

Statewide Sexual Assault Kit (SAK) Testing and Cold Case Sexual Assault Investigative Guidelines

SEPTEMBER 2022



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This project was supported by Grant 2015-TA-AX-K014 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.



Introduction

The Minnesota Sexual Assault Kit Initiative Project is a collaborative effort to address the previously unsubmitted sexual assault kits (SAKs) in Minnesota. Through a \$2 million grant from the Bureau of Justice Assistance in 2018 (Grant No. 2018-AK-BX-0019) and subsequent grants in 2019 (Grant No. 2018-AK-BX-0019) and 2020 (Grant No. 2020-AK-BX-0008), Minnesota is able to test these SAKs, gain insight into the nature and extent of the challenges regarding the collection and processing of SAKs, and provide critical information for policy and programmatic interventions to improve the statewide response to sexual assault.¹ The funds from the two most recent grants support the following efforts:

- Test previously unsubmitted SAKs reported in the 2015 sexual assault kit inventory.
- Collect and evaluate data related to kit screening, testing outcomes, and any investigation and prosecution of these cases.
- Coordinate efforts among the project partners and other stakeholders.
- Develop protocols for sexual assault kit processing, investigation, and cold case victim advocacy and notification.

The recommendations in this guide are based on lessons learned through the Minnesota Sexual Assault Kit Initiative (MN SAKI) Project, a statewide effort that includes a testing and investigative emphasis. The guidelines were developed in collaboration with MN SAKI project partners and through consultation with various investigators, advocates, and professionals in the state of Minnesota including:

- Duluth Police Department
- Lyon County Sheriff's Office
- University of Minnesota Duluth Police Department
- Program for Aid to Victims of Sexual Assault (PAVSA)
- Sexual Violence Center
- Central Minnesota Sexual Assault Center

Other SAKI sites with multidisciplinary responses were also consulted as these guidelines were compiled. These SAKI sites provided helpful resources, support, and feedback to the MN SAKI Project, helping inform these guidelines.

- Hennepin County Attorney's Office (Minneapolis, MN)
- Anoka County Attorney's Office (Anoka, MN)
- Wayne County Prosecuting Attorney's Office and the Detroit Rape Kit Project (Michigan)
- Las Vegas Metropolitan Police Department (Nevada)
- Salt Lake County/ Department of Public Safety (Utah)
- Jefferson County District Attorney's Office (Alabama).



Objectives

The MN SAKI Project's overall goal is to support the work of law enforcement and their partners as they address unsubmitted SAKs, investigate cold case sexual assaults, evaluate existing practices, and enhance existing procedures using a victim/survivor-centered and trauma informed framework. This document is designed to provide law enforcement with information regarding SAK processing and cold case sexual assault investigation, increase clarity regarding recent state legislative changes and legal obligations, and provide information on trauma informed and victim/survivor-centered practices that law enforcement can use in their work.

Part I covers the goals and values of the MN SAKI project as well as a timeline of the major events that led to the current recommendations for cold case sexual assault investigation.

Part II outlines considerations for SAK handling and CCSA investigative procedures for law enforcement personnel and highlights important legislative requirements as well as recommendations for coordinating response, strengthening interagency collaboration, and building relationships with stakeholders.

Part III consists of recommendations that can assist law enforcement as they submit unrestricted SAKs for testing and investigate cold cases. This section offers suggestions to common challenges, problem-solving strategies, and information about best practices. These recommendations are part of a continual process of improvement that can help prevent future accumulation of SAKs with collaborative, victim/survivor-centered, and trauma informed practices.

Please note that these guidelines may conflict with current practices at your agency.² However, this document can provide readers with a roadmap to review current policies and procedures and assist with implementing changes that are more consistent with a collaborative, trauma-informed, and victim/survivor centered practices.



Notes on Language in This Document

COLD CASES

“Cold cases” are defined as unresolved sexual assault cases with unsubmitted, previously unsubmitted, or untested sexual assault kits (SAKs).

UNRESTRICTED SEXUAL ASSAULT KIT(S) VS. RESTRICTED SEXUAL ASSAULT KIT(S)

“Unrestricted sexual assault kit” refers to sexual assault kits that have an accompanying release form signed by the victim/patient allowing law enforcement to submit the kit to a forensic laboratory for testing.³

UNSUBMITTED SEXUAL ASSAULT KIT(S)

An “unsubmitted sexual assault kit” is defined by Minnesota Statute 299C.106 as an unrestricted kit that has not been submitted by law enforcement to a forensic laboratory.⁴ These kits are distinct from restricted kits where the SAK does not have an accompanying release form signed by the victim/survivor authorizing law enforcement to submit the kit to a forensic laboratory.

VICTIM/SURVIVOR

The term “survivor” is added to the word “victim” in an effort recognize the resilience, strength, and agency of people affected by sexual violence while acknowledging that the term “victim” is a legal definition necessary within the criminal justice system. It is used to describe an individual who is an independent participant in a criminal case under federal or state victims’ rights laws. The term “victim” denotes a legal status that defines the level and

² Language borrowed with gratitude from Det. Derek Coates, Utah SAKI project.

³ More information can be found about kit status and submission on the Minnesota Bureau of Criminal Apprehension Website: <https://dps.mn.gov/divisions/bca/bca-divisions/forensic-science/Pages/sexual-assault-kit-information.aspx>

⁴ Minn. Stat § 299C.106: <https://www.revisor.mn.gov/statutes/cite/299C.106>

extent of participation that the individual is entitled to in the criminal matter. Moreover, a person who identifies as a “survivor” may not understand themselves as a “victim” through the process of healing and recovery. Therefore, the term “victim” is not the only language that should be used when victims’/survivors’ needs are at the center of our work.

THEY/THEM PRONOUNS

These guidelines utilize singular “they” to refer to individuals in an effort to be directly inclusive of cisgender ⁵ men, transgender, non-binary, and gender non-confirming people and acknowledge that people of all genders can be impacted by sexual violence. These pronouns can act as a respectful placeholder unless and/or until the victim’s/survivor’s pronouns are confirmed with the victim/survivor themselves.

INVESTIGATIVE TEAM(S)

This umbrella term encompasses any law enforcement agent(s) responsible for reviewing and investigating cold case sexual assaults and responding to unsubmitted SAKs in their jurisdiction. Readers may also see terms such as “detective” and “investigator” used in this document to describe the primary investigative agent(s) responding to cold case sexual assaults (CCSAs). The term “investigative team” is used in an effort to address the varied law enforcement responding to CCSAs and acknowledge the collaborative work that law enforcement do within their own agencies and communities.

ACRONYMS USED IN THIS DOCUMENT

BCA - Bureau of Criminal Apprehension

CCSA - Cold case sexual assault(s)

CODIS - Combined DNA Index System

CSC - Criminal Sexual Conduct ⁶

ICR - Incident Complaint Report

MDT - Multidisciplinary Team

MN SAKI - Minnesota Statewide Sexual Assault Kit Initiative Project

SAK/SAK(s) - Sexual assault kit/Sexual assault kits

SAKI - Sexual Assault Kit Initiative

SANE - Sexual Assault Nurse Examiner

⁵ Cisgender is a term that refers to individuals who are not transgender, genderqueer, non-binary, or gender non-confirming. “Cisgender” signifies individuals whose gender identity, gender expression, and sex assigned at birth are experienced as congruent.

⁶ As defined by Minn. Stat. § 609.342.



Part I: SAKI Principles and Legislative Timeline

GUIDING PRINCIPLES AND VALUES

Victim/survivor-centered, trauma-informed, and collaborative principles are at the core of the Minnesota SAKI project. These principles act as a “compass” for law enforcement and their partners, moving toward approaches that honor legal obligations and compassionately respond to the needs of victims/survivors of sexual assault. These guiding principles are defined below and are integrated into these recommendations wherever possible.

VICTIM/SURVIVOR CENTERED

Incorporates the needs and concerns of victims/survivors to ensure a compassionate and sensitive approach to sexual assault investigations. Victims/survivors’ wishes guide the criminal-legal response and align with their needs and wishes.

TRAUMA-INFORMED

Recognizes the presence of human trauma responses, acknowledges the role trauma may play in an individual’s life, and understands the impact trauma may have on the case and the victim's/survivor's experience with the criminal-legal system.

