

## Sexual Assault Kit Backlogs

*#TesttheKits*

A recent USA Today report<sup>1</sup> brought to light an issue that's been plaguing the justice system for years: the backlog of untested sexual assault kits (SAK) in agencies around the country. Over the past two decades there has been a concerted effort to establish consistency for collection of evidence using sexual assault kits and trained nurses, but that's where the uniformity ends. To better address this issue moving forward, the National Forensic Science Technology Center believes policies and protocols should be established or enhanced in every agency and followed to the benefit of the community.

### **Backlogs:**

The SAK backlog does not stem from a singular issue. There are several reasons why laboratories may not test evidence, including:

- **Laws and policies** are determined at the state and jurisdictional level, for example:
  - o An agency may have a policy to only test a kit at the request of the victim. If that person does not press charges, the kit would not be tested. In such a case, the agency is following the policy and the wishes of the victim, but the kit remains in evidence, untested.
  - o Statute of limitations may have passed for a particular kit. It does not mean that the DNA would not catch a criminal, it just would not be a criminal in this case.
- **Testing limits** may be placed on a crime laboratory in a particular jurisdiction, restricting the number of samples from any crime, including homicide and property crime, that can be submitted every month. If the investigator has other good leads for a sexual assault, they might hold the kit and work on those instead.
- **Funding:** The agency may not be able to afford all the testing that is needed.
- **Capacity:** If every kit was sent to the laboratory, many of them would not have the capacity to do all the work in a timely manner.

### **Processes and Protocol**

Sexual assault kits often contain DNA evidence collected from the victim. Other evidence could be collected independently by investigators. The SAK and items gathered at the scene together comprise the case evidence, but only evidence deemed most likely to produce positive test results are sent to the lab, if they are sent at all (see above).

We believe a screening process using trained technicians could facilitate testing. When a victim submits to collection of sexual assault kit evidence, it is a long and emotionally painful process. If all kits were screened, which is the initial step in testing, then only those containing DNA evidence would be moved

forward and the victim's efforts would be respected. This may mean less evidence gets sent to the lab, but it is more likely to produce usable results. It could also reduce the cost of the testing.

NFSTC believes it is imperative for personnel at every point in this process be properly trained and knowledgeable about the policies and protocols of their agency, and adhere to them.

### **Consistency**

The lack of consistent SAK testing can be thought of like an epidemic: We need to treat the current patients, but most importantly, we need to vaccinate the system to guard against it happening again.

Initial public response to the news of backlogs or improperly handled evidence is always to call for more money, but the true need is in better overall practice from kit collection to screening to information sharing to testing. Properly addressing the issue of untested sexual assault kits highlights how science can truly serve justice. Improved processes and training can create a direct, positive impact on our entire justice system.

### **Resources**

For more information on sexual assault evidence collection, visit the Office on Violence Against Women (OVW) at [www.justice.gov/ovw](http://www.justice.gov/ovw). The OVW issued an updated [National Protocol for Sexual Assault Medical Forensic Examinations in 2013](#).

NFSTC has experience in helping communities address the complex issue of crime laboratory backlogs. Check our website for information and a link to our guide: [Restructuring Forensic Services: A Community Approach to Excellence](#), or [related projects](#).

*August 2015*

<sup>1</sup> Reilly, Steve. "Tens of Thousands of Rape Kits Go Untested across USA: Exclusive Nationwide Count by USA Today Reveals Abandoned Rape Evidence." USA Today. N.p., 16 July 2015. Web. <<http://www.usatoday.com/longform/news/2015/07/16/untested-rape-kits-evidence-across-usa/29902199/>>.