisis Center, Inc.
- Hotline: 410-749-4357

Washington County

- CASA, Inc.
- Hotline: 301-739-8975

Appendix II: Notification Process Flow Chart



Appendix III: Survivor Notification Plan: Opt-In Preferences Available

**Maryland SAKI Individualized Survivor Notification Plan
Opt-In Preferences Available**

Case Information:

Case Number: _____ Date of Report: _____

Survivor Name: _____ DOB: _____

Reasons for Notification:

Testing Results:

- | | |
|---|--|
| <input type="checkbox"/> None | <input type="checkbox"/> DNA Negative |
| <input type="checkbox"/> DNA Positive: CODIS Ineligible | <input type="checkbox"/> DNA Positive: uploaded into CODIS |
| <input type="checkbox"/> CODIS Offender Hit | <input type="checkbox"/> CODIS Forensic Hit |

Date Results Received: _____

Other:

- Exclusionary Samples Needed
- Wavier used or did not wish to proceed

Law Enforcement Agency Information:

Jurisdiction: _____

Assigned Investigator: _____

Phone: _____ Email: _____

Assigned MCASA SAKI Advocate: _____

Contact Information:

Preferred Method of Contact: Phone, contact number: _____

Can voicemail be left: Yes No

Email, provided email address: _____

Letter, mailing address _____

In-Person, residence address: _____

Other: _____

Reason for contact:

No Notification

Testing completed – any results

DNA profile obtained and entered into CODIS

COIDS hit – Offender identified

CODIS hit – kit to kit

Other: _____

Notification Attempts:

First attempt

Second attempt

Third attempt

Fourth attempt

Date: _____

Date: _____

Date: _____

Date: _____

Type: _____

Type: _____

Type: _____

Type: _____

Unsuccessful Notification:

Notification efforts should cease after four (4) unsuccessful attempts. On the fourth unsuccessful attempt the SAKI Advocate is responsible for providing contact information for the MCASA information line and email support in accordance with the survivors opt-in preferences. If voicemail messages or email were not approved in the survivor's preferences no information should be left. The survivor has the ability to contact MCASA or law enforcement at their own discretion.

Successful Notification:

Date of successful notification: _____

Follow-Up Meeting Scheduled: Yes No

If yes, please provide:

In-Person Phone Other: _____

Date: _____ Time: _____

Location: _____

Appendix IV: Survivor Notification Plan: Advocate Initiated Notification

Maryland SAKI Individualized Survivor Notification Plan

Advocate Initiated Notification – Survivor did not opt-in

Case Information:

Case Number: _____ Date of Report: _____

Survivor Name: _____

Reason for notification:

Testing Results:

- | | |
|---|--|
| <input type="checkbox"/> None | <input type="checkbox"/> DNA Negative |
| <input type="checkbox"/> DNA Positive: CODIS Ineligible | <input type="checkbox"/> DNA Positive: uploaded into CODIS |
| <input type="checkbox"/> CODIS Offender Hit | <input type="checkbox"/> CODIS Forensic Hit |

Date Results Received: _____

Other:

- Exclusionary Samples Needed
- Wavier used or did not wish to proceed

Law Enforcement Agency Information:

Jurisdiction: _____

Assigned Investigator: _____

Phone: _____ Email: _____

Assigned MCASA SAKI Advocate: _____

Available Contact Information: *This is the contact information for the survivor found in law enforcement's original case file or through subsequent research by law enforcement and should include all possible information.*

Phone number: _____

Place of residence: _____

Alternative contact (include relationship or survivor instructions): _____

Note: using alternative contact should be a last resort and, if necessary to use, should be handled carefully to limit the information provided to the individual and be sure the alternative contact is still appropriate.

Other available contact information: _____

Notification Attempts: *SAKI Initiated Notification attempts should be done by phone unless no phone number is available. In-person and letter notification attempts are a last resort.*

First attempt Second attempt Third attempt Fourth attempt
Date: _____ Date: _____ Date: _____ Date: _____
Type: _____ Type: _____ Type: _____ Type: _____

Unsuccessful Notification:

Notification efforts should cease after four (4) unsuccessful attempts. On the fourth unsuccessful attempt the SAKI Advocate is responsible for providing contact information for the MCASA information line and email support in accordance with the survivors opt-in preferences.

Successful Notification:

Date of successful notification: _____

Follow-Up Meeting Scheduled: Yes No

If yes, please provide:

In-Person Phone Other: _____

Date: _____ Time: _____

Location: _____

Phone Number: _____

Permission to leave voicemail: Yes No

Notification Notes (include survivor concerns, survivor reactions, follow-up contact information, etc.):

Appendix V: Notification During COVID-19

Note: The COVID-19 related policy of postponing notifications was lifted August 2021. All survivors will still have the opportunity to dictate if and when they receive notifications during the pandemic

The COVID-19 pandemic is a time of stress, trauma, and anxiety for many individuals and it is MCASA's goal to limit survivors' exposure to additional stress, while protecting law enforcement, advocates, and survivors from potential exposure to the virus.