COLLABORATIVE

Proactively seeks out collaborative partnerships with other stakeholders and organizations to ensure a coordinated, holistic response to sexual violence. Multiple agencies and organizations work together and participate in a culture of collective decision-making, sharing knowledge, and exchanging expertise.



Investigating cold cases is vital for community safety; however, system-based goals are not always in alignment with victims'/survivors' needs and goals. Victim/survivor-centered investigations are successful when victim/survivor needs and desires are in balance with system goals.

In practice, victim/survivor-centered investigations are successful when:

- Victims/survivors feel heard and understood and investigative teams make a genuine effort to listen to victims/survivors.
- Victims/survivors are offered information regarding their case and resources for continued support.
- Investigators extend patience and compassion to victims/survivors and understand that victims/survivors experienced a significant and potentially traumatizing event.
- Investigators act in ways that preserve the dignity and humanity of victims/survivors.
- Investigative teams promote closure and healing for the victim/survivor as their case is reviewed, including issuing apologies to victims/survivors where needed.
- Investigators acknowledge the circumstances that led to delayed action, gaps in response, incomplete investigations/testing, and/or lack of response as well as the negative impact it might have on victims/survivors and the larger community.
- Offenders are prosecuted if the case meets the elements of a crime and a victim/survivor wishes to proceed. Investigations do not move forward if the victim/survivor declines to re-engage in the process.

Victim/survivor-led approaches avoid pressing project goals on victims/survivors or imposing what investigators and members of their local MDT believe will be healing for the victim/survivor. All efforts to promote healing should be balanced with the autonomy and agency of victims/survivors because they are experts in their own needs.

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Investigating CCSAs requires patience, compassion, and an understanding of human trauma.⁷ “Trauma-informed” practices involve educating victims/survivors, service providers, and the general community about the impact of trauma on the health and well-being of victims/survivors; attending to the victim’s/survivor’s emotional and physical safety; and using resources and support services to increase the victim’s/survivor’s capacity to recover.⁸

With this approach, each SAK is considered more than just a piece of evidence. The SAK represents a traumatic event in a human being’s life.

Trauma can be defined as an emotional response to one or more experiences of violence and emotionally distressing life events or other forms of chronic stress, which may include:

⁷ See Dr. Rebecca Campbell’s “The Neurobiology of Sexual Assault: Implications for Law Enforcement, Prosecution, and Victim Advocacy.” 1 December 2012. <https://nij.ojp.gov/media/video/24056>

⁸ Definition adapted from the National Institute of Justice (NIJ). Notifying Sexual Assault Victims after Testing Evidence. 2016. Web. <https://www.ojp.gov/pdffiles1/nij/249153.pdf>

- Trafficking, sexual exploitation, and other forms of sexual violence
- Domestic and/or family violence
- Discrimination based on race, gender identity, sexual orientation, ability, religion, economic status, immigration status, body size, and/or other forms of social difference
- Prior incarceration and/or negative encounters with the criminal justice system;
- Witnessing harm done to others or the suffering of others
- Medical trauma associated with frightening, life-threatening illnesses or injuries; Being a member of a community that has experienced historical/generational oppression (e.g.: war, genocide, colonization) ⁹
- Retraumatization experienced as a result of recounting traumatic events to systems agents with little experience with or awareness of human trauma. ¹⁰

Therefore, sexual assault may not be the only source of trauma for a victim/survivor and some victims/survivors may face on-going and active sources of harm beyond a single incident of sexual violence. Trauma-informed approaches actively presumes the presence of human trauma in an effort to minimize harm and avoid retraumatization to the highest degree possible.

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⁹ See: Michaels, Cari. "Historical Trauma and Microaggressions: A Framework for Culturally-Based Practice." St. Paul, MN: University of Minnesota Extension Service, Children, Youth and Family Consortium. 2010. Retrieved from the University of Minnesota Digital Conservancy, <https://hdl.handle.net/11299/120667>. See also: Brave Heart, M.Y.H. (1999) Gender differences in the historical trauma response among the Lakota. *Journal of Health & Social Policy* (The Haworth Press, Inc.) 10(4), 1-21. <https://pubmed.ncbi.nlm.nih.gov/10538183/>

¹⁰ This understanding of retraumatization is adapted from SAMHSA's Trauma and Justice Strategic Initiative - Substance Abuse and Mental Health Services Administration. SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach. HHS Publication No. (SMA) 14-4884. Rockville, MD: Substance Abuse and Mental Health Services Administration, 2014. Authors assert

Interagency collaboration and cooperative relationships are essential to investigating cold case sexual assaults.



Interagency collaboration and cooperative relationships are essential to investigating cold case sexual assaults. Working together enables the free flow of information; ensures consistency and clarity; and develops the relationships needed to provide a victim/survivor-centered and trauma-informed response. Building relationships among law enforcement, community advocacy organizations, systems advocates, county prosecutors and other relevant stakeholders ensures a coordinated response to CCSAs.

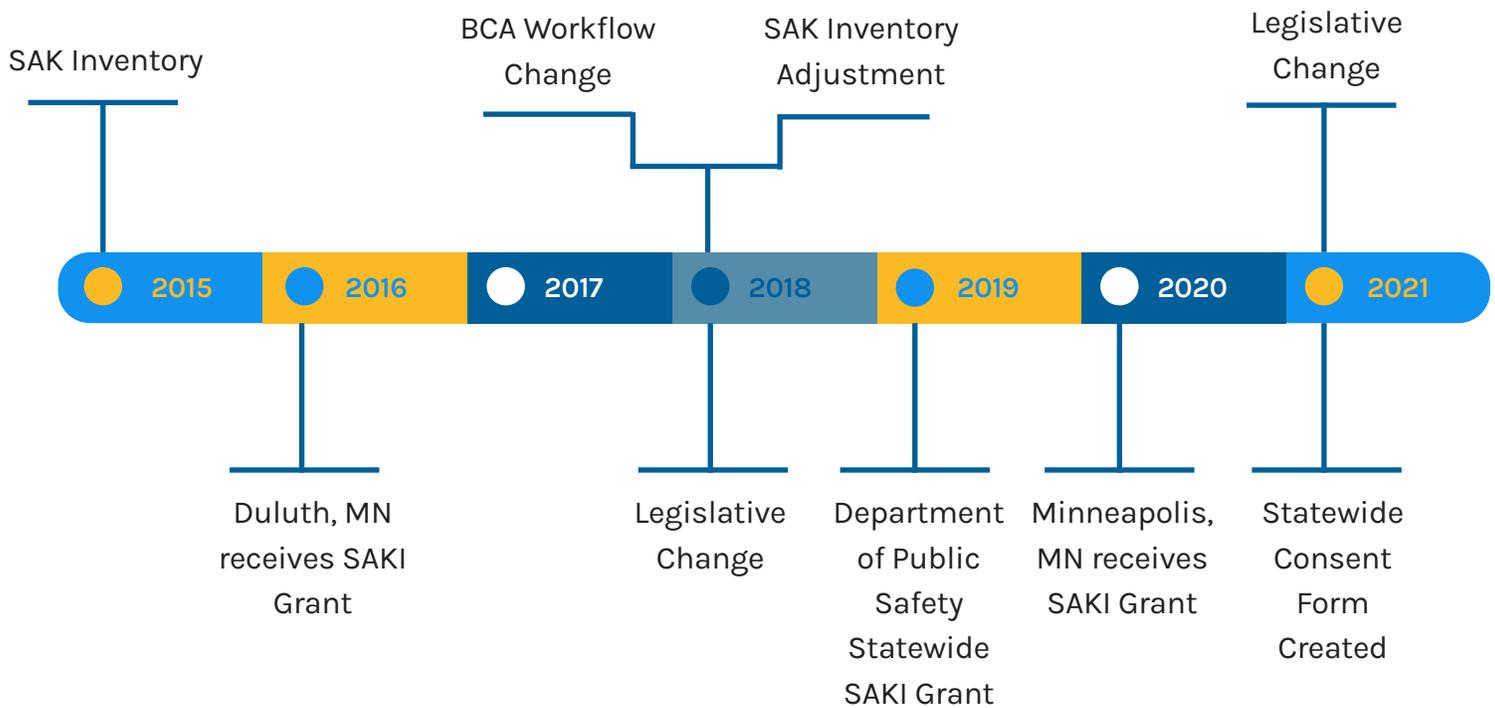
Timeline of Minnesota SAKI Projects and SAK Legislation ¹¹

These recommendations are based on the cumulative project activities and legislative requirements to date. A summary of MN SAKI Project activities, local SAKI grant awards, legislative changes, and shifts in organizational practices are summarized in the timeline below. These crucial milestones provide context for the procedures listed in this document and shape recommended practices for law enforcement partners across the state. Updates to this document may occur as new insights emerge or if other legislative changes occur in the future.

that systems and agencies can retraumatize victims/survivors and they advocate for greater understanding of how organizations and agencies systematically harm victims'/survivors' when they lack an understanding of human trauma and fail to respond to it: "A trauma-informed approach seeks to resist re-traumatization of clients [...] Organizations often inadvertently create stressful or toxic environments that interfere with the recovery of clients. Staff who work within a trauma-informed environment are taught to recognize how organizational practices may trigger painful memories and re-traumatize clients with trauma histories" (10).

