



# Kansas Bureau of Investigation

Kirk Thompson  
Director

Derek Schmidt  
Attorney General

## EXECUTIVE SUMMARY

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### **The Kansas Sexual Assault Kit Initiative (SAKI):** *Law Enforcement Survey Analysis of the Cross-Sectional Sample* May 3, 2018

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#### **Background**

In March 2017, the Kansas Bureau of Investigation (KBI) identified over 2,220 previously unsubmitted<sup>1</sup> 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 DNA testing (hereafter known as the “cross-sectional sample”).

Information collected from these SAKs included a survey completed by law enforcement regarding the reasons why the SAK was not originally submitted to a forensic laboratory for analysis at the time of reporting. The results of this data have identified the importance of providing trauma-informed trainings for sexual assault cases.

#### **Law Enforcement Survey Design**

Each of the 12 law enforcement agencies were provided a one-page survey for each SAK identified in the cross-sectional sample, which sought to understand who<sup>2</sup> made the original decision to not submit the SAKs to a forensic laboratory for analysis and the specific reasons for such decision. The survey was open-ended to allow for law enforcement, absent influence and in their own words, to articulate the reasons for not submitting SAKs. The results were then compiled and aggregate data was evaluated to identify commonalities. The intention of this effort was to understand the barriers to submitting SAKs from the law enforcement perspective.

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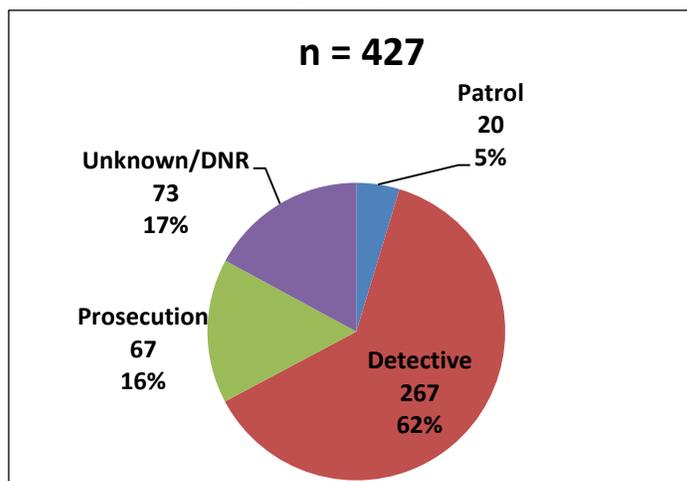
<sup>1</sup> Unsubmitted SAKs are those collected as part of a reported sexual assault to law enforcement and have never been sent to a forensic laboratory for testing. This does not include anonymously collected SAKs.

<sup>2</sup> Identification of who decided not to submit SAKs was based on stakeholder or position of the decider, i.e. patrol, detective, prosecution, or other. This survey did not collect the specific name of the individual who made the decision not to submit a SAK.

## Survey Responses

The KBI received survey responses for 427 SAKs in the cross-sectional sample.<sup>3</sup> The majority of these responses identified the detective as the person who decided not to submit a SAK for forensic analysis (see *Figure 1*). There were several cases in which the prosecution (16%) or patrol officer (5%) made the decision not to submit the SAK, and 17% of surveys lacked a response to this question.

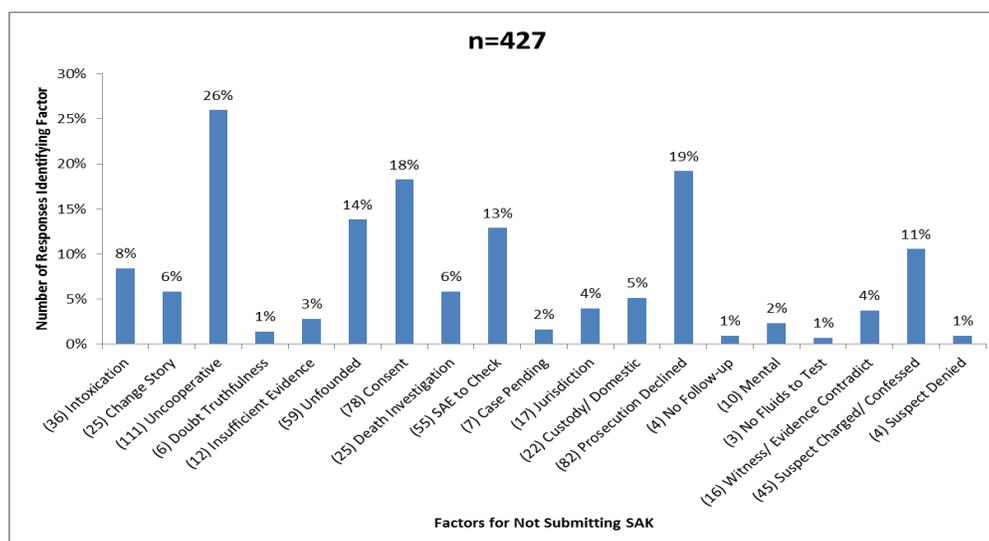
**Figure 1:** Law Enforcement Survey Responses for Who Decided Not to Submit the SAK



