



# Kansas Bureau of Investigation

## The Kansas Sexual Assault Kit Initiative:

### Underlying Factors Contributing to the Accumulation of Unsubmitted Sexual Assault Kits in Kansas



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## Executive Summary

The purpose of this publication is to identify the underlying factors that have contributed to an accumulation of unsubmitted Sexual Assault Kits (SAKs) in Kansas and set forth recommendations intended to help prevent a similar accumulation from occurring in the future.

Over the past few years national attention has been mounting regarding the large number of unsubmitted SAKs in law enforcement property rooms. Early efforts from other jurisdictions to test unsubmitted SAKs have resulted in hundreds of rape indictments and the identification of serial offenders (Campbell et al., 2015; Wells et al., 2016; Lovell et al., 2016).

Recognizing the public safety risks associated with unsubmitted SAKs and the implications to the forensic laboratory if there was a sudden shift to “submit all,” the Kansas Bureau of Investigation (KBI) formed a statewide multidisciplinary working group and began the Kansas Sexual Assault Kit Initiative (SAKI) in the fall of 2014. The KBI proactively began the process of determining how many unsubmitted SAKs exist in Kansas. As a result of our efforts, we have become the first state in the country to complete a statewide inventory with voluntary participation by all law enforcement agencies and have identified 2,220 previously unsubmitted SAKs (Kansas Bureau of Investigation, 2017). This total represents the combined number of unsubmitted SAKs possessed by 86 law enforcement agencies. The oldest SAK identified was collected in 1989.

To evaluate and address an issue that has compounded over time is complex and requires in-depth stakeholder collaboration. The Kansas SAKI Multidisciplinary Working Group is composed of twenty-two experienced professionals – some agency policy makers, others practitioners - from across the state. Together, they represent the disciplines of forensic nursing, law enforcement, forensic science laboratory, prosecution, and both community and system-based victim advocacy.

One of the primary tasks entrusted to the Kansas SAKI Multidisciplinary Working Group was to identify the underlying factors that contributed to the accumulation of unsubmitted SAKs in Kansas. Since the group’s formation, members have participated in regularly scheduled day-long meetings which often consisted of brainstorming sessions, team exercises, and topic-focused group discussions to collaboratively identify and dissect barriers and gaps contributing to the accumulation of SAKs in Kansas.

After an evaluation of the financial, legal, and systematic barriers related to SAK testing, the working group participated in an affinity grouping exercise where the gaps and barriers were organized according to their natural relationships. The result was the identification of four core factors, all of which are interrelated and have contributed to the accumulation of unsubmitted SAKs in Kansas.

The factors include:

- **Lack of Training** – A lack of interdisciplinary training among stakeholders has contributed to our historically compartmentalized response to sexual assault. Additionally, lack of trauma-informed training can impact the way a victim’s statements and actions are perceived. Failing to understand the trauma response impacts the viability of a case and it’s progression within the criminal justice system. Lack of trauma-informed training similarly influences decisions regarding SAK submission and testing. In order to ensure the best possible case outcomes, it is essential that the stakeholder groups are appropriately trained in trauma-informed responses to sexual assault.
- **Lack of Resources** – Generally speaking, there is a broad lack of financial and personnel resources in each of the stakeholder communities. In part, the lack of financial resources have impacted the ability of law enforcement agencies to implement computerized evidence management systems and impacted the capacities of forensic science laboratories. In terms of personnel, there is a widespread lack of community and system-based victim advocates, and police officers and prosecutors specifically trained to investigate and prosecute sexual assault offenses. The result is victims who have been woefully underserved by the justice system and offenders not being held accountable for the crimes they commit.
- **Lack of Policy** – There is no state standard regarding the amount of time law enforcement agencies should retain SAKs associated with law enforcement reported sexual assaults. In the absence of model policy or best practice recommendations to guide decisions regarding SAK retention, submission, or disposition, and ensure consistency from one jurisdiction to another, each stakeholder community exercises discretion. Discretionary practices vary widely across the state - even within a given stakeholder community - and are influenced by availability of training and resources, as well as societal awareness.
- **Lack of Societal Awareness** – Individuals working within the criminal justice system, as well as jurors, victims, and members of the general public are all influenced by misconceptions of what “real” rape looks like. The normalization of sexual violence in the media and entertainment industries has contributed to the development of social biases about sexual assault and sexual assault victims. These misconceptions and biases contribute to a societal response that tends to rationalize the offender’s behavior and blame victims. They impact how we interpret behaviors that occur prior to, during, and after an assault. Unfortunately, society’s response to sexual assault, including that of the criminal justice system, may deeply impact and further exacerbate these misconceptions and biases.

It is important to emphasize that the issues underlying the accumulation of unsubmitted SAKs are multi-faceted, complex, and interrelated; they do not belong to any one stakeholder group.

It is also vital for us to recognize and understand that the resolution to addressing unsubmitted SAKs is not just about testing kits. As seen in jurisdictions in which testing was the *only* action taken, victim engagement with the criminal justice system and case outcomes did not change (Davis et al., 2017). A true solution requires an in-depth examination of the factors that have contributed to the accumulation. Without understanding and identifying solutions to address the underlying factors, sexual assault will continue to be misunderstood, the value of sexual assault evidence will continue to be under realized, and victims will continue to be underserved by the criminal justice system.

Within the body of this publication, the working group has provided recommendations that can be adopted by the various stakeholders, government officials, and policy makers to address the underlying factors, create sustainable solutions, and prevent a future accumulation of SAK evidence in our state. These recommendations will continue to be developed and will be shared in the final report at the conclusion of the grant.

## **Factors Underlying the Accumulation of Unsubmitted SAKs in Kansas**

In this section, we will discuss the four core factors in more detail and identify some specific barriers within each.

### **Lack of Training**

We recognized that a lack of interdisciplinary training and trauma-informed training have contributed to the accumulation of unsubmitted SAKs in Kansas.

One of the first things we discovered when we created the Kansas SAKI Multidisciplinary Working Group was a pronounced lack of communication and understanding between the various stakeholders. It was evident that we have not historically done an adequate job of educating ourselves and each other about our respective roles and responsibilities as they relate to sexual assault. This includes the sexual assault examination and evidence collection; the report to law enforcement and the subsequent investigation; victim interaction and support; forensic analysis and the uses and limitations of the Combined DNA Indexing System; case referral and prosecutorial review; and balancing the needs of the victim with those of the criminal justice system. When we don't understand our various roles and responsibilities, the result is a very compartmentalized response from the criminal justice system which contributes to the accumulation of unsubmitted SAKs.