¹¹ Timeline adapted from the Office of Justice Programs: <https://dps.mn.gov/divisions/ojp/Pages/minnesota-sexual-assault-kit-initiative-background.aspx>

Figure A: Timeline of Minnesota SAKI Projects and SAK Legislation



2015

At the direction of the legislature, the BCA compiled an inventory of untested SAKs, identifying 3,482 SAKs being held at local law enforcement agencies. The BCA developed a tiered testing proposal for the legislature, taking into consideration the impact on current sexual assault case evidence testing needs.

2016

The Duluth Police Department obtained SAKI grants in 2015 and 2016 and began submitting its sexual assault kits to the BCA for testing. That testing process is currently complete.

2018

Legislative changes in 2018 distinguished between “restricted” versus “unrestricted” SAKs.¹² Furthermore, the Bureau of Criminal Apprehension (BCA) forensic laboratory began changing their internal testing protocol. Prior to 2018, SAKs would first be assessed at the serology level where SAKs were screened for testable fluids/materials (e.g.: semen, saliva). Current operations consist of a direct-to-DNA workflow that bypasses serology unless necessary in specific cases.

¹² Minn. Stat. § 299C.106

2019

The Office of Justice Programs was awarded a \$2 million, three-year Statewide SAKI grant from BJA to begin testing other Minnesota agency sexual assault kits. Based on the 2015 inventory, a tiered approach was used to prioritize agencies with the highest numbers of sexual assault kits. The grant allowed for half of the funding to cover testing and the other half for sexual assault investigations, protocol development, and victim advocacy. Work on the grant started in early 2019 with Anoka County identified as the pilot project site for the statewide grant. The Office of Justice Programs was awarded a second \$2 million, three-year SAKI grant from BJA to continue sexual assault investigations, victim advocacy, and sexual assault kit testing.

2020

Minneapolis, Minnesota received a SAKI grant and began testing their unsubmitted SAKs.

2021

The 2021 legislative change now requires that restricted kits will be kept at the BCA/State crime lab for 30 months. All kits, restricted or unrestricted, must be submitted to a crime laboratory and a statewide tracking system is now required as well. The BCA also created a sexual assault evidence testing and storage consent form. The consent form is provided by the hospital to victims/survivors at the time of the sexual assault examination and gives the victim/survivor the option of authorizing, in writing, the release of the kit to law enforcement.¹³

Part II: Considerations for Investigating CCSAs

This section provides general information about conducting CCSA investigations, evidence handling and testing, and tracking of testing results as well as recommendations for coordinating response, strengthening interagency collaboration, and building relationships with stakeholders that support law enforcement's investigative role.

SELECTING AND SUBMITTING EVIDENCE FOR TESTING

The SAK is the standard evidence submitted to the lab for testing; however, additional evidence may exist that could assist in an investigation depending on the circumstances (e.g., clothing or a condom). This valuable evidence is sometimes considered secondary and

¹³ See: www.dps.mn.gov/divisions/bca/bca-divisions/forensic-science/Documents/FSS-F-EI-1020%20BCA%20SAK%20Testing%20Consent%20Form.pdf

may not be present in the SAK itself due to physical space. Locating and selecting this type of evidence for testing may be useful based on the case details. In collaboration with lab personnel, investigative teams are encouraged to review all of the available evidence and decide what testing is needed. Detectives should communicate directly with the forensic laboratory to determine the best way to organize submission and testing of additional evidence.

SUBMITTING EVIDENCE TO A FORENSIC LABORATORY

Once a jurisdiction's SAKs are identified and selected for testing, investigators should locate and complete the appropriate laboratory submission form.¹⁴ Effective interagency communication is essential for CCSA investigations and lab submission forms can provide scientists with the guidance needed for testing.

Generally, information recorded by the Sexual Assault Nurse Examiner (SANE) included in the SAK provides sufficient information to effectively perform DNA testing. Documenting additional details on laboratory submission forms can provide vital information to the scientist, particularly if there are unique circumstances. Please include the following on a laboratory submission form (as applicable):

- Case details that law enforcement learned during the investigation that can guide testing of evidence, especially if these details emerged after the SAK was collected.
- Additional evidence that may be important to test but is not included inside the SAK (e.g., a condom).
- Whether a case is linked to another previously submitted/tested case.

COMMUNICATE WITH PARTNERING LABS

Detectives should build strong relationships with their partnering lab as they submit SAKs from their inventory or request additional evidence testing to ensure a thorough understanding of lab policy. Jurisdictions can benefit from bulk submissions to a forensic laboratory; however, each SAK requires an associated submission form. Laboratories across the state may have different procedures. Therefore, investigators should communicate with their partnering lab regarding preferred submission protocol and testing timelines.

¹⁴ For example, see BCA's guidance on evidence submission and gain access to the form here: <https://dps.mn.gov/divisions/bca/bca-divisions/forensic-science/Pages/evidence-submission.aspx>

TRACK-KIT SOFTWARE

All criminal sexual conduct cases with a sexual assault evidence collection kit need to be entered into Track-Kit, the software program that tracks where each SAK is in the process.¹⁵ The tracking pathway for unrestricted kits starts at the medical facility, continues to law enforcement, proceeds to the forensic lab for testing, and again returns to law enforcement. Restricted kits also start in the medical facility, but may be sent directly to the laboratory for storage. Victims/survivors are provided the login/password information for their kit so they are able to check on their kit status at any time.¹⁶ The Track-Kit software is only used to track where a sexual assault evidence kit is in the criminal justice process; it does not contain any personal information, laboratory results, nor does it replace chain of custody requirements. Victims/survivors and/or their advocates¹⁷ can stay in contact with law enforcement if victims/survivors want to access their personal, case-specific information.

REVIEW TESTING RESULTS AND CHECK FOR CODIS HITS

Laboratory reports contain a lot of information, and investigators are strongly encouraged to discuss the results with the partnering laboratory to ensure all parties understand the content. Reports can contain descriptions of DNA profiles obtained, plans for additional testing, and/or requests for known samples from pertinent individuals. DNA profiles developed from known/reference samples may be uploaded to the Combined DNA Index System (CODIS). Hits in CODIS can provide substantial investigative leads, and it is important to stay informed about testing results. If a CODIS hit is obtained, this information will be communicated in a laboratory report. As additional profiles are constantly being added to the CODIS database, hits can occur months or years after the original profile was entered. Investigators or assigned personnel should regularly check for CODIS hit reports in the appropriate laboratory information management system. Investigators and/or assigned personnel should be designated with the responsibility to continuously check for CODIS hit reports in the appropriate lab information management system.

CONNECT AND REVIEW CASES WITH YOUR MULTIDISCIPLINARY TEAM (MDT)

A strong multidisciplinary approach to sexual assault can provide vital support to investigators and promotes a victim/survivor-centered and coordinated response to CCSAs. Victims/survivors and local communities are better served when these systems and organizations solve problems together and share information and resources with one another. MDTs should consist of key stakeholders in sexual violence response such as local investigators, community-based and systems-based advocates, county prosecutors, child and adult protective services personnel, lab personnel/forensic scientists, and SANE nurses/

¹⁵ Minnesota Statute 299C.106 - Sexual Assault Examination Kit Handling. <https://www.revisor.mn.gov/statutes/cite/299C.106>

¹⁶ Minnesota Kit Tracking Patient Brochure. <https://mncasa.org/tools/minnesota-kit-tracking-patient-brochure/>

¹⁷ Advocates should continue to practice all standard privacy practices and obtain a release of information (ROI) form if victims/survivors request an advocate's assistance with their private information.

medical professionals to name a few. However, each community's MDT membership will differ based on available resources, organizational capacity, and local practices.

