



Webinar Chat Questions

Unsubmitted Sexual Assault Kits: Changing What We Know About Rape

The following questions were submitted by participants in a webinar entitled *Unsubmitted Sexual Assault Kits: Changing What We Know About Rape*. The presentation was given by Dr. Rachel Lovell, Co-Lead Researcher on the Cuyahoga County Sexual Assault Kit Research Study, and Brett Kyker, Supervisor for the Cuyahoga County Sexual Assault Kit Task Force. The questions were adapted for a more general audience.

Most of the responses were written by Dr. Lovell and Mr. Kyker, although a few were written by Sgt. Joanne Archambault and Dr. Kim Lonsway of EVAWI.

For more information on the Cuyahoga County Sexual Assault Kit Pilot Research Project, please see the website at the Begun Center for Violence Prevention Research and Education at: <http://begun.case.edu/sak/>. Along with a description of the project, six reports are posted:

[Process Brief](#)

[Data & Methodology Brief](#)

[Victims Brief](#)

[Serial vs Single Sexual Offenders Brief](#)

[Cost Savings and Cost Effectiveness Brief](#)

[What Happened with the Sexual Assaults Reports? Then Vs. Now](#)

Testing Sexual Assault Kits (SAKs)

How many untested sexual assault evidence kits were there in Ohio?

Lovell/Kyker: This will vary by jurisdiction (as each agency has its own policy on submitting and resources for testing). For Cleveland Police Department, from 1993 to 2009, approximately 5,000 kits had not been submitted for testing while an additional 1,867 had some type of forensic testing. These kits started to be tested in 2013, and BCI has only a handful left to test (fewer than 25). Here is the specific breakdown:

In Cuyahoga County, a total of 4,971 SAKs had not been tested

This includes 4,392 SAKs from Cleveland (1993-2009)

And 579 SAKs from the suburbs (1980-2013)

In addition, +1,867 SAKs (1993-2009) had some previous testing conducted already

This means that the total number of SAKs to be tested was approximately 6,838

In addition, there are more than 4,000 untested SAKs from Cleveland (pre-1993)



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Who paid for the testing of these evidence kits in Ohio?

Lovell/Kyker: Typically, law enforcement agencies pay for the testing of sexual assault kits (SAKs). However, in December 2011, the Ohio Attorney General sent a letter to all law enforcement agencies in the state, inviting them to submit previously unsubmitted SAKs to the Ohio Bureau of Criminal Investigation (BCI) free of charge to the law enforcement agency.

In other words, the Attorney General's Office paid for the testing of all unsubmitted SAKs from 1993 to 2009. Testing was conducted by the state crime laboratory (BCI).

It is worth highlighting that this testing initiative did not begin because a specific source of additional funds was awarded or identified. The Ohio Attorney General's Office committed to fund this initiative without a specific grant or other funding. They found the funding to do it out of their own budget.

In Ohio, does the lab just look for DNA to develop a profile for CODIS entry, or does it conduct a full analysis? I've heard of fast track forensics, which is a shorter exam by the lab that results in a quicker turnaround.

Lovell/Kyker: I believe what you are asking is, does BCI screen evidence using serology first ("bodily fluids") and if present, then test for DNA -- or does BCI skip the screening process and go straight to DNA testing? If this is the question, then the answer is that BCI goes straight to DNA testing. They decided to do this because they believed it would result in a quicker turnaround.

Investigation and Prosecution

Was the investigative task force in Cuyahoga County created with additional personnel (hired specifically for this purpose) or was a current investigative unit used?

Lovell/Kyker: The Task Force was established within the Cold Case unit of the Cuyahoga County Prosecutor's Office, which serves as the lead agency. Also included are representatives from the Cleveland Police Department, Bureau of Criminal Investigation, Cuyahoga County Sheriff's Department, and the Cleveland Rape Crisis Center. Specifically, the Task Force is made up of a Project Manager, Lead Investigator, 18 full-time and 3 part-time Investigators, 3 System-Based Victim Advocates, and 6 Assistant Prosecuting Attorneys. Most of the Task Force staff only work on these cases (with previously unsubmitted SAKs)

All investigators on the Task Force report to the Prosecutor's Office, but some are detailed by the Police Department, Sheriff's Department, and state crime laboratory (BCI). All investigators detailed to the Task Force are paid by their own agency, but the Prosecutor's Office supplemented their budget with federal grants, County Council funds, etc.



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Those are very high numbers of indictments in Ohio, so I am assuming these were kits that should have been sent in for testing during the original investigation. What was the main reason they were not sent in originally?

Lovell/Kyker: There are many reasons why kits were not submitted at the time. Our research team is currently writing a report on this.

First, many SAKs pre-date modern DNA forensic analysis, which only became widely available in the late 1990s. In fact, if SAKs were tested at the time of collection, as compared to now, they would have had much less success at returning hits/matches in CODIS. This is because DNA testing technology has greatly improved over the last decade, and it has taken years for CODIS to populate with offender profiles. Second, when DNA testing became available, it was so expensive (\$5,000+) that most jurisdictions were not able to test their SAKs. Even when DNA testing was conducted, only certain SAKs were prioritized for testing. Of course, department policies also came into play, as did competition for scarce laboratory resources and attitudinal biases of investigators and prosecutors. The reasons were complex.

Research in Wayne County, Michigan has also identified a number of reasons for the large number of unsubmitted SAKs—including victim-blaming behaviors and beliefs; the lack of written policies and protocols for submitting SAKs for DNA testing; budget cuts that resulted in a reduction in the number of sexual assault investigators, crime lab personnel, and inefficient DNA testing methods and/or equipment; and high turnover in police leadership. Additional contributing factors to the backlog include strained relationships, lack of training, SAKs being viewed as a prosecutorial tool rather than an investigative one, concerns about the timeliness of the testing, closing cases before testing can be submitted, lack of community-based advocacy services, outdated record keeping, and no centralized storage location for SAKs.