There has also been a pronounced lack of trauma-informed training available for the many stakeholders. Trauma-informed means attending to victims' emotional and physical safety; strengthening victims' capacity to recover from the traumatic effects of abuse and violence by providing information, resources, services, and support; and educating victims, service providers, and the general community about the impact of trauma on survivors' health and well-being (Campbell et al., 2015). Incorporating trauma-informed practices into the criminal justice system's response to sexual assault is a fairly modern practice. As such, most training curriculums lack these elements.

A lack of trauma-informed training can impact the way a victim's statements and actions are perceived. Failing to understand the trauma response impacts the viability of a case and its progression within the criminal justice system. Lack of trauma-informed training similarly influences decisions regarding SAK submission and testing. Our traditional responses to issues such as consent, intoxication, and victim cooperation have been influenced by not recognizing signs of trauma and, therefore, not understanding the impact trauma can have on a victim's memory, behavior and emotions. As seen in other jurisdictions, the lack of a trauma-informed approach to sexual assault can create unnecessary barriers to building trust with victims and can compromise the search for truth (Perez et al., 2013). This, in turn, can hinder victim cooperation and the ability to prosecute cases. As such, decisions regarding SAK submission have been influenced by this lack of understanding.

### Barriers to Accessing Training

One of the primary barriers identified by all participating stakeholders is lack of adequate funding to access trauma-informed training. Because these trainings are relatively limited in availability and often presented by national subject matter experts, registration costs are expensive. Additionally, off-site training requires payment of per diem and travel related expenses. Similarly cost prohibitive is the option of bringing subject-matter experts in-state to deliver advanced training. Collectively, these costs strain already limited resources within agencies and create a monetary barrier to accessing training.

A systematic barrier to accessing training relates to the lack of personnel and/or frequency of turn-over within agencies. Many small agencies simply do not have a workforce large enough to assign personnel dedicated solely to the investigation of sexual assaults. Within agencies large enough to have specialized units, personnel assigned to sexual assault cases may be promoted or move to a different department within the agency. These workplace dynamics make it difficult to ensure all involved in a sexual assault response have received appropriate training. Another concern worth noting relates to the need to ensure adequate staffing exists when sending personnel to training, whether on or off-site. This is challenging for agencies of all sizes.

Finally, one of the key components of reinforcing appropriate trauma-informed practices within agencies is "buy-in" from the front line through leadership (Busch-Armendariz, Sully, & Morris 2015). While it is the first responders that will actively employ the practices learned in training, it is the managers and leaders within the agency that must reinforce appropriate practices. Additionally, it is important that processes and systems of review exist to reinforce appropriate practices within the agency. Studies have shown that a victim's first contact with law enforcement influences their ongoing participation in the criminal justice process (Busch-Armendariz, Sulley, & McPhail, 2015). In order to ensure the best possible case outcomes, it is essential that individuals at all levels within an agency are trained in trauma-informed responses to sexual assault.

## Lack of Resources

Lack of resources is prevalent within each stakeholder community. The two most commonly lacked resources are financial and personnel. Because these two are interconnected – the lack of financial resources directly impacts the lack of personnel resources – they will be described conjunctively.

While we did identify this to be an issue within the area of forensic nursing, we did not find the lack of resources in this stakeholder community to contribute directly to the accumulation of unsubmitted SAKs in Kansas. As such, this issue is discussed later in the paper under *Other Significant Findings*.

A lack of officers specifically trained to investigate sexual assault is believed to impact the thoroughness of investigations. Except in large departments, reports of sexual assault are either handled by a patrol officer or a general crimes detective. Within a given shift, they can be called upon to respond to drug crimes, vehicle accidents, reports of theft, physical altercations, child sex crimes, and everything in between. They gather the information and make discretionary decisions regarding the submission of sexual assault evidence and referral of cases for prosecutorial review. As previously described, this is exacerbated by a lack of training and, as will be described below, the lack of laboratory resources. A lack of officers specifically trained in sexual assault response and investigation has contributed to the accumulation of unsubmitted SAKs in Kansas.

A lack of computerized evidence management systems within law enforcement agencies impacts the ability to readily locate SAKs and determine if they have been submitted for forensic analysis. The KBI conducted a survey of local law enforcement agencies to identify the number of previously unsubmitted SAKs within property rooms and identify other systematic barriers. One such question revealed that only 20% of local law enforcement agencies in Kansas have a computerized evidence management system. The other 80% of agencies must rely on manual counting and written records to locate SAKs and determine the extent to which they have been forensically analyzed. These records are sometimes outdated and incomplete. Even in agencies with a computerized evidence management system, some do not contain information on evidence collected prior to the installation of the system. In either case, physical evidence tends to accumulate, rarely being disposed of prior to case resolution. One study reported that fewer than 5.4% of law enforcement reported sexual assaults resulted in conviction (Lonsway & Archambault, 2012). When we contemplate these two factors, in combination with Lack of Training and Lack of Policy, we can begin to understand how SAKs have historically accumulated in law enforcement property rooms.

A lack of forensic scientists to analyze the evidence has increased backlogs<sup>1</sup> and turnaround times.<sup>2</sup> As a result, law enforcement and prosecutors must exercise discretion

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<sup>1</sup> Backlog is defined as the number of cases pending laboratory examination for more than 30 days.

<sup>2</sup> Turnaround time is defined as the time, in days, between when a case is submitted to the laboratory and the laboratory report is released.

in their utilization of forensic laboratory services. Specifically, law enforcement has reported that they are keenly aware of the lack of laboratory capacity and have made decisions regarding kit submission judiciously. Cases involving non-stranger rapes, issues of consent, and a lack of victim participation in the criminal justice system were often not submitted for analysis. The lack of forensic laboratory resources has contributed to the accumulation of unsubmitted SAKs in Kansas.

A lack of prosecutors and those specifically trained to evaluate sexual assault cases and bring criminal charges has impacted the number of cases reviewed and adjudicated.<sup>3</sup> Prosecutors similarly recognize the lack of laboratory resources and often do not recommend that law enforcement submit SAKs for analysis, particularly in cases involving non-stranger rapes, issues of consent, and a lack of victim participation in the criminal justice system. A lack of prosecutors and those specifically trained in reviewing and charging sexual assault cases has contributed to the accumulation of unsubmitted SAKs in Kansas.