MDT members can offer specialized support and expertise to investigators and collaborative responses deepen the commitment to trauma-informed and victims/survivor-centered approaches to CCSAs. Beyond reviews performed by individual investigators, case review in collaboration with the MDT encourages rigorous discussion, examining a case from a variety of perspectives. Investigators can summarize case details for the MDT and provide members with essential information to discuss case nuances (See Appendix A for a sample mock case review notes). This collaborative review can help clarify the strengths and limitations of cases; explore the impact of the investigation on victims/survivors; and identify opportunities for cross-agency cooperation on CCSA cases. Confidentiality agreements are generally required for all MDT members as an additional measure to protect the details of the case and safeguard victims'/survivors' private information.

DOCUMENT YOUR PROGRESS AND STORE YOUR REPORTS

Additional reports and supplements should be collected for documentation purposes. All BCA reports, evidence sheets, and submission forms should be included in the case file. Many of these supplements are completed at a later time, sometimes making it challenging to track the timeline of activities and information related to a case. A simple excel spreadsheet can be used to document relevant dates, track document submission, and note available materials included in the case file.

If the case was reviewed by MDT members, investigators can document that review and the MDT's recommendations on a separate spreadsheet. These details are not included in the case file; but rather, documented for future reference. Keeping this information maintains a history of MDT activities and helps teams reflect on how decisions might impact victims/survivors as cases evolve. Advocates working with law enforcement may also want to keep a similar document, noting case review details, and dates of follow up with the victim/survivor, referrals offered and other information pertinent to supporting victims/survivors.

COMMUNICATE WITH YOUR COUNTY PROSECUTOR

Law enforcement should build a strong relationship with their county prosecutor and stay in regular communication with them. Prosecutors should be members of the MDT and ideally will be involved in every step of the investigation, including any case reviews. Prosecutors can provide vital input and identify opportunities to strengthen a case for court. Assess your jurisdiction's relationship with the county attorney and take steps to establish a relationship and practice regular communication when investigating CCSA.

PREPARE FOR A FOLLOW-UP INTERVIEW WITH A VICTIM/SURVIVOR (IF NEEDED)

Investigators may find that following up with a victim/survivor is a necessary investigative step; however, it is essential that investigators minimize the possibility of retraumatizing a victim/survivor. These steps promote the victim's/survivor's safety, help earn their trust, reduce barriers to criminal-legal options, minimize emotional distress, and maximize memory recall.

● SELECT A COMFORTABLE AND ACCESSIBLE LOCATION

Identify possible locations for an interview that are accessible, convenient, and comfortable for the victim/survivor. Victims/survivors often recall more information when they experience less stress.¹⁸ Investigative teams should anticipate possible language interpretation needs, disability access barriers, and other forms of cultural difference as they prepare for an interview. Another option is to ask the victim/survivor where the most convenient and comfortable location is for them to mitigate challenges and barriers.

● BE FLEXIBLE WITH SCHEDULING

Ask the victim/survivor when they are available and make every attempt to accommodate their schedule. During the interview itself, make sure you allocate enough time for victims/survivors to take breaks, ask questions, or check-in with an advocate if desired.

● COLLABORATE WITH ADVOCACY

Investigative teams often benefit from having a community advocate available to the victim/survivor. Providing victims/survivors with emotional support and resources increases their comfort and trust. Allow sufficient time for an advocate to connect with the victim/survivor before and after the interview. Connect with your local advocacy organization¹⁹ so that you are familiar with your community's resources and ask to

18 Hopper, J., Lonsway, K.A., Archambault, J. (2020). Important Things to Get Right About the "Neurobiology of Trauma." Part 3: Memory Processes. End Violence Against Women International. https://evawintl.org/wp-content/uploads/TB-03_Memory-Processes.pdf

19 Visit www.rapehelpmn.org to find the advocacy agency closest to your jurisdiction.

partner with an advocacy organization if possible. Investigators should also be aware of the differences between community-based and law enforcement-based advocates as they have distinct roles and different protocol regarding confidentiality and information sharing across agencies.²⁰

● **COORDINATE ACCOMMODATIONS**

Ask the victim/survivor what you can do to make the interview more comfortable and/or accessible for them, keeping in mind that victims/survivors may have barriers to transportation or have mobility/sensory needs that affect their access. Where appropriate, solicit ideas from the victim/survivor and communicate with your department supervisor to arrange for accommodations. See section “Trauma-Informed Communication with Victims/Survivors” for additional recommendations and strategies.



Part III: Recommendations for Common Investigative Challenges

Part III outlines recommendations for addressing common challenges to SAK testing and investigation of cold cases while illustrating trauma-informed and victim/survivor-centered approaches. These recommendations are based on national research trends, cross-site consultations, and experiences garnered from the SAKI pilot site in Anoka County. However, each jurisdiction is unique in terms of available resources, personnel, and current policies and practices. These recommendations can help investigators problem-solve, guide their agency’s review of current policies, and explore opportunities for implementing trauma-informed and victim/survivor-centered practices in their own organization.

STAFFING AND PERSONNEL

CCSA investigations can be a full-time job for the assigned detective and agencies might find it difficult to allocate enough funding for full-time staff, particularly if there is a significant number of SAKs. If possible, consider locating outside funding sources to support a dedicated detective and other staff that support your project needs such as a property room technician. See the “Resources” section at the end of this document for links to funding opportunities.

²⁰ See Office of Justice Programs’s (OJP’s) descriptions of community-based and systems-based advocacy: https://www.ncjrs.gov/ovc_archives/sartkit/develop/team-advocate-c.html, https://www.ncjrs.gov/ovc_archives/sartkit/develop/team-advocate-b.html

CASE FILES

The age of CCSA case files and the degree to which the case was initially investigated can pose challenges to investigators. Relatively “newer” cases often have more complete, easy to locate case files with a higher chance of victim/survivor and/or witness accessibility. Depending on the age of the case, records management systems may have changed since the file was first created and physical materials may have been transferred to an archive. Unfortunately, it is possible that some parts (or all) of the original case file was destroyed. Investigators might need to consult with records retention staff regarding the location and contents of the original case file. If no written police investigative file exists, steps will need to be initiated to create a new file, including: re-interviewing of the victim/survivor to establish the details, facts, and elements of the assault.

TIPS FOR FINDING MISSING INFORMATION AND LOCATING MISPLACED MATERIALS

- Contact the hospital for SANE report taken at the time of the evidentiary exam.
- Need victim’s/survivor’s name and date of birth
- Check the desk/drawers of previous detective in case paper materials were misplaced.
- Check for old Word documents on desktop computers/laptops for notes.
- Ask crime lab personnel for evidence intake records.
- Talk to property room technicians that originally handled and stored the evidence. Connect with originating agencies to ensure that all materials were fully transferred.
- When appropriate, locate and attempt to interview the victim/survivor to reconstruct the facts and circumstances of the assault.

INITIAL ASSESSMENT OF THE CASE

Once case files and other relevant materials are located, detectives can perform an initial assessment of the available information. Assessing cases before testing helps detectives organize their approach and promotes a deep understanding of cases with untested SAKs. Detectives can perform a review to:

- Assess cases with an “unfounded” designation to determine if they are indeed unfounded and determine if the appropriate case classifications were used.
- Assess cases with an “exceptional” designation to ensure cases meet four criteria outlined by UCR/NIBRS and appropriate case classifications were used.²¹
- Identify cases where additional investigation could be performed due to incomplete initial investigation, advancements in testing technologies, or other reasons and note patterns that could indicate opportunities for improvement.
- Review all aspects of the case prior to testing to familiarize themselves with the circumstances of the assault should there be opportunities to move forward.
- Locate and preserve all records, information, and other evidence.

Reviewing all cases gives the investigator vital information about the types of cases that need resolution and potentially identify cases that otherwise would have been overlooked.