Analysis of the survey responses identified 19 common factors as the reasons SAKs were not originally being submitted to a forensic laboratory for analysis (see *Figure 2*). Because responses were open-ended, cases could be scored for more than one factor. The identified factors included the following:

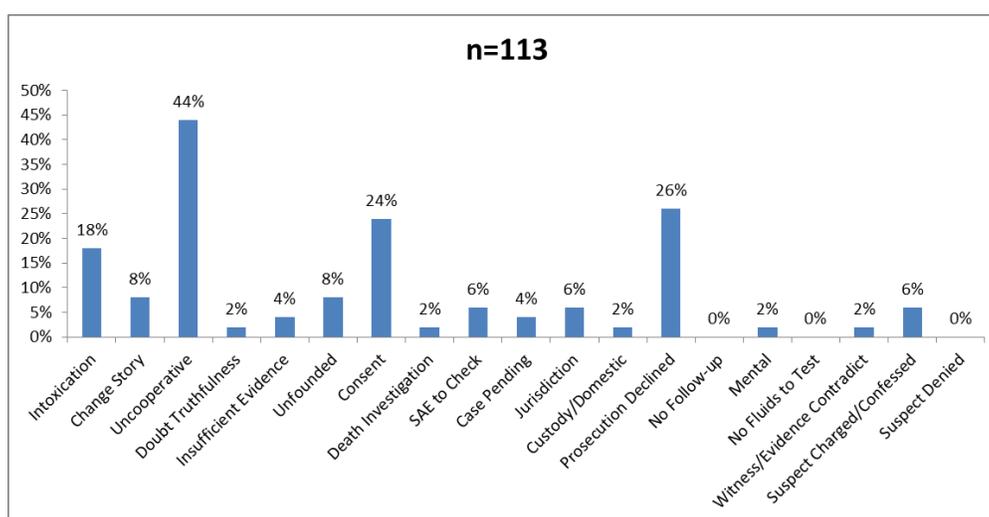
- Intoxication of the victim
- Victim changed story
- Victim deemed uncooperative
- Doubted the truthfulness of the victim
- Insufficient evidence collected
- Case determined to be unfounded
- Suspect claimed it was consensual
- SAK was collected as part of a death investigation
- Victim was unsure if they were assaulted, so a SAK was collected to check
- Case is still pending investigation or prosecution
- Case belonged to a different jurisdiction
- Case involved issues of custody or domestic disturbances
- Prosecution declined the case
- No follow-up was completed by investigation
- Victim had mental health issues
- No fluids were collected for testing
- Witness or evidence contradicted statements by the victim
- Suspect was charged or confessed
- Suspect denied any encounter with the victim
- Case belonged to a different jurisdiction