The lack of both community<sup>4</sup> and system-based<sup>5</sup> victim advocates hinders victims from receiving physical and emotional support that is essential to their recovery. While each Kansas county is served by a community-based advocacy program, some programs have minimal staff and serve vast service areas. Across the state, there is a pronounced lack of system-based advocates. Each type of advocate is critical to the victim; when a victim is connected with appropriate advocacy resources it increases the likelihood of victim participation and benefits case outcomes (Lonsway, 2008). Conversely, the lack of direct services for victims has been shown to decrease the likelihood of victims reporting their assault to law enforcement and negatively impact their ongoing participation in the criminal justice system (Campbell et al., 2015). When victims lack support they may withdraw from the criminal justice process, which tends to be viewed as “uncooperative.” The lack of both community and system-based victim advocates has contributed to the accumulation of unsubmitted SAKs in Kansas.

Generally speaking, there was found to be a broad lack of financial and personnel resources in each of the stakeholder communities. The result is offenders not being held accountable for the crimes they commit. While the perpetrators of sexual violence are no less dangerous to the safety of our citizens, sexual assault cases have often become overshadowed by homicides, robberies, and aggravated assaults.

### **Barriers to Accessing Resources**

The overwhelming barrier to accessing various resources is funding. Funding at the municipal, county, state, and federal levels is finite and susceptible to political influence. While federal funding is sometimes available through grant programs, funding at the

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<sup>3</sup> Adjudicated cases are those in which charges were filed and final judgment or decision was reached.

<sup>4</sup> Community-based advocates provide confidential, free, voluntary advocacy and safety services to victims of sexual violence.

<sup>5</sup> System-based advocates provide support for victims of sexual violence initially, and throughout the criminal justice process.

municipal, county, and state levels require government bodies and policy makers to appropriate funding to respective agency budgets.

Private funding can be difficult to secure and, in the context of this project, is not considered a reliable or sustainable source.

Accessing resources in smaller jurisdictions can be challenging. Particularly in Kansas, where much of the state is composed of rural communities, these smaller jurisdictions operate on fewer resources to cover a wider service area than urban communities with large populations in closer proximity. For example, Johnson County has a population of 566,933 in a 480 square mile area with a crime index of 19.2<sup>6</sup> (Kansas Bureau of Investigation, 2015). Within the county, there are 2 SANE programs and both a community- and system-based sexual assault advocacy program.<sup>7</sup> They have their own county funded forensic science laboratory, 16 law enforcement agencies, and there are over 30 practicing attorneys in the Johnson County District Attorney's Office. By comparison, Thomas County has a population of 7,948 in a 1,075 square mile area with a crime index rate of 19.6 (Kansas Bureau of Investigation, 2015). There are no SANE programs or advocacy programs based within the county. There are 2 law enforcement agencies and 2 practicing attorneys in the Thomas County Attorney's Office. This county relies on the state forensic science laboratory located approximately 172 miles away. While both counties experience similar crime indexes, the demographics and resources - both allocated and available - are vastly different.

It should be noted that the working group identified similar resource shortages within the larger urban communities that experience significantly higher crime rates. While not specifically studied, anecdotal findings suggest profound resource shortages within one of the county-funded forensic science laboratories was a significant factor contributing to accumulation of unsubmitted SAKs in that particular jurisdiction.

### Lack of Policy

While there are agencies in the state that have policies regarding responding to sexual assault, the overwhelming majority of agencies do not. In the absence of model policy or best practice recommendations to guide decisions and ensure consistency from one jurisdiction to another, each stakeholder community exercises discretion. Discretionary practices vary widely across the state, even within a given stakeholder community, and are influenced by the availability of training and resources, as well as societal awareness. This occurs particularly in decisions regarding which SAKs are submitted to a forensic laboratory for analysis, how long kits are maintained before destruction, and if and how to involve victim advocates. Through the course of our project to evaluate the accumulation of unsubmitted SAKs, we have become aware of jurisdictions that destroy SAKs prior to the

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<sup>6</sup> Index calculated based upon the number of reported crimes per 1,000 in population, including both violent and property related offenses.

<sup>7</sup> Community-based advocacy program in Johnson County is the Metropolitan Organization to Counter Sexual Assault (MOCSA). The Johnson County District Attorney's Office maintains a system-based advocate to assist victims of sexual assault through the criminal justice process.

expiration of the applicable statute of limitations. Additionally, whether retained indefinitely or destroyed prematurely, many of the associated cases are never submitted to a prosecutor for review.

In many states, legislation has been passed to require submission and testing of all SAKs within a specified timeframe but very few have appropriated funding. This creates an even greater strain on the limited resources and effectively shifts the burden from one stakeholder to another and impacts various parts of the criminal justice system (Davis et al, 2017). While done with good intentions, due consideration should be given to how to appropriately balance the needs of victims with the available resources within the criminal justice system.

With regard to Kansas law, there are state statutes that mandate retention of anonymous SAKs<sup>8</sup> and evidence for purposes of prosecution.<sup>9</sup> There is, however, no law that mandates retention of SAKs from sexual assaults reported to law enforcement for a specified amount of time.

### Barriers to Creating Policy

As a statewide initiative, the Kansas SAKI Multidisciplinary Working Group identified several barriers to model policy creation, with specific emphasis on the definition of policy and the difficulty of a “one-size-fits-all” approach.

For each stakeholder, the concept of a policy varies in terms of flexibility and requirements. Some of the working group members indicated that within their represented community, a policy is a recommendation that is meant to guide a decision but is not a mandate that must be followed at all times. In contrast, other members of the working group identified a policy as a strict regulation that is meant to be followed to the letter. Others expressed concern that policy was perceived by some to be legislation. This challenge is further compounded in an attempt to create a one-size-fits-all policy for a statewide recommendation of best practices.

Because of the variation in jurisdiction size and available resources, a policy for an urban community may not appropriately fit the needs of a rural community. For example, a requirement to maintain SAKs within law enforcement property rooms for a minimum of ten years may be feasible for an agency with a larger budget, storage capacity and necessary personnel for tracking and recording, but may prove impossible for an agency that has minimal physical storage space, a smaller budget, and fewer personnel. For these reasons, each of the 383 active law enforcement agencies within the state has relied on internal policies or practices to manage evidence submission and retention.

Additionally, the process of creating and implementing a statewide policy is involved and time consuming. For these reasons, a policy may be outdated by the time it is enacted and

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<sup>8</sup> Kansas Statutes Annotated (K.S.A.) 65-448 (b). Qualified persons at medical care facilities to examine victims of sexual offenses, when; remedy for refusal; costs.