CONNECT WITH AND REVIEW CASES WITH YOUR MULTIDISCIPLINARY TEAM (MDT)

A strong multidisciplinary approach to sexual assault can provide vital support to investigators and promote a well-coordinated victim/survivor-centered response to CCSAs. MDTs should consist of key stakeholders in sexual violence response such as local investigators, community-based and systems-based advocates, county prosecutors, child and adult protective services personnel, lab personnel/forensic scientists, and SANE nurses/medical professionals. An MDT-based review of cases can go well beyond reviews performed by an individual investigator. Case review in collaboration with the MDT encourages rigorous discussion and examines a case from a variety of perspectives and can help communities identify the practices that led to an accumulation.

POST-TESTING ASSESSMENT

Every CCSA is important in their own right; however, investigators may find that after testing is complete some cases may warrant immediate attention due to public safety concerns or other compelling reasons. Investigators may choose to prioritize following up with cases after testing is complete where there are:

²¹ Refer to U.S. Department of Justice’s Uniform Crime Reporting document, “National Incident-Based Reporting System - Data Collection Guidelines” for additional information: https://ucr.fbi.gov/nibrs/nibrs_dcguide.pdf

- Multiple cases with same suspect.
- Suspects who are currently incarcerated.
- Stranger CSC cases.
- Minor victims/survivors (or were a minor at the time of report).
- Cases with victims/survivors from vulnerable populations (e.g.: an elder, person with an intellectual and/or physical disability).²²
- SAKs with a narrowing window per Minnesota statute of limitations.²³

Moreover, it is important to know that most previously unsubmitted SAKs in the inventory will be tested; however, not all cases with tested SAKs will require additional action from law enforcement. These circumstances might include:

- Cases with restricted SAKs.
- SAKs with adjudicated cases where a suspect was charged, convicted, and has a convicted offender DNA sample on file.
- Resolved homicide cases where the SAK was taken as a matter of procedure at autopsy by the medical examiner and there were no concerns about sexual assault.
- Cases that are legitimately “unfounded.” (see “Case Classification Challenges” for additional discussion).
- Case-by-case considerations and exceptions with rigorous internal conversations and MDT input to ensure no action is warranted.

It is important to note that cases with a deceased victim/survivor and/or suspect(s) are still tested despite the difficulty moving forward with prosecution. There may be investigative value in testing these kits as it could identify suspect(s) in other cases. Testing these kits can also help teams and/or build a more robust understanding of the factors that led to the accumulation of unsubmitted SAKs and better appreciate the community impact.

TYPES OF CASES INVESTIGATORS MIGHT ENCOUNTER

Investigators will encounter a variety of cases with unresolved SAKs; however, the MN SAKI pilot site (Anoka County Sheriff’s Office), identified some commonly encountered case types

²² Here, vulnerable populations may include people with intellectual/developmental disabilities, mental illness, experiencing homeless, have substance use/chemical dependency issues, are undocumented, have refugee status, or are elders. This definition of vulnerable populations is adapted from, “Modern Issues in Policing: Policing in Vulnerable Populations” by the International Association of Chiefs of Police: https://www.theiacp.org/sites/default/files/2018-11/IACP_PMP_VulnerablePops.pdf

²³ See: [https://www.mncasa.org/wp-content/uploads/2018/08/svji_facts_21_3473317372.pdf#:~:text=At%20the%20time%20the%20crime,\(1998%20in%20her%20case\)](https://www.mncasa.org/wp-content/uploads/2018/08/svji_facts_21_3473317372.pdf#:~:text=At%20the%20time%20the%20crime,(1998%20in%20her%20case))

as well as cases with untested SAKs with unusual circumstances. Each community will have a different collection of unresolved cases, but sharing the the pilot site's experiences can help detectives better anticipate issues in their own jurisdiction. This information may be useful to detectives as they explore the causes of SAK accumulation in their community and improve responses moving forward.

Notable cases with unresolved SAKs at the pilot site included:

● **CONSENT-BASED CASES**

Consent-based cases were among the most commonly unresolved cases and sometimes the most difficult to investigate.

These are characterized by a lack of consent to the sexual encounter. These might be cases where:

- The victim/survivor reported a lack of consent to the encounter
- The suspect admits to sexual contact but claims it was consensual
- See section "Issues in Testing and Investigating Consent-Based Cases" for additional details and recommendations.

● **CASES WITH A SAK BUT INCOMPLETE/MISSING FILES**

In years past, case files were not digital and paper files were the most common form of record-keeping. Case files can be destroyed or go missing for a variety of reasons, such as weather damage to storage rooms, misfiling/disorganization, or lost in the process of digitization.

● **INCOMPLETE INVESTIGATIONS**

These are cases where additional investigation could have occurred but did not due to lack of follow-up, premature closing of the case, high case load, and other unknown reasons.

- **ADJUDICATED CASES**

Convicted cases with untested SAKs where testing did not occur but a conviction was secured. An offender's DNA may or may not be currently on file. ²⁴

- **HOMICIDE CASES WITH A SAK IN EVIDENCE**

While not frequently encountered at the pilot site, some untested SAKs may be connected to homicide cases where the SAK was collected as a matter of routine by the medical examiner. These kits were untested for a number of reasons but detectives should be aware of this possibility due to old evidentiary procedures/policies related to wrongful death/homicide cases.

- **CASES ORIGINALLY DECLINED BY THE PROSECUTOR'S OFFICE**

These are cases that were declined for prosecution and had untested SAKs associated with the case.

Detectives are encouraged to take note of the types of cases they are encountering in their own communities and share patterns they notice with their agency and local multidisciplinary team. Opportunities for improving the response to sexual assault may emerge as a result of these conversations. Studying and addressing these issues can produce better outcomes for victims/survivors and reduce the chances that a future accumulation will occur.

CASE CLASSIFICATION CHALLENGES

Minnesota legislation now requires that all unrestricted SAKs are submitted for testing. ²⁵ In light of this new legislation, it may be beneficial to review all case closing designations, particularly if a case was closed and classified as “unfounded” and/or “exceptionally cleared,” to ensure a thorough understanding of the case. Investigative teams can review the value of the evidence indicated by the case files and SAK results, particularly looking for CODIS hits or other possible leads not pursued by the previous detective and/or administration.

While the closure classification of cases is generally consistent across agencies and

²⁴ Convicted cases with untested SAKs where testing did not occur, but a charge and conviction was secured were not tested. If the offender did not have an offender sample on file due to this conviction, we defaulted to testing the SAK. Although there could be benefits to testing the other SAK's in this category, our team felt that the potential risks outweighed the potential benefits of testing.

²⁵ Minn. Stat. § 299C.106. <https://www.revisor.mn.gov/statutes/cite/299C.106>

definitions are already established by law enforcement, investigators should be aware that agencies and investigators may also have different ideas about how these classifications should be applied. As a result, classification differences can potentially lead to an accumulation of untested SAKs.

Moreover, law enforcement culture has evolved considerably in the past decade and contemporary investigators have greater access to information and training on trauma-informed and culturally responsive methods for communicating and interacting with victims/survivors. Previous investigators may not have used a trauma-informed or victim/survivor-centered practice in their encounters with victims/survivors. The observable effects of trauma on victims/survivors—difficulty with recall, producing a non-linear narrative, or seemingly incongruent emotional response to the incident—may have been read by law enforcement as potentially suspicious or non-substantive information, leading to an “unfounded” case closure or identifying the case as a “false report.”²⁶ Noting classification misapplications can help promote culture change within the agency and encourage the use of trauma-informed and victim/survivor centered practices moving forward.

