

Sexual Assault Kit Testing: Frequently Asked Questions

What are sexual assault kits (SAKs)?

SAKs are collections of items to gather and preserve physical evidence from a person's body following a report of a sexual assault. A victim's SAK is collected with his/her consent.

When and why are they collected?

When a victim reports a sexual assault, completing an exam is one of the first steps taken to collect DNA evidence. It's a failsafe approach, to ensure any potential evidence is collected because there is only a short amount of time the evidence will be present on the body. At the point of collection, it is too early in the investigation to know if testing the kit will be necessary for the case. SAK collection also provides an opportunity for medical providers to perform an overall wellness exam, address any medical concerns, and make sure the victim has access to support and other resources.

Why would an SAK not be submitted for testing?

As indicated above, just because a SAK is collected does not mean it will always be submitted for testing. The submittal of a SAK for DNA testing has historically relied on the case-specific needs of the prosecution. For example, in cases where consent is the only question – that is, both the victim and alleged offender agree that sexual contact occurred, but dispute whether that contact was consensual – prosecutors may not submit the kit for testing because it wouldn't provide evidence to resolve the question of consent. Additional reasons a SAK might not be tested include:

- Screening decision on the case already made by the District Attorney.
- Determination that no crime was committed.
- No expectation that DNA will be recovered due to timing or other issues.
- Victim opts to remain anonymous.

I've heard there's a "backlog" of kits that haven't been tested. What does that mean?

There is a lot of confusion about a "backlog" of untested sexual assault kits. Kits not submitted to a forensic lab for testing do not qualify as being "backlogged"; the term refers to the number of kits submitted for testing that have not yet undergone the DNA analysis. Currently, the crime lab estimates that about 219 kits are backlogged. This an increase from earlier this year, but is due in part to more requests for analysis of previously unsubmitted kits, and the length of time it takes for the analysis to be completed. In other words, more kits are being submitted for testing, which is a good thing and the desired outcome of the project.

Ok, so how many unsubmitted kits still need to be tested?

In response to the passing of SB 55, DPS requested that law enforcement agencies across the state inventory their unsubmitted SAKs by September 1, 2017. The data showed there were about 3,000 victim SAKs in the possession of 48 law enforcement agencies that have never been submitted for testing. The primary reason agencies noted for not submitting a kit was that it was either not needed or expected to be useful for prosecution. In 2018, Governor Walker signed SB 31 into law, requiring that the inventory of SAKs take place annually. As of today, there are 2,568 previously unsubmitted, untested victim SAKs in Alaska.

Even if unsubmitted kits don't count towards the backlog, will they eventually be tested?

The State of Alaska recognizes the potential value of testing previously unsubmitted SAKs, as they may reveal patterns, solve cold cases, and lead to new indictments. The Department of Public Safety is addressing the issue around unsubmitted kits with a complete, systemic approach, using cases from the Alaska State Troopers (AST) as a pilot project to set up protocols and best practices. \$1.5 million in grant funding from the Sexual Assault Kit Initiative (SAKI) is being used to pay for the testing of unsubmitted SAKs from AST, and a \$2.75 million capital appropriation from the legislature will be used to begin testing kits held by the other 47 police departments.

What additional steps is DPS taking to help State Troopers and local police departments address the backlog of unsubmitted, untested kits?

DPS has engaged in a number of immediate and long-term efforts to address unsubmitted kits, and develop a future-minded plan for testing. At the direction of Governor Walker, DPS applied for and received two federal SAKI grants, and created a working group tasked with developing victim-centered best practices based on national standards and informed by local experts. The working group is in the second year of the four-year project, and will present initial recommendations in a report by June 30, 2019.

Kits held by Alaska State Troopers (AST):

- Earlier this year, DPS hired Michael Burkmire as the SAKI Cold Case Investigator. Investigator Burkmire is a retired Alaska State Trooper Sergeant and oversaw the AST Child Abuse Unit in the Mat-Su Valley. He is responsible for investigating cold cases, and his position is funded through the SAKI grant.
- All 707 kits have been inventoried, and of those, 577 were sent to a private lab for testing. The remaining kits had either been previously tested, or were not submitted because they were anonymous reports, too damaged, already adjudicated, or mislabeled. Visit the SAK project website (dps.alaska.gov/saks) for a more detailed breakdown of the results received so far.
- DPS is also working to develop best practices and standards for testing of future kits that are collected by AST.

Kits held by other local police departments:

- Starting in November 2017, all newly-collected SAKs are being sent to the Crime Lab for analysis or storage, and to maximize the chance of a successful DNA analysis.
 - If the submitting agency does not request testing of the SAK, an explanation of this decision is required.
- To minimize the impact on turnaround time for current cases, the Crime Lab has entered into an agreement with a private lab to complete analysis on the previously untested kits from those 47 agencies.
- To prioritize sexual assault cases even further and increase output, the Crime lab divided the Forensic Biology Unit into a Sexual Assault Team and Major/Property Crimes Team.