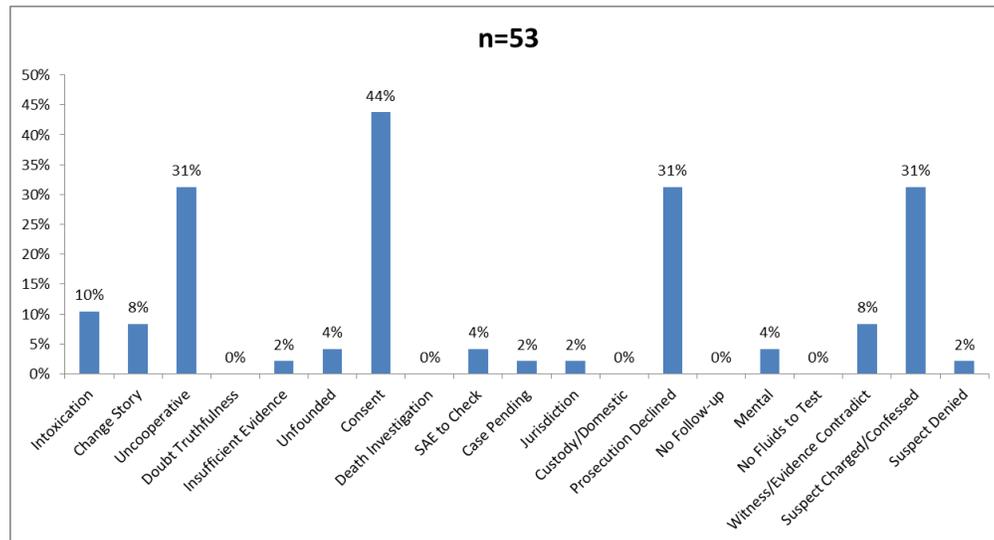
<sup>3</sup> The cross-sectional sample consisted of 439 SAKs submitted to a forensic laboratory for analysis. There were 12 SAKs which were submitted as part of the cross-sectional sample but did not have a completed law enforcement survey. As a result, analysis for this executive summary could only focus on received responses for the law enforcement survey (n=427).

**Figure 2: Law Enforcement Survey Responses for Not Submitting SAKs**

The most common factors identified through analysis for law enforcement not submitting SAKs were “uncooperative” victims (26%) and “prosecution was declined” (19%). Factors for suspect claimed “consent,” “unfounded,” and “SAE to Check” (i.e., SAKs collected because the victim was unsure if they were assaulted) were also seen in more than 50 responses. Additionally, “intoxication” and “suspect charged/confessed” were seen in about 10% of the responses received.

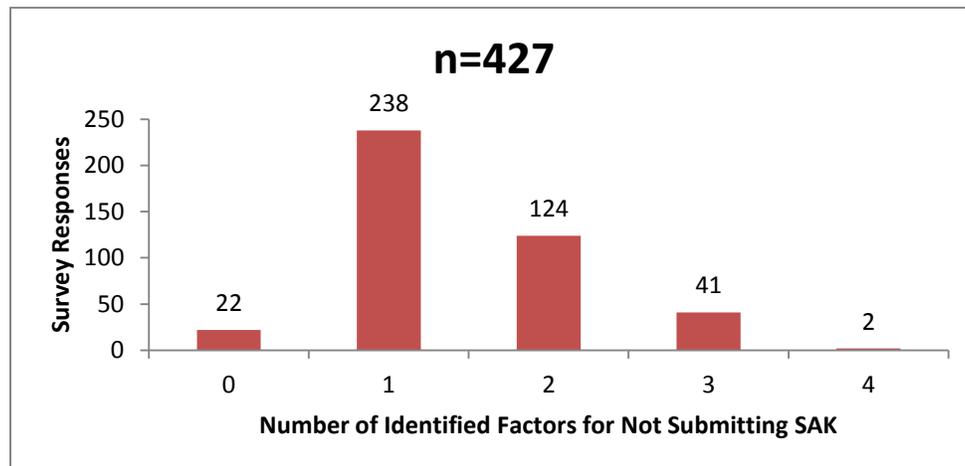
As of April 2018, forensic analysis of the 439 cross-sectional sample SAKs yielded 113 DNA profile uploads to the Combined DNA Index System (CODIS), with 53 profiles resulting in a match or “hit.” Law enforcement survey responses for the 113 CODIS uploads identified “uncooperative” victims, suspect claimed “consent,” “prosecution declined,” and victim “intoxication” as the most common factors for not originally submitting the SAK (see *Figure 3*). Comparatively, factors prevalent in the 53 cases that resulted in a CODIS hit include “uncooperative” victims, suspect claimed “consent,” “prosecution declined,” and suspect charged/confessed (see *Figure 4*).