ISSUES IN TESTING AND INVESTIGATING CONSENT-BASED CASES

The issue of consent can pose unique challenges to testing and investigation. Consent issues emerge when the victim/survivor reported a lack of consent to the encounter and/or the suspect admits sexual contact and states that the encounter was consensual. Investigations can use available evidence to distinguish between the victim’s/survivor’s and the suspect’s narrative of events, establish if consent was absent, and determine if force, threat, coercion, and compliance or submission due to fear were present. Investigative teams may believe that testing the SAK will not produce additional insights; however, testing evidence can still be useful because:

- **BIOLOGICAL EVIDENCE IN THE SAK CAN CORROBORATE THE VICTIM’S/ SURVIVOR’S TESTIMONY.**
 - e.g.: Both victim/survivor and the suspect report that vaginal penetration occurred but victim/survivor also reports non-consensual oral penetration in their testimony. Suspect denies oral penetration. Biological evidence recovered from the victim’s/ survivor’s oral swab can corroborate the victim’s/survivor’s testimony.
- **INVESTIGATING AND TESTING CONSENT-BASED SAKS CAN HELP DETECT SUSPICIOUS PATTERNS, SERIAL OFFENDERS, AND ASSOCIATIONS AMONG CASES.**

²⁶ For additional information on false reporting, see: <https://sakitta.org/effective-practices/docs/13830SAKIBriefFalseReportingv7.pdf>

- e.g.: In multiple consent-based cases with the same suspect, it is highly unlikely that the suspect had a number of miscommunications regarding consent to sexual activity. Testing can establish a suspicious pattern, identify associations to other cases, or otherwise offer fresh leads. Subsequently uploading profiles can also help build a more robust CODIS database and identify repeat offenders.

TRACKING AND RECORD KEEPING

A tracking system ensures that information is organized and readily available to share with collaborators. Tracking documents enable investigative teams to take notes on cases separate from the original case file, stay organized, collect information for reporting purposes, and notice patterns or trends across cases. Case notes can be kept in a Microsoft Excel sheet document, separate from original case files. The following can be used to effectively track case updates:

- Note the presence of alcohol, drugs, or other substances in the case for internal purposes [yes/no/unclear].
- Track consensual sex partner(s) during the same time frame so that known DNA samples can be collected if needed [yes/no].
- Note if the victim/survivor in the case is/was a minor [yes/no].
- Track if there is a known suspect [yes/no].
- List the status of victim/survivor notification and when/if they were notified [yes/no, dates].
- List the reasons for not submitting the SAK, case disposition, and detailed notes on the case:
 - e.g.: Unknown/should have been submitted / inactive / minor victim with two (2) unknown suspects.
- Track SAK submission to and testing at the BCA [yes/no, dates].
- When/if case was presented for case review to the MDT [yes/no, dates].
- Note CODIS hits [yes/no, was there a profile?].
- Date case notes based on the last time information on the case was updated.

Coding the overall status of the case by color visually helps investigators stay organized, noting if the case is:

- Unreviewed
- No further review needed
- County attorney reviewing
- At the laboratory and/or BCA
- Preliminary review
- Charged
- DNA Report back pending review
- Under investigation/reopened

A strong multidisciplinary approach to sexual assault can provide vital support to investigators and promote a well-coordinated victim/survivor-centered response to CCSAs.

Appendix B contains a sample internal tracking sheet that investigators can use to organize their progress and modify for their own purposes. See “Resources” section at the end of these guidelines for a link to cold case investigation checklists provided by SAKI TTA. This checklist can help investigative teams keep track of materials reviewed, evidence collected, activities performed on the case, and other statuses that shape the investigation.

Trauma-Informed Communication with Victims/Survivors

Trauma-informed communication uses what is known about the effects of trauma on human behavior to communicate effectively with victims/survivors, minimize harm to the victim/survivor during the investigation, and maximize information recall. There are four elements that contribute to trauma-informed communication:

promoting safety, earning trust, minimizing harm, and honoring choice. Each of these principles help avoid retraumatization and minimize risks to victim/survivor physical and emotional safety.

PROMOTING SAFETY

Anticipates possible compromises to victims/survivor's physical and emotional safety during the course of the investigation

EARNING TRUST

Presumes that trust is earned through relationship-building and honest communications with victims/survivors

MINIMIZING HARM

Presumes that trauma exists and takes active steps to reduce or minimize possible harm to victims/survivors during the investigation

HONORING CHOICE

Recognizes that the victim/survivor is the authority on their life. Respects victim/survivor's ability to make decisions.

There are four elements that contribute to trauma-informed communication: promoting safety, earning trust, minimizing harm, and honoring choice.

PROMOTING EMOTIONAL & PHYSICAL SAFETY

Trauma-informed communication anticipates potential compromises to the victim's/survivor's physical and emotional safety throughout the investigation process. Careful attention is paid to the circumstances surrounding the victim's/survivor's life for potential clues about safety needs: living arrangements, relationship status, mental health concerns or other details available in records, reports, and case files. Supports and referrals are readily available and accessible to victims/survivors through partnerships with systems professionals, advocacy organizations, and/or other community resources.



EARNING TRUST

Victims/survivors are often highly attuned to the words and actions of others and are sensitive to perceived criticism or disbelief. It is imperative that law enforcement approach victims/survivors with the attitude that trust is earned with positive interactions with law enforcement or other forms of relationship- building. Moreover, victims/survivors may not want to seek a criminal-legal resolution and that decision should be honored by investigative teams.



MINIMIZING HARM

This approach presumes that trauma exists and that it is possible to inadvertently retraumatize or otherwise harm victims/survivors during an investigation. People who experience sexual violence frequently report long term traumatic effects of the incident(s).²⁷ Moreover, victims/survivors may also experience cumulative harms from multiple negative systems encounters and other forms of violence, particularly among marginalized victims/survivors.²⁸ See “The Effects of Trauma” section below for additional information on the impact of trauma on victims/survivors and suggestions for avoiding retraumatization.



HONORING CHOICE

Trauma-informed communication entails restoring some choice to the victim/survivor by presenting options and respecting the decisions they make. Victims/survivors are considered the authority on their own lives and are best equipped to make decisions that are consistent with their needs. Trauma can be partially caused by systems failing to adequately respond to victims’/survivors’ needs. Victims/survivors may have experienced little or no communication regarding their case, and some may have experienced harmful encounters with law enforcement. Restoring some control to the victim/survivor is one step in preventing retraumatization in their encounters the criminal-legal system and recognizes their agency and humanity.

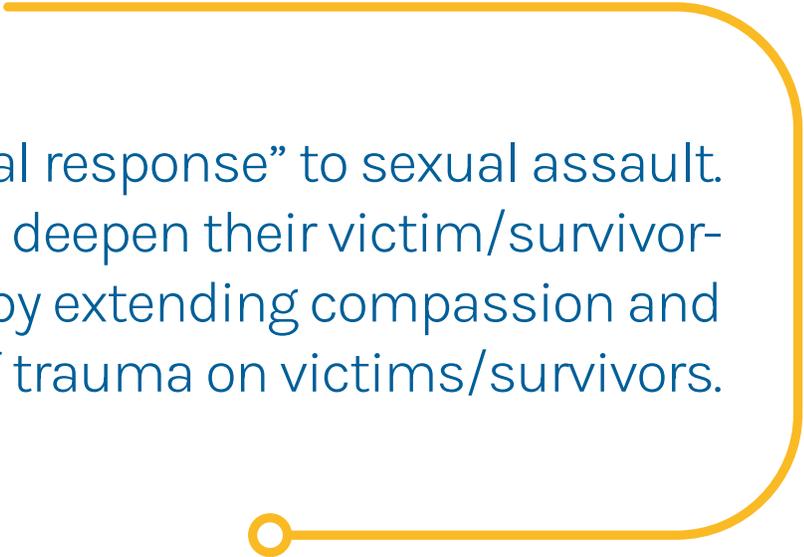
27 National Sexual Violence Resource Center. “Impact of Sexual Violence.” 2010. [Fact Sheet] https://www.nsvrc.org/sites/default/files/NSVRC_Publication_Factsheet_Impact-of-sexual-violence.pdf

28 For example, see: Myers, H. F., Wyatt, G. E., Ullman, J. B., Loeb, T. B., Chin, D., Prause, N., Zhang, M., Williams, J. K., Slavich, G. M., & Liu, H. “Cumulative burden of lifetime adversities: Trauma and mental health in low-SES African Americans and Latino/as.” *Psychological Trauma: Theory, Research, Practice, and Policy*. 7(3): 2015. 243-251.

THE EFFECTS OF TRAUMA

Trauma manifests in a variety of ways and it is difficult to know how victims/survivors will respond to renewed interest in their case. People with trauma may have difficulty concentrating, remembering details or the order of events, or providing coherent and organized narratives. They may “zone out” (disassociate), freeze when exposed to triggering content, or experience flashbacks of the traumatizing event. Victims/survivors can express a wide range of emotions (anger, relief, frustration, sadness, humor) or exhibit no emotions at all (flat affect) ²⁹ while others may have mixed feelings about law enforcement interest in their case years after the original incident.