<sup>9</sup> Kansas Statutes Annotated (K.S.A.) 22-2512. Custody and disposition of property seized.

lacks the flexibility for expedient alterations. Particularly within sexual assault, the best practice recommendations today are different than even five and ten years ago.<sup>10</sup> In short, this emphasizes the need for policy recommendation to be re-evaluated regularly to ensure relevancy and reflect best practices available.

## Lack of Societal Awareness

The stakeholder communities involved with sexual assault are microcosms of the larger social community. In other words, individuals working within the criminal justice system are not exempt from the social biases that surround sexual assault and sexual assault victims. Because they are human, they are exposed to the same misconceptions of what “real” rape looks like and the normalization of sexual violence in the media and entertainment industries. It is important to note that these same biases are present in the individuals that will comprise a jury. Educating the public on the realities of sexual assault is critical to accurate societal awareness.

One of the most common cultural sentiments surrounding sexual assault involves a perception of what constitutes a “real” rape. Most people assume that “real” rape is committed in a sudden and violent manner by someone unknown to the victim. It is important for society to understand that the majority of sexual assaults are committed by persons known to victims. Regardless of the facts present in a particular assault, questions asked of victims often focus on their choices and behaviors rather than those of the perpetrator. When questioned about their choice in clothing, their consumption of alcohol, and prior physical contact or intimacy, victims have a tendency to feel responsible for the assault in some way. This societal response that tends to rationalize the offender’s behavior is known as victim blaming.<sup>11</sup> For example, in April of 2017, a jury in Jackson County, Kansas acquitted Jacob Ewing of aggravated indecent liberties and aggravated criminal sodomy with a child under the age of 14 (Anderson, 2017). In media coverage of the jury selection, one potential juror was quoted as having said, “If she steps out and looks like she’s 18 years old, that’s on her” (Wingerter, 2017). Unfortunately, these misconceptions exist throughout society and may impact how we interpret behaviors that occur prior to, during, and after an assault.

Even when not intended as an accusation, the phrasing of questions posed to victims can imply blame. For example, a forensic nurse or a law enforcement officer may ask a victim what he or she was wearing at the time of the assault. While this is done to ensure proper evidence collection, if the necessity of asking the question is not explained to the victim, he or she may perceive this question to imply that the assault occurred because of their clothing choice.

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<sup>10</sup> The Violence Against Women Act was signed into law on September 13, 1994. The Campus Sexual Violence Elimination Act was not enacted until May 7, 2013. The Survivors’ Bill of Rights Act (H.R. 5578) became public law on October 7, 2016.

<sup>11</sup> Victim blaming is defined as a victim of a crime or wrongful act being held responsible (either entirely or partially) for the incident. This behavior shifts the burden of the crime to the fault of the victim rather than holding the offender accountable for their actions.

Most people assume that victims “fight back” during an assault and sustain visible wounds. The way people respond to trauma is as individual as they are. Two of the commonly understood physiological reactions to acute stress are “fight”<sup>12</sup> and “flight”<sup>13</sup> (Teatero & Penney, 2015). New research surrounding the neurobiology of trauma has also documented a “freeze” response<sup>14</sup> (Daane, 2009). Because of the “freeze” response, it is not uncommon for a victim to lack the ability to move, speak, or fight during an assault. Many victims do not run or fight but describe experiences consistent with the freeze response; their actions are often misconstrued as consent because they do not actively resist the offender. Other victims may make an effort to negotiate or reason with the suspect as part of a survival instinct to avoid greater threat or harm; this is known as a “submit and negotiate” response.<sup>15</sup> Similarly, their submission is incorrectly perceived to be an act of consent (Tremblay, 2016).

The misperceptions of rape also extend to victim behavior after an assault. For example, some might expect that a victim would report the assault immediately or as soon as possible. Additionally, it is often expected that the victim will vividly remember everything about the attack and be able to recount the details in a specific and chronological manner. However, research of the neurobiological impact of trauma to a victim’s mind and body has shown that memory can be impacted and victims react in a variety of ways to cope with the trauma of the assault (Campbell et al, 2009).

It is important to remember that because victims are part of the general public and exposed to the same misperceptions of rape, they may blame themselves for the assault or fear they will not be believed. This may influence the underreporting<sup>16</sup> of sexual assault (Tracy et al, 2012).

The societal response to sexual assault, including that of the criminal justice system, may deeply impact and further exacerbate these misconceptions. Some recent events, including the very public 2015 case of the People v. Brock Allen Turner, are direct messages from the criminal justice system to the general public regarding tolerance of sexual assault and punishment for those who commit sexual violence. The jury in this particular case found the defendant guilty of three counts of felony sexual assault, which should have carried a maximum 14 year prison sentence (The People of the State of California v Brock Allen Turner, 2016). However, the acting judge sentenced the defendant to six months in prison, of which only three months were served (Grinberg & Shoichet, 2016). This ruling sends a

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<sup>12</sup> “Fight” response is the physiological reaction when danger or a threat to survival is perceived causing a physical activation within the body to confront the threat directly.

<sup>13</sup> “Flight” response is the physiological reaction when danger or a threat to survival is perceived causing a physical activation within the body to escape, or run away from, the threat.

<sup>14</sup> “Freeze”, also known as Tonic Immobility, is a state of profound motor inhibition typically elicited by a high-fear situation that involves threat and/or restraint, and can include a catatonic-like posture, inability to vocalize, tremors, periods of eye closure, a decrease in heart-rate, and an increase in body temperature and respiration.

<sup>15</sup> An example of the “submit and negotiate” response could be that a victim may offer oral sex to the offender as a way to avoid anal and/or vaginal penetration. This is not a consensual act, but instead is an attempt by the victim to deter the offender from further harming them.

<sup>16</sup> Only about 15-20 percent of rape victims report the crime to the police.

message to victims and society that the criminal justice system does not perceive sexual assault as a crime demanding severe punishment.

### Barriers to Societal Awareness

Change is a process, not an event. One of the greatest difficulties in effectuating societal change is the ability to change the way we understand and interpret information, especially when the previous message has been prevalent for so many years. Social misconceptions of “real” rape have been developed over decades as a byproduct of the original definition of rape. In early society, women were identified as property belonging to their husbands or fathers, and therefore rape was an offense against the male owner for damaging the purity of his property. This also meant that a married woman could not be raped by her husband, as she legally belonged to him (Bennice & Resick, 2003). While modern society has since evolved to recognize women as autonomous beings who reserve the right to decide when and with whom to share their bodies, the vestiges of the past still cling to our perception of what “real” rape means and how women are meant to behave to retain their purity. In the United States, marital rape was not recognized in all 50 states until 1993 (Bennice & Resick, 2003). Similarly, the questions posed to victims of sexual assault regarding their behavior or clothing is reflective of the sentiment that the victim is responsible for inciting the offender’s actions.