The MCASA SAKI information line and email support will remain open and available to survivors, advocates, and law enforcement personnel during this pandemic. However, most notifications will be postponed during this time. If your agency is required to submit SAEKs for testing during the COVID-19 pandemic, it is recommended that cases that do not require survivor notification be selected first. For example, cases that would require survivor notification are those that involved the use of waiver of investigation forms, that require exclusionary samples, or that a Sexual Assault Response Team (SART) case review is needed. These types of cases should be submitted later.

Survivors that contact the information line or email support during the pandemic will be informed of the suspension of notifications and provided with information for local support services and resources. MCASA recognizes that, for some survivors, this may be a time when discussing their sexual assault evidence kit is important and may reduce anxiety. In these circumstances, SAKI Advocates will document survivor requests for updates during the pandemic.

While MCASA does recognize that law enforcement has a responsibility to conduct the necessary investigations in sexual assault cases, the decision to suspend notifications was made with the understanding that many survivors are facing difficulties such as unemployment, housing instability, inability to pay bills, providing care to children, residing with a perpetrator, and loss of privacy during stay-at-home orders. MCASA will collaborate with law enforcement agencies to conduct notifications when necessitated by specific testing results, such as a CODIS hit. MCASA recognizes that the difficulties that have arisen as a result of the pandemic must be considered when conducting these necessary notifications in order to promote survivor safety and well-being.

Please feel free to contact MCASA's SAKI Victim Notification Project Manager with questions regarding the protocol at 301-328-7166 or notification@mcasa.org.

Glossary

The following terms will be used throughout the notification protocol. It is important that each agency and notifying entity has a thorough understanding of the following terms.

- Advocate: an individual professionally trained to support victims and promote victims' rights. Advocates ensure that all of the victim's concerns and needs are met including emotional, physical, and psychological. Sexual assault victim advocates may be volunteers or individuals employed by the local Rape Crisis and Recovery Center, or a government agency.
 - SAKI Advocate: this term refers to the trained SAKI advocates based at the Maryland Coalition Against Sexual Assault that will be responding to the Maryland SAKI Information Line and Email Support. These advocates work under the supervision of lawyers.
 - This type of advocate is bound by the same confidentiality requirements as the attorneys that they work for. They are not mandated reporters which gives them more flexibility to gain information and any information obtained through communication with a client must remain confidential.
 - Local Community-Based Advocate: an advocate that works for a community-based agency, such as the local certified rape crisis center. These advocates have an exclusive focus on the victim's needs and safety whether or not the victim participates in the criminal justice system, and as a result, their focus is on all areas of a survivor's life. Survivors who receive notice through SAKI may have existing or past relationships with these advocates even if a criminal case was never initiated.
 - There are varying levels of legal protection for the confidentiality of community-based advocate communications with survivors. Advocates who work with the support of grants through the Violence Against Women Act (VAWA) or the Victims of Crime Act (VOCA) are required to keep communications confidential. Some state grants have similar requirements. Whether a professional is prohibited from disclosing information is a function of statutes, caselaw, and regulation. Factors to consider include whether the advocate is a member or works for a member of a profession such as a lawyer, licensed clinical social worker, or licensed clinical professional counselor.
 - Victim-Witness Assistants or Coordinator (sometimes referred to as System-based advocates): an employee of law enforcement agency or prosecution attorney's office, or some other entity within the criminal justice system. The role of a Victim-Witness Assistant/Coordinator will vary depending on their agency. However, needs of the victim will be balanced with the interests of the criminal justice system. Of note, communications to a victim-witness assistant/coordinator can generally be disclosed to their agency (i.e. to the

prosecutors or other law enforcement working on the case) and are subject to *Brady* disclosure requirements, so have less protection than statements to a community-based advocate.

- *Cold Case*: National Institute of Justice currently defines a cold case as any case whose probative investigative leads have been exhausted. In many jurisdictions, a case is classified as “cold” when it remains unsolved for one year or more after being reported to a law enforcement agency and the case has “no viable and unexplored investigatory leads.”
- *Combined DNA Index System (CODIS)*: the Federal Bureau of Investigation’s software management program and hardware used to link DNA databases at the local, state, and national levels. There are two ways that DNA is put into CODIS. One is when a DNA profile from an unknown perpetrator is collected from crime scene evidence, such as a SAEK, and entered into the database. The second is when DNA is collected from a convicted offender or arrestee required by law to provide their DNA for entry into the database.
 - *DNA Profile*: DNA obtained from a sexual assault evidence kit that may be used to identify an offender.
 - *DNA Positive /CODIS Ineligible*: biological material was detected but CODIS eligibility requirements were not met (i.e. the profile obtained is partial or mixed).
 - *DNA Positive but no Offender or Forensic Hit*: biological material was detected and a DNA profile was uploaded into CODIS. The DNA profile does not match any other samples in the database. In this situation, the DNA profile will remain in CODIS and may match to future entries linking crimes together or identifying a possible perpetrator.
 - *DNA Positive, Offender Hit*: biological material was detected and a DNA profile was uploaded into CODIS. The DNA profile matched to a known reference sample thus identifying a possible perpetrator.
 - *DNA Positive, Forensic Hit*: biological material was detected and a DNA profile was uploaded into CODIS. The DNA profile matched to DNA collected from another sexual assault evidence kit or crime scene, where the perpetrator is still unknown, thus linking the crimes together. This type of hit does not identify a possible perpetrator. This is also referred to as a “kit-to-kit hit”.
 - *DNA Negative*: No biological material was detected on items that were tested, e.g., semen not detected from kit materials, or testing failed to yield DNA results.
- *Governor’s Office of Crime Prevention, Youth, and Victim Services*: the coordinating office that advises the Governor on criminal justice strategies. The office plans, promotes, and funds efforts with government entities, private organizations, and the community to advance public policy, enhance public safety, reduce crime and juvenile delinquency, and serve victims of crime.