Furthermore, memory recall can be affected by trauma and it can be difficult for victims to remember the details of a sexual assault in a complete or linear way. These behaviors may seem surprising or even concerning to professionals unfamiliar with trauma, leading them to doubt the credibility of the victim/survivor. Similar to responses at the time of the initial investigation, victims/survivors who have difficulty remembering, are difficult to locate, express fear/hesitancy, or otherwise decline to re-engage are not “uncooperative.” Thus, there is no “typical response” to sexual assault. Investigators can deepen their victim/survivor-centered practices by extending compassion and recognizing the effects of trauma on victims/survivors.



There is no “typical response” to sexual assault. Investigators can deepen their victim/survivor-centered practices by extending compassion and recognizing the effects of trauma on victims/survivors.

Recommended Practices for Investigators

COMMUNICATION WITH VICTIMS/SURVIVORS

Trauma-informed communication uses what is known about the effects of trauma on human behavior to communicate effectively with victims/survivors, minimize harm to the victim/survivor during the investigation, and maximize information recall. There are four elements that contribute to trauma-informed communication:

- **MANAGE YOUR EXPECTATIONS.**

Some investigators may experience feelings of urgency as they begin investigating a CCSA, particularly if they identify a possible lead or the case is developing strength and momentum. Keep in mind that the wishes of victims/survivors play a significant role in how the case will be handled moving forward and that the direction of the case may not follow a criminal justice resolution regardless of the strength of the case from a criminal-legal perspective.

- **CHALLENGE ATTITUDES ABOUT “COOPERATION.”**

Victims/survivors who decline to work with law enforcement are not “uncooperative.” But rather, victims/survivors may not be emotionally ready to revisit their case or have understandable hesitancy about working with law enforcement. Moreover, it is important to be conscious of any assumptions held about how victims/survivors “should” respond to renewed interest in their case. Victim/survivor reactions and wishes regarding their case vary widely and there is no “typical” response to sexual violence. Challenge your attitudes about victim/survivor “cooperation” and encourage your colleagues to adjust their expectations as well to deepen your trauma-informed work.

- **PRACTICE NON-JUDGEMENT.**

Victims/survivors are often highly sensitive to the perceptions of others and are less likely to work with law enforcement if they sense blame, criticism, or

undue pressure to participate in the investigation. Suspend your expectations and avoid language that implies judgement of the victim's/survivor's choices, circumstances, or personal beliefs. Strive to be as neutral as possible in your communication with victims/survivors.

- **USE THE MESSAGE OF INVITATION.**

Victims/survivors always have a choice and you are much more likely to engage a victim/survivor when an invitational approach is used. Communicate that victims/survivors have a choice whether or not to participate and remind them that they can stop at any time. For example: "I would like to invite you to meet with me and [name] an advocate from [organization] to talk about your options. Is that something you might like to do?"

- **PROVIDE CLARITY ABOUT YOUR ROLE AND THE INVESTIGATIVE PROCESS WHERE POSSIBLE.**

Clarify your role and explain what kind of information you might need from victims/survivors and what they can expect to happen moving forward. Clarify your role and distinguish yourself from the role of any other partners you work with (e.g.: community advocates, systems advocates, prosecutor). Providing this information to a victim/survivor minimizes confusion, eases anxiety and restores a victim's/survivor's sense of control over the process.

- **GIVE VICTIMS/SURVIVORS TIME.**

Victims/survivors may need time to consider their options, digest new information, and process feelings about renewed interest in their cold case. Avoid rushing or pressuring victims/survivors to respond otherwise you risk retraumatizing or losing contact with them.

- **EXPECT THAT FOLLOW UP VICTIM/SURVIVOR NARRATIVES MAY DIFFER FROM THE STATEMENTS IN THE ORIGINAL REPORT.**

Sometimes people in acute or active trauma may not be able to provide a complete statement at the time of the original report. The passage of time may allow acute trauma symptoms to settle and give the traumatic event time to integrate into the victim's/survivor's narrative.³⁰ Investigators should anticipate that the victim's/survivor's recall of the event will likely differ from the original statement as a result of trauma processing. However, this difference is not necessarily an indication of deception or a meaningful discrepancy; but rather, a very common human trauma response and a part of acute stress recovery.

● **EMBRACE THE POWER OF AN APOLOGY AND/OR OTHER FORMS OF VERBAL CONDOLENCE.**

Apologies to victims/survivors can promote healing which is vital to victim/survivor-centered practices. Victims/survivors may feel as if their case was not important enough to be investigated due to lack of testing or an absence of updates or communication regarding their case. It can be very healing for victims/survivors to receive an apology from law enforcement. Learning that their case is still important may restore confidence in the investigation and keep them engaged in the investigation.³¹

REESTABLISHING COMMUNICATION WITH A VICTIM/SURVIVOR

Detectives should make every effort to investigate in advance of contacting victims/survivors so the case can proceed if/when the victim/survivor is ready to participate or if additional information becomes available. Even with all this effort and precaution, victims/survivors may stop communicating with investigative teams. Law enforcement should ideally work with advocates to reestablish communication if the victim/survivor initially expressed interest in participating. It is possible that victims/survivors have concerns about their safety and privacy or are encountering other factors that negatively impact participation (e.g.: work schedule, change in living arrangements).

30 Wilson, C., Lonsway, K.A., and Archambault, J. "Understanding the Neurobiology of Trauma and Implications for Interviewing Victims." End Violence Against Women International. 2020. Web. https://evawintl.org/wp-content/uploads/2016-11_TB-Neurobiology.pdf

31 Lonsway, K. A., Archambault, J. and Dissell R., "Untested Evidence and the Investigation of Cold Sexual Assault Cases." End Violence Against Women International. 2021. Web. https://evawintl.org/wp-content/uploads/Module-17_Cold-Case.pdf

- When possible, advocates should lead attempts to reestablish contact using the victim's/survivor's preferred mode of communication and the best days/times they identified to get in touch with them.
- **If phone is okay:** Person assigned to victim/survivor outreach should attempt at least three (3) phone calls on different days of the week and at different times of the day. Giving victims/survivors a couple of weeks or months in between each contact offers victims/survivors
- **If phone is okay:** Person assigned to victim/survivor outreach should leave nondescript voicemails with advocate's name and phone number without mentioning an open case, police involvement, professional titles, name of a specific advocacy organization or other information that can indicate that they are victim/survivor of sexual assault.
- Residency checks by police or advocates should be avoided for establishing initial contact with the victim/survivor to minimize retraumatization and possible breach of privacy. Residency checks can be considered a last resort if all other methods fail.
- Sending correspondence to the victim's/survivor's physical or email address is not recommended. Mailed letters may breach privacy in the event the correspondence is misdelivered or opened by someone else. Mailed correspondence can be considered a last resort if all other methods fail.
- Document what steps were taken to reestablish contact in case a victim/survivor in the event they later reach out to the detective or an advocate for information about the investigation.

Victims/survivors may stop communicating or otherwise passively withdraw participation. The reasons that victims/survivors withdraw from the investigation are varied but a lack of communication with the team can be an indication that the victim/survivor does not wish to participate any further. In these cases, it may be helpful to consult with the MDT to explore next steps and problem solve.



Conclusion

Securing just resolutions to cold cases and promoting victim/survivor-centered practices is at the heart of the MN SAKI project. These guidelines offer collaborative, victim/survivor-centered, and trauma-informed recommendations to law enforcement and encourage a multidisciplinary approach to the issue of untested, unrestricted SAKs. Each jurisdiction is unique, requiring a tailored response to each CCSA. Thus, these guidelines are designed to support the work of law enforcement and their partners as they evaluate cases, investigate cold case sexual assaults, assess existing practices, and enhance current procedures. Recent legislative changes have also shifted the landscape of policing, and these recommendations offer valuable insight based on the MN SAKI pilot site activities.



Securing just resolutions to cold cases and promoting victim/survivor-centered practices is at the heart of the Statewide SAKI project.