Male victims of sexual assault also face societal misperceptions rooted in historical social hierarchies and underlying notions of masculinity, whereby men should be strong enough to be able to fight off their attackers purely because of the biological fact of being male (Garland, 2005). This notion not only undermines that men can be and are victims of sexual assault, but feeds into a narrow definition of masculinity that men are meant to be physically dominant or powerful and therefore can only fall victim due to the failure of their assertion of dominance (Kimmel, 2004).

The difficulty of changing societal awareness is also heavily tied in the psychology of rationalization known as “cognitive dissonance.”<sup>17</sup> Victim-blaming is a common coping mechanism of cognitive dissonance to distance ourselves from the victim, believing that the victim did or said something to incite the assault and thus rationalize to ourselves that it could not happen to us if we avoid those same behaviors. Rectifying this type of mindset starts with comprehensive education and public awareness of what sexual assault encompasses, and assigning ownership of the action to the assailant rather than the victim.

As greater public awareness and education of sexual assault continue, the culture will begin to change as well. However, as with most social changes, progress is slow and will require continual efforts from both the community and criminal justice system. The barrier of time can pose a sense of challenge too great to surmount, but true cultural shifts occur in fractions over time rather than in a single instance. This can be seen in historical

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<sup>17</sup> “Cognitive dissonance” is defined as the mental stress or discomfort experienced when confronted with information that contradicts existing beliefs, ideas, or values, which motivates the person to attempt to reduce this stress through active avoidance, physically and/or mentally (Festinger, 1957).

movements for change that are still being discussed and addressed to this day. In part, this is attributed to the difficulty in affecting change on a large scale, particularly when it comes to impacting the way the general public perceives and understands. It is a long and uphill road, but it is one that must be explored to effectuate cultural change.

## **Other Significant Findings**

Through the process of evaluating the financial, legal, and systematic barriers to SAK testing, the working group identified limitations to accessing crime victims' compensation, a lack of understanding the statutes that govern sexual assault kit examinations, and resource shortages in the area of forensic nursing that may adversely affect victims. While these findings do not contribute directly to the accumulation of unsubmitted SAKs in Kansas, we felt the issues were worthy of including in the context of this publication.

## **Limitations to Accessing Crime Victim Compensation**

Within six months of the KBI initiating the Kansas SAKI project, we recognized that victims potentially impacted by testing previously unsubmitted SAKs would be ineligible to apply for Crime Victims Compensation under existing Kansas law. Pursuant to K.S.A. 74-7305, a victim of a crime was eligible to receive compensation for counseling services only when they reported the crime to law enforcement within 72 hours and the claim for compensation was filed within two years of the incident. The only extensions offered for victims of sexual assault were in instances of a delayed report from a child sexual assault victim or for mental health counseling for a claimant required to testify in a sexually violent predator commitment. Consequently, a significant percentage of victims affected by the SAKI project were ineligible for support, even when told that DNA testing had identified the suspected attacker. (Corrective action was taken and is discussed later in the paper under *Recommendations*.)

## **Questions Regarding Authorization, Costs, Consent, and Notice of Sexual Assault Examination**

Throughout the course of our SAKI Multidisciplinary Working Group meetings, we had many conversations regarding processes surrounding the sexual assault examination. One issue appeared to be a systematic lack of understanding by county officials with regard to the statutes governing the examination of sexual assault victims for the purposes of collecting sexual assault evidence. Specifically, we had concerns over county officials believing they were statutorily entitled to authorize a sexual assault examination. Furthermore, many believed they could deny payment of invoices associated with examinations they did not authorize. We also learned some county officials were requesting confidential victim information in order to verify the validity of invoices for payment of evidence collection associated with non-law enforcement reported assaults.

With regard to the sexual assault examination of a minor, there were questions regarding who could give consent for the examination, and, separately, whether or not a medical

facility is required to give notice that a minor victim had undergone an examination when the alleged offender is the victim's parent or guardian.

Another question was raised with regard to the mandatory retention period for SAKs collected from non-law enforcement reported assaults.

Unfortunately, these were not questions that could be answered by the SAKI Multidisciplinary Working Group despite the expertise and experience of the team members. (Follow-up action was taken and is discussed later in the paper under *Recommendations*.)

### **Limited Access to Sexual Assault Nurse Examiner (SANE) Programs**

Within the medical community, a limited number of Sexual Assault Nurse Examiner (SANE) programs and nurses specially trained in performing sexual assault evidence collection are believed to negatively impact victims and the processes of reporting and timely collection of evidence. Through our working group meetings and a statewide online survey,<sup>18</sup> we learned some victims are either turned away from the medical facility to which they initially report or encounter a delay in receiving medical treatment. Each of these scenarios is believed to discourage victims from the reporting process.

While there are 21 active programs within the state, only 19 of the 105 counties in Kansas have a SANE program. Kansas law states that certain qualified medical professionals, including any physician, licensed physician assistant with specialized training in sexual assault evidence collection, or a certified SANE, may examine sexual assault victims and gather evidence of certain sexual offenses.<sup>19</sup> Despite the law identifying other personnel qualified to conduct sexual assault exams, hospitals without a SANE program often refer victims to a facility with an active program. Unfortunately, these programs can be up to 4 hours away.

Funding to initiate and sustain a SANE program requires an ongoing investment for personnel, training and equipment. These programs do not generate financial return for hospitals. As a result, medical facilities will often elect to invest their limited funding into other programs, which minimizes victims' access to SANE programs.

## **Conclusion**

The Kansas SAKI Multidisciplinary Working Group has worked collaboratively to identify the underlying factors that contributed to the accumulation of unsubmitted SAKs within

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<sup>18</sup> The Kansas SAKI Project conducted a voluntary survey of all hospitals affiliated with the Kansas Hospital Association. The survey sought information about policies and practices utilized to respond to sexual assault patients and to identify the number of completed SAKs within the medical facilities' possession that were never collected by law enforcement (for reported assaults) or submitted to the KBI (for unreported assaults/anonymous collections).

<sup>19</sup> Kansas Statutes Annotated (K.S.A.) 65-448, Qualified persons at medical care facilities to examine victims of sexual offenses.

the state of Kansas. While we identified many financial and systematic barriers related to SAK testing, the working group did not identify any specific legal barriers to SAK testing. It is important to emphasize that the issues underlying the accumulation of unsubmitted SAKs are multi-faceted, complex, and interrelated; they do not belong to any one stakeholder group.

