

Testing Sexual Assault Evidence Kits



Introduction

Sexual Assault Evidence Kits (SAEKs) are collected by specially trained Forensic Nurse Examiners (FNEs) in hospitals with designated Sexual Assault Forensic Examination (SAFE) programs. They are used to gather forensic evidence from a victim following a sexual assault. The evidence collected can be a key part of an investigation and can help identify suspects, support a victim's story, and prove that sexual contact occurred.

In Maryland in 2015:

- There were 655 cases with crime scene evidence for sexual assault (including evidence collected in SAFEs) submitted for analysis.¹
- The Department of Health and Mental Hygiene, the agency responsible for reimbursing SAFE Programs for completing SAEKs, reported providing reimbursement for 1,345 kits.²

In March 2015, The Governor's Office of Crime Control and Prevention, on behalf of the Office of the Attorney General, conducted a survey of law enforcement agencies to find out how many kits they had stored. The survey found that approximately 3700 kits were currently stored.³

- Some of the major reasons the kits had not been tested were:
 - Identity of suspect known
 - Allegations unfounded
 - Victim signed no prosecution form/refused to prosecute
 - Suspect admitted to consensual sex or pled guilty
 - State's Attorney declined prosecution/analysis not needed for prosecution
 - Anonymous/Jane Doe kit

New research has found that testing *all* kits provides many benefits, including identifying or exonerating suspects and matching cases to serial perpetrators.⁴

Modern best practices include:⁵

- All kits should be tested with exceptions for unfounded cases or cases where victims decide not to report.
- Testing should be required within a designated time period.
- Kits should be stored at minimum for the statute of limitations for the offense (in Maryland, most sexual offenses have no statute of limitations so would be stored indefinitely).
- Kits should be stored in a police evidence storage facility with climate control and protocols for chain-of-custody.

In December 2016, the Office of the Attorney General released a report with recommendations for improving Maryland's testing of SAEKs.⁶ Their recommendations included:

- Test all SAEKs within a designated time period unless:
 - There is clear evidence disproving allegation of sexual assault (unfounded).
 - The allegation, even if true, would not result in the creation of forensic evidence.
 - The kit is a Jane Doe/Anonymous kit, unless the victim explicitly consents to the testing of the kit.
- Establish a designated time period of at least 20 years for storing kits.
- Mandate victim notification procedures for when a kit is sent to the lab or when there is a match.
- Develop a standardized, model policy across Maryland for the collection, tracking, storage, testing, destroying, and reporting of kits.
- Develop a Statewide SAEK Oversight Committee to continue to develop policy, provide support, and monitor implementation.
- Provide funding for testing of current inventory of kits as well as for creating uniform standards and establishing time mandates.

1. GOCCP (2016). 2015 Crime Scene DNA Collection and Analysis Reporting By Law Enforcement Agencies.

2. Ibid.

3. Office of the Attorney General (2016). Statewide Accounting of Untested Sexual Assault Evidence Kits in the State of Maryland.

4. Campbell et al. (2015). The Detroit Sexual Assault Kit (SAK) Action Research Project (ARP), Final Report.

5. Office of the Attorney General.

6. Ibid.