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Resources

GENERAL SAKI INFORMATION AND RESOURCES

1. Office of Justice Programs, “MN SAKI Background”: <https://dps.mn.gov/divisions/ojp/Pages/minnesota-sexual-assault-kit-initiative-background.aspx>
SAKI TTA, “Sexual Assault Kit Initiative Overview”: https://www.bja.gov/ProgramDetails.aspx?Program_ID=117
2. SAKI TTA, “Cold Case Investigative Checklist”:
3. <https://www.sakitta.org/toolkit/index.cfm?fuseaction=tool&tool=86>

MULTIDISCIPLINARY TEAM (MDT) RESOURCES

1. SAKI TTA, “Creating a Strong Multidisciplinary Team or Sexual Assault Response Team Tool Kit”: <https://www.sakitta.org/toolkit/index.cfm?fuseaction=topic&topic=27>
2. SAKI TTA, “A Multidisciplinary Approach to Cold Case Sexual Assault: Guidance for Establishing an MDT or a SART”: <https://www.sakitta.org/toolkit/index.cfm?fuseaction=tool&tool=45>
3. SAKI TTA, “Multidisciplinary Sexual Assault Case Review”: <https://sakitta.rti.org/toolkit/docs/Multidisciplinary-Sexual-Assault-Case-Review.pdf>
4. Office of Justice Programs - Office for Victims of Crime, “Multidisciplinary Team Models”: <https://www.ovcttac.gov/saneguide/multidisciplinary-response-and-the-community/multidisciplinary-team-models/>

TRAUMA-INFORMED PRACTICES RESOURCES

1. Campbell, Rebecca. The Neurobiology of Trauma: What You Need to Know About the Brain and Trauma.” Webinar. <https://www.sakitta.org/toolkit/index.cfm?fuseaction=tool&tool=48>
2. Campbell, Rebecca. “The Neurobiology of Sexual Assault: Implications for Law Enforcement, Prosecution, and Victim Advocacy.” 2012 December. Webinar. <https://nij.ojp.gov/media/video/24056>
3. Powers, Patricia and Jonathan Kurland. “First, Do No Harm - Trauma-Informed Interviewing During the COVID-19 Pandemic.” Aequitas. 2020 June. Webinar. <https://vimeo.com/439013768>
4. RTI International. “Trauma-Informed Communication: What to Expect When Interacting with Victims of Sexual Assault and Trauma.” Web. <https://sakitta.rti.org/toolkit/docs/Trauma-Informed-Communication-Pamphlet.pdf>

5. Satinsky, Jordan and Marya Simmons. Key Considerations in Trauma-Informed Interviewing.” Webinar. <https://www.sakitta.org/toolkit/index.cfm?fuseaction=tool&tool=77>

FUNDING OPPORTUNITIES

1. The Bureau of Justice Assistance, “Funding and Awards”: <https://bja.ojp.gov/funding>
2. The Bureau of Justice Assistance, “Available Funding and Applications”: <https://bja.ojp.gov/funding/current>
3. Office on Violence Against Women, “OVW Grants and Programs”: <https://www.justice.gov/ovw/grant-programs>
4. Office for Victims of Crime, “Victims of Crime Act (VOCA) Administrators”: <https://ovc.ojp.gov/program/victims-crime-act-voca-administrators/welcome>
5. Office of Justice Programs, “State Administering Agencies (SAA) - Contact information for Minnesota SAA”: <https://www.ojp.gov/funding/state-administering-agencies/minnesota-saa>

Appendix A

MOCK MDT CASE REVIEW NOTES

In the mock case below, the detective learned that the witness walking with the suspect and victim/survivor was not located or identified in the original investigation. Additional investigation may be possible if the female witness can be located, leading the MDT to reopen the case and notify the victim/survivor. In this example, the MDT's decision to reopen and notify the victim/survivor was based on SAK testing results, clear opportunities for additional investigation, and careful assessment of the benefits of notification from a trauma-informed, victim/survivor-centered lens. However, the victim/survivor was notified and declined to move forward with additional investigation. Note that the legal term "victim" is used here for law enforcement purposes only.

CASE#: 16-206682

DATE: 10/20/11

- Juvenile (17) female victim was at a friend's house when suspect came over.
- Male suspect forced her to walk to his house down the street with him to his apartment.
- Female witness (neighbor) saw suspect and victim walk down the street
- Suspect was kissing her and asked for sex, but victim said no.
- Suspect undressed victim and forced vaginal intercourse.
- Victim had visible facial injury.
- Reported ejaculation in victim, no condom used.
- Victim reports assaults happened three different times that night.
- Suspect reported sex was consensual in interview with detective.
- Suspect's roommate was at home during time of assault reported hearing suspect and victim talking and laughing during interview with detective.
- Roommate left for work before seeing victim/survivor or suspect the next morning.
- Case sent to ACAO and declined.
- Suspect offender sample on file from prior drug case.
- Not POR.
- SAK tested 6/11/19.
- DNA report on 6/11/19. Single source male DNA profile from vaginal swab. Uploaded.
- MDT review on 8/4/19. Re-open case and notify victim.
- CODIS hit to suspect on 8/12/19.

Appendix B

SAMPLE INTERNAL TRACKING SHEET FOR INVESTIGATORS

ICR	Date	Date Collected	Drugs/ Alcohol	Minor Victim	Known Suspect	Victim Notified	Reason Not Submitted
31-90554	5/30/1988	5/30/1988	No	No	No		Unknown, Too early for DNA at the time of collection?
49-23354	4/10/1994	4/20/1994	No	No	Yes	No	Kit not relevant for prosecution (Kit results not needed - confession)
78-99121	6/10/1996	7/12/1996	No	Yes	Yes	No	Kit not relevant for prosecution (Kit results not needed - confession)
36-11578	5/10/1995	5/10/1995	No	No	No		Unknown
79-77588	7/12/1997	7/12/1997	No	No	Yes		Unknown
36-33975	12/10/1996	12/10/1997	No	No	No		Unknown
36-33989	4/14/1998	4/14/1998	Yes	No	No		Unknown
65-22561	5/10/1998	5/10/1998	No	Yes	No	No	Unknown
31-55475	4/6/1998	4/6/1998	No	No	No	No	Victim elected not to participate further in criminal justice process
64-33988	6/3/1999	6/10/1999	Yes	No	No	No	Unknown
64-55123	7/10/1999	7/12/1999	No	No	No		Unknown
36-21340	2/16/2000	3/12/2000	No	No	No	No	Unknown, possibly because no penetration.
36-10781	5/2/2000	5/3/2000	No	No	Yes		Kit not relevant for Prosecution (Kit results not needed - consent)
78-19235	7/7/2001	7/7/2001	Yes	Yes	Yes		Kit not relevant for prosecution (Kit results not needed - confession)

Color coding can provide investigators with a visual “snapshot” of case statuses. In this spreadsheet, the detective used yellow coding to designate the cases where “No Further Review” of the case was needed. Blue designates which cases are “Under Investigation.” Other statuses investigators may want to track using separate colors may be cases that are: Needing MDT Review, Under County Attorney Review, and Charged. A section for notes can provide other details not captured in the remainder of the spreadsheet to serve the detectives’ own needs.

Dispo	Comments	Submittal to BCA	Case Reviewed	CODIS Hit	Kit to BCA	Updated
Inactive	stranger CSC	Yes		No	2/20/20	5/14/20
Convicted	In prison for other felony charge - homicide	No	No	N/A	N/A	2/10/20
Dismissed	not competent to stand trial	No	No	N/A	N/A	2/20/20
Inactive	stranger CSC, after going to bar	Yes		No	2/20/20	4/09/20
Declined	assaulted at a house party	Yes		No	2/20/20	4/09/20
Inactive		Yes		No	2/20/20	4/09/20
Inactive	stanger CSC in v/s home	Yes		No	2/20/20	5/26/20
Inactive	V/S ran away from home	Yes	Yes	Yes	2/20/20	7/30/20
Inactive	elements not met	No	No	N/A	N/A	2/07/20
Inactive	stranger CSC	Yes	Yes	Profile	2/20/20	8/10/20
Inactive	stranger CSC	Yes		No	2/20/20	4/28/20
Inactive	stranger CSC	Yes	No	No	2/20/20	4/14/20
Declined	sus was renting a unit	Yes		No	2/20/20	5/05/20
Convicted	offender sample on file, confession	No	No	N/A	N/A	2/06/20