It is vital for us to recognize and understand that the resolution to addressing unsubmitted SAKs is not just about testing kits. As seen in jurisdictions in which testing was the *only* action taken, victim engagement with the criminal justice system and case outcomes did not change (Davis et al., 2017). A true solution requires an in-depth examination of the factors that have contributed to the accumulation. Without understanding and identifying solutions to address the underlying factors, sexual assault will continue to be misunderstood, the value of sexual assault evidence will continue to be under realized, and victims will continue to be underserved by the criminal justice system.

The working group has provided recommendations that can be adopted by the various stakeholders, government officials, and policy makers to address the underlying factors, create sustainable solutions, and prevent a future accumulation of SAK evidence in our state. These recommendations will continue to be developed and will be shared in the final report at the conclusion of the grant.

## Recommendations

After we had identified the four core factors contributing to the accumulation of SAKs in Kansas, the working group was tasked with forming recommendations intended to help prevent a substantial accumulation of sexual assault evidence in the future. The recommendations may be adopted by various stakeholders, entities, and/or governmental officials as appropriate. While the working group recognizes that the four core factors may be addressed in a variety of manners, the recommendations provided are believed to be material to addressing the issues.

These recommendations will continue to be developed and implemented throughout the Kansas SAKI project and will be included in the final report at the conclusion of the grant.

### Recommendations To Address Lack of Training

A lack of interdisciplinary training among stakeholders has contributed to our historically compartmentalized response to sexual assault. Additionally, a lack of trauma-informed training can impact the way a victim's statements and actions are perceived. Failing to understand the trauma response impacts the viability of a case and its progression within the criminal justice system. Lack of trauma-informed training similarly influences decisions regarding SAK submission and testing. In order to ensure the best possible case outcomes, it is essential that the stakeholder groups are appropriately trained in trauma-informed responses to sexual assault.

Recognizing that access to training is a key barrier identified by the Kansas SAKI Multidisciplinary Working Group, the following recommendations are proposed to address Lack of Training:

- *Deploy regional training focused on trauma-informed responses to sexual assault*

Through their National Sexual Assault Kit Initiative grant awarded by the Bureau of Justice Assistance, the KBI has allocated funding to assist in providing trauma-informed sexual assault training to multidisciplinary audiences across Kansas. The KBI has partnered with nationally recognized experts to provide regional training free of charge. Once the training plan is finalized, the KBI will utilize state and local partners to advertise regional trainings and endeavor to reach broad audiences across the state.

- *Incorporate trauma-informed training for entry-level positions*

All stakeholders<sup>20</sup> involved in responding to sexual assault are encouraged to include specialized training regarding sexual assault and the neurobiology of trauma as part of their entry-level curricula. These trainings should include a review of the common defenses to sexual assault and investigative techniques to gather information that can be used to rebut these defenses. This is particularly important in law enforcement as patrol officers are routinely the first individuals within the criminal justice system to have contact with a victim. As previously mentioned, studies have shown that a victim's first contact with law enforcement influences their ongoing participation in the criminal justice process (Busch-Armendariz, Sulley, & McPhail, 2015). Through their National Sexual Assault Kit Initiative grant awarded by the Bureau of Justice Assistance, the KBI has allocated funding to assist in-state training academies with revising existing curricula and developing alternative methods of deploying training.

- *Ensure members of specialty units are trained to understand and utilize trauma-informed techniques*

In addition to incorporating trauma-informed training for entry-level positions, it is imperative that all members assigned to specialty units<sup>21</sup> which focus on handling sexual assault cases receive advanced training in this area. This advanced training should include a review of the common defenses to sexual assault and encourage offender-focused investigations while emphasizing the importance of trauma-informed interviewing and investigative techniques.

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<sup>20</sup> With the exception of the forensic science laboratory

<sup>21</sup> Specifically investigative divisions within law enforcement organizations and prosecutors at both county and state levels

- *Local jurisdictions should leverage national programs to bring free/low cost trainings to their areas*

National programs such as the International Association of Chiefs of Police ([www.iacp.org](http://www.iacp.org)), AEquitas ([www.aequitasresource.org](http://www.aequitasresource.org)) and End Violence Against Women International ([www.evawintl.org](http://www.evawintl.org)) have several training programs, materials, and opportunities that can be utilized by local jurisdictions. Agencies are encouraged to utilize these resources, many of which can be accessed at little to no associated cost, for ongoing training needs.

- *Provide access to webinars/online trainings and recorded sessions for continuing education*

To overcome challenges associated with sending practitioners to off-site training, each of the stakeholder groups is strongly encouraged to utilize available online training for continuing education with specific focus on trauma-informed response to sexual assault. Several organizations have developed online trainings and toolkits available to the public. The Training and Technical Assistance provider for the National Sexual Assault Kit Initiative has archived topic-focused webinars and a variety of other training resources that can be found at [www.sakitta.org](http://www.sakitta.org).

- *State-level associations are encouraged to include training on sexual assault and trauma-informed practices in their annual training conferences*

When organizing their annual training conferences, state level associations are encouraged to actively seek out and include courses that feature experts in the field of sexual assault response and trauma in order to provide this critical training to a broader audience. In recognition of the need for ongoing multidisciplinary collaboration, the KBI will continue to partner with our state-level partners to present relevant information and SAKI project findings at annual conferences when possible and as appropriate.

## Recommendations To Address Lack of Resources

Generally speaking, there is a broad lack of financial and personnel resources in each of the stakeholder communities. In part, the lack of financial resources have impacted the ability of law enforcement agencies to implement computerized evidence management systems and impacted the capacities of forensic science laboratories. In terms of personnel, there is a widespread lack of community and system-based victim advocates, and police officers and prosecutors specifically trained to investigate and prosecute sexual assault offenses. The result is victims who have been woefully underserved by the justice system and offenders not being held accountable for the crimes they commit.

Recognizing that access to financial and personnel resources is a key barrier that influences responses to sexual assault and SAK testing, the following recommendations are proposed to address Lack of Resources:

- *Law enforcement agencies are encouraged to have an officer(s) specifically trained to investigate sexual assault*

Crimes of sexual violence are among the most difficult to investigate and studies have shown that perpetrators often go on to commit other acts of violence. Having at least one officer specifically trained to respond to and appropriately investigate sexual assault in an offender-focused and trauma-informed manner will produce more thorough investigations, increase case referral and acceptance, and improve public safety.