Archambault/Lonsway: The full report on the Wayne County, Michigan SAK project is available from the [National Criminal Justice Resource Service](#).

Research on Sexual Assault

If we identify patterns in the characteristics of reported sexual assaults, is there a risk of deciding that reported cases that don't fit the pattern are false reports?

Archambault/Lonsway: While there is always a risk that some people will be skeptical of reports that do not fit “typical” identified patterns of sexual assault cases, this is not a reason to avoid conducting research on the characteristics of sexual assault victims, suspects, and cases. In fact, this research can help us to understand common (and uncommon) patterns, which often challenge deeply held myths/misconceptions regarding sexual assault.

Research can also explore how these characteristics may be associated with differential case outcomes. To illustrate, just because most sexual assault reports do not involve a firearm, this does not necessarily mean we should doubt the credibility of a report that does involve one. Research can therefore document what percentage of reported cases do and do not involve a firearm – and then explore whether cases with or without a firearm have differential outcomes



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within the criminal justice system. Are they more likely to result in an arrest, prosecution, conviction? Are they more likely to be serial offenses?

Lovell/Kyker: As a side note to this question, it is worth exploring the number of cases in the Cuyahoga County sample that were closed because the victim recanted. Of course, recanting cannot be equated with a false report, but it is nonetheless worth noting that the Task Force has identified very few cases so far where the victim recanted the report of sexual assault. Specifically, out of 243 cases that we coded in the pilot study, only 10 cases were closed because the victim recanted.

Did you complete a socioeconomic breakdown for the offenders?

Lovell/Kyker: We don't have this information on the socioeconomic characteristics of offenders because police reports and prosecutor files do not include information about education, income, etc. for offenders, victims or witnesses. We only have data on race, age, criminal history, etc.

Policy Questions and Reforms

From an advocate's standpoint, what can I do to assist with the problem of rape kits not being tested? This is a common problem for my clients when their cases are dropped without the forensic evidence even being looked at.

Lovell/Kyker: I think one big step is to enact statewide legislation that mandates that SAKs are tested (when victims consent to this testing). In jurisdictions that don't have mandated testing, then there should be clear policies about when a kit will and won't be submitted. I think the research is important here – and initiatives like the one in Cuyahoga County – that show the usefulness and importance of testing all kits. Then jurisdictions would feel more pressure to test. But I would also add that testing is only the first step. It is not enough to just push testing because some jurisdictions don't have backlogs – they test the kits and then the question becomes, what are you doing with the results of the kit? There are many important things that come from the testing – not just identifying suspects.

Archambault/Lonsway: This is such an important point, that testing a kit is only one part of a the longer and more complicated process involved in investigating and prosecuting cases, excluding suspects, or exonerating an innocent person who was wrongly convicted of a crime.

In fact, we can test all the evidence in existence, and we will typically not be able to hold a perpetrator accountable *if law enforcement fails to conduct the type of investigation that will support successful prosecution*. In other words, the problem is even more serious than people think; or at least it is larger and more complicated, because it extends beyond DNA evidence to the entire investigation. It also requires addressing organizational and systemic problems, such as insufficient resources for sex crimes investigation, a lack of training, understaffed sex crimes units, and not enough sexual assault victim advocates.



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We have written a great deal on this topic, in a 7-part series of training bulletins on [Laboratory Analysis of Biological Evidence and the Role of DNA in Sexual Assault Investigations](#) and our training module on [Laboratory Analysis of Biological Evidence and the Role of DNA in Sexual Assault Investigations](#). This module provides 32 hours of training, including review exercises, practical applications, and test questions. The print version of this module can also be downloaded from our [Resource Library](#) (but it will not include the review exercises, practical applications or test questions from the online version).

If all kits must be tested, including non-investigative reports, what kind of chilling effect does this have on victims who haven't yet decided to participate in the criminal justice process? Will that be studied? Also, how is a laboratory testing a kit that doesn't have a crime report connected to it?

Lovell/Kyker: We do not have data on the impact that testing kits is having on victims. We would like to examine this topic in future research projects. However, it is worth noting that the Task Force only identified two SAKs that constituted non-investigative reports (they are referred to as anonymous kits in Cuyahoga County).

Archambault/Lonsway: Again, this is a topic we have written a great deal about, and we encourage you to find out more because it is critically important as jurisdictions enact laws and policies mandating law enforcement to “test all kits.” The bottom line is that sexual assault evidence kits should not be tested without the victim’s consent. The logic behind this argument is provided in a Training Bulletin entitled, [Should We Test ‘Anonymous Kits?’](#)

More in-depth information is in the OnLine Training Institute module, [The Earthquake in Sexual Assault Response: Implementing VAWA Forensic Compliance](#). The module provides 7 hours of training, including review exercises, practical applications, and test questions. The print version of this module can also be downloaded from our [Resource Library](#) (but it will not include the review exercises, practical applications or test questions from the online version).

Several [frequently asked questions](#) on this topic are also posted on our website, including:

What do we do with the evidence/kit from a victim who is not (yet) participating in the investigation?

How long should we store evidence/kits when the victim is not (yet) participating in the investigation? What do other jurisdictions do?

What are best practices for evidence destruction in these situations?

Should victims be notified when their evidence is going to be destroyed?

It is certainly understandable that there is confusion and misunderstanding in this area, because it is a complicated topic that is often misrepresented in media coverage as well as public and even professional discourse. We hope these training resources help to clarify some of the complex issues involved. We are also in the process of developing additional materials.



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