- Maryland Coalition Against Sexual Assault (MCASA): the federally-recognized state sexual assault coalition of Maryland. Its core members are the state's 17 rape crisis centers. MCASA also represents the voices of professionals and service providers working with sexual assault survivors, providing policy advocacy, technical assistance, training, outreach, and prevention.
- Maryland Coalition Against Sexual Assault SAKI Notification Team (MCASA SAKI Team): staff dedicated to the Maryland Sexual Assault Kit Initiative Project. This is supervised by the Sexual Assault Legal Institute Managing Attorney and consists of crime victim rights attorney(s), a cold case attorney, victim advocates, and project manager.
- Maryland Sexual Assault Evidence Kit Policy and Funding Committee: SAEK Committee
- Maryland State Police (MSP): official state police force for Maryland responsible for preventing and investigating crime while supporting allied law enforcement agencies, enhancing the safety of Maryland highways, and supporting Maryland citizens and communities.
- Office of the Attorney General (OAG): the Maryland Attorney General is the chief legal officer of the state. The Office of the Attorney General has general charge, supervision, and direction of the legal business of the state, acting as legal advisor and representatives of the major agencies, various boards, commissions, officials, and institutions of State Government.
- Rape Crisis and Recovery Center: certified organizations located throughout Maryland that provide confidential services to adult and child victims of sexual assault and their families, partners, and loved ones. Services provided include crisis intervention, counseling or counseling referral, accompaniment to hospitals, police interviews, and court proceedings, and assistance navigating the legal and judicial systems.
- Retraumatization: a conscious or unconscious reminder of past trauma that results in re-experiencing aspects of the initial traumatic event. It can be triggered by a situation, sensation, attitude, expression, or certain environments that replicate the dynamics of the original trauma.
- Serial Offender: an individual who has committed multiple crimes, for SAKI purposes the crimes committed are usually, but not limited to, multiple sexual assaults.
- Sexual Assault Evidence Kit (SAEK): Often referred to as a rape kit, a SAEK is a package of materials used to collect samples (evidence) from the survivor's body by a qualified medical professional, often a Forensic Nurse Examiner (FNE). The type of evidence collected depends on what occurred during the assault. Victims will be asked to provide a narrative of the assault to help determine what evidence should be collected in their case (i.e. where the swabs should be taken). The contents of the SAEK may vary by jurisdiction but generally include paperwork to document the exam, swabs and glass slides for biological evidence collection, containers for blood and urine samples, evidence bags for clothing and other large pieces of evidence, and envelopes for hair, fibers, and other trace evidence.

- Unsubmitted SAEK: SAEK's that have been reported to law enforcement but determined as not needing to be tested for DNA.
- Untested SAEK: SAEK's that have been reported to law enforcement and submitted to a forensic lab for testing but are still awaiting analysis.
- Sexual Assault Kit Initiative (SAKI): Bureau of Justice Assistance grant program for addressing the growing number of unsubmitted and untested SAEKs in law enforcement custody, and to help provide resolution for victims when possible through a comprehensive team approach.
- Sexual Assault Legal Institute (SALI): legal division of MCASA dedicated to providing direct legal services for victims and survivors of sexual violence. SALI also offers technical assistance and training for attorneys, rape crisis center staff and volunteers, and other professionals working with survivors.
- Sexual Assault Response Teams (SART): A group of professionals that are responsible for addressing sexual assault cases in the local community. SARTs usually consist of individuals from the local law enforcement agencies, forensic nurse examiners from the local hospital, prosecutors from the State Attorney's Office, Crime Victim Rights Attorney's, the state coalition, and representatives from the crime lab. These teams often incorporate additional local organizations that are also impacted by sexual assault such as local colleges and universities, military bases, and faith-based organizations.
- Site Coordinator: the designated individual that serves as the central point of contact for the SAKI project. This individual is responsible for fostering and coordinating communication among the team members and ensuring that SAKI grant milestones are being met.
- Victim/Survivor: an individual that has experienced sexual violence. The term victim is specifically used in criminal cases and may not resonate with individuals whose case was not pursued criminally.

Note: individual's often have a personal preference in regards to identifying as a victim or survivor. In this document, we use the term survivor, wherever possible. When working with an individual impacted by the SAEK backlog, you should model the language that they self-identify with.