- *Law enforcement agencies are encouraged to implement accountable evidence control procedures*

Law enforcement agencies have an obligation to store evidence in a safe, secure, and professional manner within a controlled environment to ensure the integrity of the items and their admissibility in court. The ability to readily track the location and status of an item of evidence – including SAKs – enables agencies to properly manage the property and evidence for which they are responsible. The use of computerized evidence management systems, while not the only option, is encouraged when the volume of the agency's stored evidence exceeds the practicality or efficiency of manual tracking methods.

- *Forensic science laboratories are encouraged to seek additional funding to increase their capacity to test SAKs*

Forensic science laboratories are encouraged to assess their current SAK testing capacities and identify the personnel, equipment, supplies, facilities, and operating budgets necessary to complete testing of all SAKs collected within the jurisdiction(s) they serve. They are also encouraged to work with their respective appropriating body to make their financial and personnel resource needs known while emphasizing the importance of SAK testing and its impact to public safety.

NOTE: Adopting a “submit all” policy wherein every SAK collected is submitted to a forensic science laboratory for testing is the only way to prevent future accumulation of unsubmitted SAKs in law enforcement property rooms. As previously mentioned, due consideration should be given to how to appropriately balance the needs of victims with the available resources within the criminal justice system. Without adequately funded forensic science laboratories – at both the county and state level – the result will be a devastating increase in laboratory backlogs and turnaround times that would have a crippling impact on the criminal justice system.

- *Adequate funding of forensic science laboratories should be considered a government funding priority*

Appropriating bodies are strongly encouraged to recognize the public safety impact of underfunding forensic science laboratories and evaluate the cost savings and cost effectiveness of SAK testing (Singer et al, 2016). They are also encouraged to work with respective public safety agencies – specifically forensic science laboratories - to ensure they are adequately funded and equipped to test every SAK collected in law-enforcement reported sexual assaults.

NOTE: During the 2017 Session of the Kansas Legislature, the KBI sought and the Legislature approved a State General Fund enhancement request<sup>22</sup> that will allow the KBI Forensic Science Laboratory to increase their capacity to test SAK's by hiring six additional full time personnel in the Biology/DNA Section. This is expected to nearly double the number of SAK's the KBI can process each year.

- *County and district attorneys' offices are encouraged to have a prosecutor(s) specifically trained to evaluate and charge sexual assault cases*

Crimes of sexual violence are among the most difficult to prosecute and studies have shown that when not held accountable, perpetrators often go on to commit other acts of violence. Having at least one prosecutor specifically trained to evaluate sexual assault cases and utilize strategies to overcome challenges in non-stranger rapes, "consent defense" cases, and victims reluctant to participate in the criminal justice system will improve case outcomes and, ultimately, public safety.

- *Public agencies are encouraged to employ system-based advocates*

Whether working within a law enforcement agency or within a prosecutor's office, a primary goal of system-based advocates is to support victims in their role as a witness to a crime. They provide emotional support for victims while encouraging them to actively participate in the investigative processes and cooperate with the prosecution (Lonsway, 2008). When public agencies employ system-based advocates to assist in tending to the needs of the victim, investigators and prosecutors are better able to focus on their primary missions. As previously mentioned, when victims are connected with appropriate advocacy resources it increases the likelihood of victim participation and benefits case outcomes (Lonsway, 2008).

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<sup>22</sup> On June 10, 2017, the 2017 Kansas Legislature passed Senate Substitute for HB 2002, appropriation revisions for fiscal years 2017, 2018, 2019 and 2020 for various state agencies, omnibus appropriation act. This legislation included a KBI enhancement request of \$802,569 SGF in FY 2018 and \$664,737 SGF in FY 2019 to increase the laboratory's capacity to test Sexual Assault Kits.

- *Increase access to adequately staffed community-based advocacy programs in rural parts of the state*

Particularly in rural areas, many of the community-based advocacy programs have minimal staff and serve vast service areas. Community-based advocates are the only professionals working with the criminal justice system that focus exclusively on the needs of the victim and assist them in dealing with the impact of sexual assault in all areas of their life (Lonsway, 2008). Having adequately staffed community-based advocacy programs in all areas of the state will increase victims' access to programs and resources critical to their wellbeing.

- *Each stakeholder should consider identifying and applying for funding opportunities made available by private entities and federal agencies*

We recognize each of the previous recommendation depends on the availability of funding. Various funding opportunities are available from charitable foundations, national organizations and the federal government. Open solicitations can be located through online searches. These funding opportunities can be utilized to assist stakeholders in enhancing their capacity to appropriately respond to sexual assault.

## Recommendations To Address Lack of Policy

There is no state standard regarding the amount of time law enforcement agencies should retain SAKs associated with law enforcement reported sexual assaults. In the absence of model policy or best practice recommendations to guide decisions regarding SAK retention, submission, or disposition, and ensure consistency from one jurisdiction to another, each stakeholder community exercises discretion. Discretionary practices vary widely across the state - even within a given stakeholder community - and are influenced by availability of training and resources, as well as societal awareness.

Recognizing that lack of consistent policies is a key barrier identified by the Kansas SAKI Multidisciplinary Working Group, the following recommendations are proposed to address Lack of Policy:

- *Model policies regarding Sexual Assault Investigation and SAK submission, retention, and destruction should be developed by the Kansas SAKI Multidisciplinary Working Group and made available to law enforcement agencies throughout the state*

Recognizing the need for consistency from one jurisdiction to another while being cognizant of the economic disparities between different regions of the state, it is appropriate that the Kansas SAKI Multidisciplinary Working Group work to develop model policies regarding Sexual Assault Investigation and SAK submission, retention, and destruction.

These model policies should be recommendations – not mandates – and developed in such a way that they can be adapted by agencies according to their resource levels.

- *Law enforcement agencies should adopt policies on Sexual Assault Investigation and SAK submission, retention, and destruction*

Agencies should adopt policies regarding Sexual Assault Investigation and SAK submission, retention, and destruction that take into account best practice and applicable state laws. As noted in the prior recommendation, model policy will be developed by the Kansas SAKI Multidisciplinary Working Group and made available to all law enforcement agencies.

- *The Kansas SAKI Victim Notification Protocol should be made available statewide*

The Kansas SAKI project has developed a victim notification protocol to assist local agencies in contacting victims affected by delayed SAK testing. It defines the guiding principles for victim notification; establishes the framework for local Victim Notification Review Teams; and provides guidance on notifying and re-engaging victims in a trauma-informed way. The protocol has been deployed in a limited number of jurisdictions and is currently undergoing a multidisciplinary efficacy evaluation. Once that evaluation is complete, the protocol will be finalized and made available throughout the state.

