



Kansas Bureau of Investigation

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EXECUTIVE SUMMARY

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The Kansas Sexual Assault Kit Initiative (SAKI): *Future Sexual Assault Kit Submission and Testing* May 10, 2018

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Background

In March 2017, the Kansas Bureau of Investigation (KBI) identified over 2,200 previously unsubmitted sexual assault kits (SAKs) throughout the state (Kansas Bureau of Investigation, 2017). From this initial inventory, 12 local law enforcement agencies were identified to submit a portion of their inventory for forensic analysis. The results of this analysis have been utilized to develop evidence-based recommendations to address the remaining statewide inventory by prioritizing the testing of SAKs based on suspect criminal history demographics.¹

In order to address future submissions of SAKs and laboratory processing, the Kansas Multidisciplinary Working Group evaluated current resources and existing best practices to identify appropriate recommendations for future SAK submissions to prevent another accumulation of SAKs in law enforcement property rooms. Through this evaluation, it is the recommendation of the multidisciplinary working group to submit all SAKs to a laboratory for analysis, all submitted SAKs be tested, and the testing of these SAKs be determined through case-specific communication between law enforcement, prosecution, and the laboratory.

Future Submissions of SAKs

The accumulation of previously unsubmitted SAKs in Kansas has been attributed to four interconnected factors: Lack of Training, Lack of Resources, Lack of Policy and Lack of Societal Awareness (Whisman & Roberts, 2017). Recognizing that a future accumulation of SAKs would inevitably occur without action, the Kansas SAKI Multidisciplinary Working Group evaluated existing best practice recommendations at the national, state, and local levels.

¹ Details of the evidence-based recommendation to address the remaining statewide inventory was the topic of a previous Executive Summary 4: *Forensic Analysis of Cross Sectional Sample and Recommended Testing Prioritization*.

In a recent publication from the National Institute of Justice regarding national best practices for sexual assault, it is recommended that all reported SAKs should be tested. Testing all SAKs can identify or confirm a suspect's identity, link cases and therefore enhance public safety, and corroborate or confirm case-specific information about the crime. Additionally, testing all SAKs can be beneficial to establish trust between the community and law enforcement and inspire confidence in the criminal justice system (National Institute of Justice, 2017). The submission of all SAKs is recommended regardless of case circumstances, including cases in which the suspect claimed the interaction was consensual, prosecution declining to press charges, or a suspect's DNA already existing in national DNA database (i.e. the combined DNA index system, or CODIS). Submitting and testing all SAKs has already been adopted into legislation by several states² and has become the policy of multiple local jurisdictions as a means to avoid a future accumulation of SAKs. As such, it is the recommendation of the Kansas SAKI Multidisciplinary Working Group that all current and future SAKs are submitted to a forensic laboratory for analysis and all submitted SAKs be tested.

While resources to test all SAKs at the forensic laboratory may be limited, a "submit all/test all" recommendation ensures that future SAKs do not accumulate in law enforcement property rooms indefinitely. Additionally, this recommendation provides a method by which to measure the actual number of SAKs reported and collected in the state, as SAKs will be stored at one of three forensic laboratories rather than distributed over nearly 400 law enforcement property rooms.

Processing SAKs at the Forensic Laboratory

As mentioned previously, laboratory resources and capacity are limited so a submit all/test all recommendation for SAKs must also consider the impact to laboratory testing and turnaround times. The multidisciplinary working group examined current practices within the laboratory as well as key findings of reoffending behavior and impact to public safety as seen in the collected data from the SAKI project³ to identify appropriate recommendations to process and prioritize testing of future SAK submissions.

Cases related to the SAKI project have been prioritized for testing based on an analysis of suspect criminal history demographics as a means to promote public safety and focus on suspects with a propensity to reoffend.⁴ However, this approach to processing SAKs at the laboratory is time consuming and resource prohibitive. To accomplish this prioritization for SAKI cases, the KBI utilized a dedicated full-time research analyst to conduct criminal history searches for all cases with named suspects. This is a resource that most local jurisdictions will not have available for current and future sexual assault cases. As such, this process of prioritization will not be feasible for future SAK submissions to the laboratory.