**Figure 3: Law Enforcement Survey Responses for Cases Resulting in a CODIS Upload**

**Figure 4: Law Enforcement Survey Responses for Cases Resulting in a CODIS Hit**

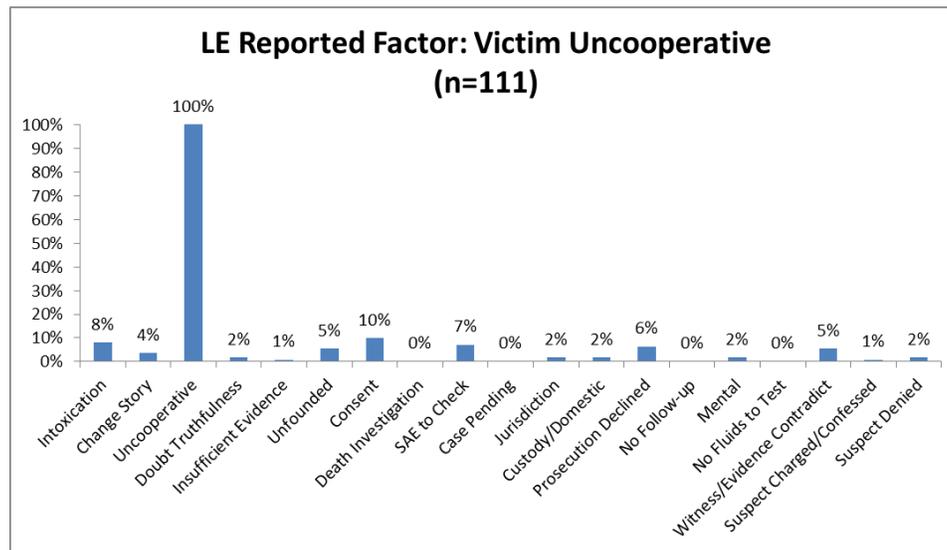
### Overlapping Factors

From the 427 law enforcement survey responses, 167 (39%) identified two or more factors for not submitting SAKs (see *Figure 5*). The most common factors identified in the responses were examined to understand overlapping factors.

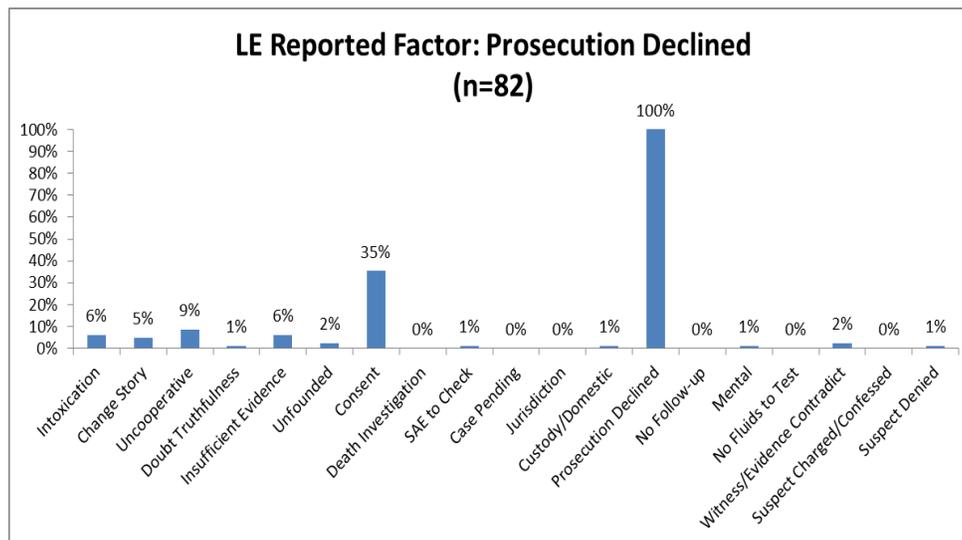
**Figure 5: Number of Factors Identified from the Law Enforcement Survey Responses for Not Submitting the Cross-Sectional Sample SAKs**

For cases in which law enforcement identified the victim as “uncooperative,” 10% also identified the suspect claimed “consent” and 8% identified “intoxication” as additional factors for not submitted the SAK (see *Figure 6*). Similarly, for cases in which “prosecution was declined,” 35% also identified suspect claimed “consent” as an additional factor for not submitting the SAK (see *Figure 7*).