- *The Kansas SAKI Multidisciplinary Working Group should make a recommendation regarding future SAK submission and testing*

Because of their ongoing collaboration and collective experience in evaluating the underlying factors contributing to the statewide accumulation of unsubmitted SAKs, as well as their access to relevant data, the Kansas SAKI Multidisciplinary Working Group is uniquely suited to develop a recommendation regarding future SAK submission and testing.

Ideally, the recommendation regarding submission would be incorporated into model policy and adopted by all law enforcement agencies in Kansas to ensure consistency from one jurisdiction to another. This, too, will aid in preventing a future accumulation of unsubmitted SAKs.

With regard to a recommendation for testing, it is important that we continue to recognize resources and capacity within the forensic laboratory environment are insufficient to adopt a statewide “test all” policy. As such, consideration should be given to the development of a matrix by which SAKs received into the laboratory system can be classified according to an evidence-based prioritization model.

Together, these recommendations would eliminate the necessity of law enforcement to continue making discretionary decisions – which are often made while being

mindful of the overwhelming demand on Biology/DNA services – and allow laboratory personnel to classify each SAK’s testing priority based on a matrix developed from evidence-based information.

- *There should be a comprehensive review of applicable Kansas State statutes*

It is recommended that a comprehensive review of applicable state statutes regarding rape and sexual assault take into consideration the prevalence of consent being raised as a defense to sexual intercourse. As has been done in many other states, consideration should be given to modernizing applicable statutes.

It is also recommended that K.S.A. 2016 Supp. 65-448(b) be reviewed with specific consideration on the mandatory retention period and how it relates to current applicable statutes of limitations for sexually violent crimes.

Lastly, it is recommended these reviews take into consideration Public Law 114-236, Survivors bill of rights act of 2016 to ensure Kansas statutes are in compliance.

## Recommendations To Address Lack of Societal Awareness

Individuals working within the criminal justice system, as well as jurors, victims, and members of the general public are all influenced by misconceptions of what “real” rape looks like. The normalization of sexual violence in the media and entertainment industries has contributed to the development of social biases about sexual assault and sexual assault victims. These misconceptions and biases contribute to a societal response that tends to rationalize the offender’s behavior and blame victims. They impact how we interpret behaviors that occur prior to, during, and after an assault. Unfortunately, society’s response to sexual assault, including that of the criminal justice system, may deeply impact and further exacerbate these misconceptions and biases.

Recognizing that society’s response to sexual assault is a key barrier identified by the Kansas SAKI Multidisciplinary Working Group, the following recommendations are proposed to address Lack of Societal Awareness:

- *Consideration should be given to launching public awareness campaigns throughout the state*

Public awareness campaigns that present information on sexual violence and the victim response are a critical part of overcoming the societal biases and misconceptions that surround them. There are a handful of national service organizations that have made public awareness campaign material available through their websites. Communities are encouraged to launch public awareness campaigns to start a courageous conversation and create an environment where victims feel comfortable and safe in reporting their experiences to friends, family members, medical practitioners, and law enforcement professionals.

## Recommendations To Address Other Significant Findings

While the additional significant findings regarding access to crime victims' compensation, a lack of understanding the statutes that govern sexual assault kit examinations, and resource shortages in the area of forensic nursing do not contribute directly to the accumulation of SAKs in Kansas, the working group recognized that these findings may adversely affect victims. As such, the following recommendations were/are proposed to address these Other Significant Findings:

- *Consideration should be given to creating a good cause exception to the crime victims compensation statute*

At the beginning of the 2017 Kansas Legislative Session, Kansas Attorney General Derek Schmidt introduced HB 2033, which will allow the state's Crime Victims Compensation Board to consider requests from sexual assault victims within two years of the date on which the victim is notified that testing has identified a DNA profile of the suspect or that the suspect's actual identify has been discovered, whichever is later. The legislation was signed into law<sup>23</sup> on May 11<sup>th</sup>, 2017 and becomes effective as of July 1<sup>st</sup>, 2017.

NOTE: Through their National Sexual Assault Kit Initiative grant awarded by the Bureau of Justice Assistance, the KBI has sub awarded funding for the purpose of ensuring compensation for mental health counseling services is available to victims affected by delayed SAK testing conducted as part of this project.

- *Clarification should be sought on questions regarding authorization, costs, consent, and notice of sexual assault examination*

In the fall of 2016, a member of our SAKI Multidisciplinary Working Group wrote to Kansas Attorney General Derek Schmidt and requested an Attorney General opinion on six questions relating to K.S.A. 2016 Supp. 65-448. This statute provides for a forensic medical examination of a victim of a specified sexual offense and the collection of a KBI sexual assault evidence collection kit, or similar kit, by qualified persons at medical care facilities. On December 5<sup>th</sup>, 2016, Attorney General Opinion No. 2016-21 was published and provided legal opinions on five of the six questions posed.

At the beginning of the 2017 Kansas Legislative Session, Kansas Attorney General Derek Schmidt introduced HB 2176, which added exceptions to the requirement that mandates a medical facility give a parent or guardian written notice when a sexual assault examination of a minor child has taken place. The exceptions apply when a medical facility has information that a parent, guardian, or family or household member is the subject of a related criminal investigation, or when the

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<sup>23</sup> House Substitute for SB 101, which included the contents of HB 2033, was signed by Governor Sam Brownback on May 11, 2017 and becomes effective July 1, 2017.

physician, licensed physician assistant, or registered professional nurse, after consultation with law enforcement, reasonably believes the child will be harmed if such notice is given. The legislation was signed into law<sup>24</sup> on May 11<sup>th</sup>, 2017 and becomes effective as of July 1<sup>st</sup>, 2017.

- *The medical community should endeavor to ensure sexual assault victims have access to professionals qualified to perform sexual assault evidence collection examinations*

Medical care facilities are encouraged to consider identifying resources that would enable them to create sustainable Sexual Assault Nurse Examiner (SANE) programs. If this cannot be done locally, consideration should be given to collaborating with other facilities to develop a regional program.

As previously noted, Kansas law states that certain qualified medical professionals may examine sexual assault victims and gather evidence of certain sexual offenses. If medical care facilities do not have resources to sustain a SANE program, they should, at a minimum, ensure they have specially trained qualified personnel on staff. Under no circumstances should a sexual assault victim be denied medical treatment.

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<sup>24</sup> House Substitute for SB 101, which included the contents of HB 2176, was signed by Governor Sam Brownback on May 11, 2017 and becomes effective July 1, 2017.

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