The multidisciplinary working group conducted extensive research and attempted to develop a method by which incoming cases should be prioritized in an evidence-based way that focused on improving public

² States with legislation requiring the submission and testing of all SAKs include Colorado, Florida, Georgia, Illinois, Kentucky, Massachusetts, Michigan, Nevada, Ohio, Oregon, Pennsylvania, South Dakota, Rhode Island, Tennessee, Texas, Utah, Virginia, and Washington (Joyful Heart Foundation, 2018).

³ Collection and evaluation of suspect criminal history demographics was the topic of a previous Executive Summary 3: *Evaluating Suspect Criminal History Demographics to Prioritize Testing*.

⁴ Details of the prioritization model developed to address the remaining statewide inventory was the topic of a previous Executive Summary 4: *Forensic Analysis of Cross Sectional Sample and Recommended Testing Prioritization*.

safety while taking into consideration the uniqueness of each case. They considered utilizing a scoring system to prioritize testing at the laboratory based on case-specific information such as use of a weapon, restraint, or presence of drugs/ alcohol. While this process would alleviate the burden from laboratories and law enforcement to determine prioritization and maintain objectivity, there were concerns regarding how best to collect the necessary information in order to prioritize a case. Additionally, and perhaps more importantly, the working group expressed concerns with the inflexibility of a scoring system as some cases will pose unique circumstances that may require a higher urgency for testing even if the assigned scoring system placed it as a lower priority. Because each sexual assault case poses unique challenges and needs, the working group did not believe a scoring system would be the most appropriate approach to facilitating future processing of SAKs at the laboratory.

Additionally, the working group evaluated the use of a “checklist” label to be added to SAKs to assist with identifying elements of the crime in order to assist with prioritizing. The working group had similar concerns to this approach as those described in utilizing a scoring system, including the lack of flexibility for the unique aspects of each case. The creation of additional checklists and the rigidity of a complex prioritization scheme were unlikely to have the desired impact and be sustainable. The forensic laboratories within Kansas also acknowledge existing practices that facilitate prioritization of current cases which are typically established through communications from the submitting law enforcement agency and prosecution office.

As such, the working group agreed the most effective and appropriate recommendation for prioritizing SAKs at the laboratory was to encourage communication between law enforcement, prosecution and the laboratory to evaluate case-specific information as SAKs are submitted. This process requires that appropriate points of contact are established for each stakeholder to ensure open communication, and requires that personnel maintain a trauma-informed approach to evaluate case prioritization. This includes considerations by law enforcement and prosecution for cases such as suspect claiming consent, involvement of drugs/alcohol, or victim’s willingness to cooperate and recognizing the potential impact of trauma on a victim’s memory, behavior and emotions. The impact of victim trauma should not automatically deprioritize the testing of a SAK; however, communication between stakeholders is essential in order to determine the urgency of each case.

Next Steps

On April 3, 2018, the KBI provided a letter to Kansas forensic laboratories, law enforcement agencies, and prosecution offices outlining the recommendation to submit all SAKs for forensic analysis and to encourage communication between stakeholders to facilitate the processing of SAKs at the laboratory.⁵ This letter details the appropriate points of contact for each laboratory in Kansas and highlights important considerations for discussions of prioritization, including maintaining a trauma-informed approach to each case.

Additionally, throughout 2018, the KBI will be hosting a series of regional Trauma Informed Sexual Assault Training sessions across the state.⁶ Utilizing a subject-matter expert, this training will focus on

⁵ The KBI submit all/test all recommendation letter to Kansas forensic laboratories, law enforcement agencies, and prosecution offices can be found on the KBI SAKI website at <http://www.kansas.gov/kbi/news/04132018.shtml>

⁶ Registration and additional information regarding the 2018 Trauma Informed Sexual Assault Trainings can be found at <https://www.enrole.com/kupce/jsp/course.jsp?categoryId=10023&courseId=TISAT-KBI>

recognizing the signs of victim trauma and the impact it can have on sexual assault cases, as well as techniques to improve sexual assault response, investigations, and prosecutions. Personnel from all stakeholders involved in sexual assault cases are encouraged to attend this training in order to better serve sexual assault victims and as a means to ensure informed discussions regarding future SAK testing processing.

References

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