**Figure 6:** Law Enforcement Survey Responses Identifying Victim Uncooperative as Factor for Not Submitting a SAK

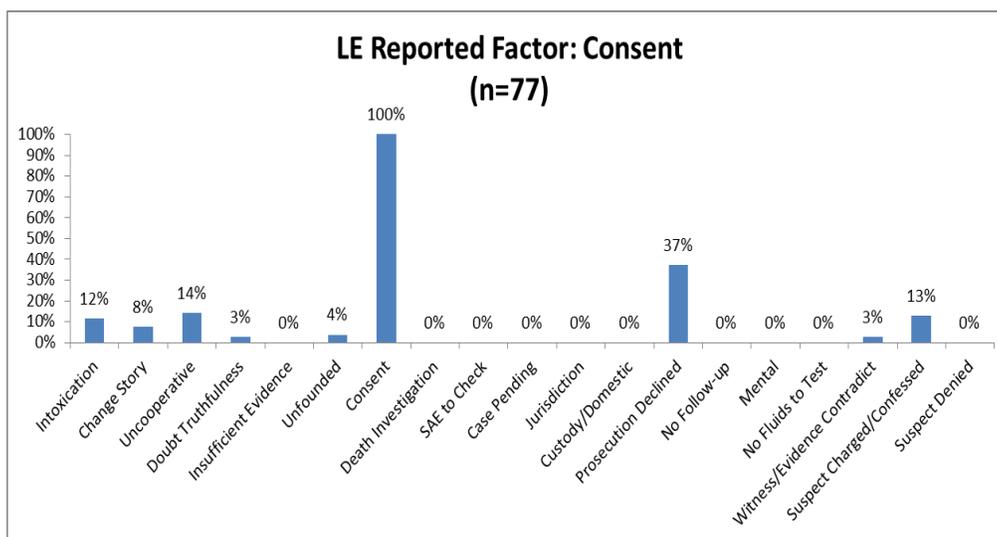


**Figure 7:** Law Enforcement Survey Responses Identifying Prosecution Declined as Factor for Not Submitting a SAK



When examining the survey responses for cases in which suspect claimed “consent,” law enforcement also identified factors of “prosecution declined,” “intoxication,” victim deemed “uncooperative,” and victim “changed story” (see *Figure 8*).

**Figure 8:** Law Enforcement Survey Responses Identifying Consent as Factor for Not Submitted a SAK



## Discussion

The results of this law enforcement survey underscore the importance of providing training that emphasizes the importance of a trauma-informed<sup>4</sup> response to sexual assault investigations. A lack of trauma-informed training can impact the way victims' statements and actions are perceived. Our traditional responses to cases of consent, intoxication, and lack of 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 submissions have been influenced by this lack of understanding trauma.

The results of this survey also emphasize the importance of testing SAKs, even when suspects claim consent or when a victim is unsure if they were assaulted. Testing SAKs in which suspects claim consent may result in DNA links to other cases, which changes the focus from a single incident to a pattern of behavior. In cases where a SAK was collected because the victim was unsure if they were assaulted, testing can assist in determining if sexual contact occurred. This is particularly important for cases involving intoxication, where alcohol is the most commonly utilized weapon by offenders to incapacitate and increase the vulnerability of victims (Abbey et al., 2001). It is unlikely that a victim who cannot recall whether or not they were assaulted was capable of consenting to sexual contact, so testing SAKs from these cases can be important evidence and can provide victims peace of mind.

<sup>4</sup> 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).

**Next Steps**

Recognizing the need for trauma-informed training throughout the state, the Kansas SAKI project has allocated funding to provide free regional trainings to law enforcement, prosecution, laboratory personnel, forensic nurses and victim advocates in 2018.<sup>5</sup> This training will utilize nationally recognized experts to address the myths and biases that impact sexual assault investigations and identify strategies to promote victim engagement with the criminal justice system.

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<sup>5</sup> Registration for this training can be found on the Kansas Law Enforcement Training Center website: <https://www.enrole.com/kupce/jsp/course.jsp?categoryId=10023&courseId=TISAT-KBI>

## References

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