

MARYLAND SEXUAL ASSAULT EVIDENCE KIT POLICY AND FUNDING COMMITTEE

ANNUAL REPORT

JANUARY 2020



INTRODUCTION

In 2017, the General Assembly passed legislation creating the Maryland Sexual Assault Evidence Kit Policy and Funding Committee (“SAEK Committee” or “Committee”).¹ The Committee was established to create uniform statewide policies regarding the collection, testing, and retention of medical forensic evidence in sexual assault cases and increase access to justice for sexual assault victims.² Pursuant to Section 11-927(i) of the Criminal Procedure Article of the Maryland Code, the SAEK Committee must submit an annual “report on [its] activities during the prior fiscal year to the Governor and...the General Assembly.” The Committee submitted its first annual report for FY2018 in January 2019.³ During its first year, the Committee issued preliminary recommendations, secured a federal SAKI grant, assisted the Office of the Attorney General (“OAG”) in promulgating regulations, and offered additional policy recommendations for SAEK reform in Maryland.⁴

In compliance with the above statutory mandate, the Committee submits this report which sets forth its activities during FY2019.⁵ This year the Committee: (1) successfully advanced legislation to create uniform testing criteria for sexual assault evidence kits (“SAEKs”), fund expanded testing, and provide victims with prophylactic HIV prevention medication; (2) began implementing the SAKI grant; (3) facilitated law enforcement compliance with Regulation

¹ See S.B. 734, Chapter 659 (2017).

² See MD. CODE, Crim. Proc. § 11-927 (2017); The term “victim” is used throughout this report to refer to people who have experienced sexual assault because it is a term used in relevant statutes and the criminal justice system. We appreciate, however, that many people who have suffered sexual assault prefer the term “survivor.” We respect that preference and mean no disrespect by our choice of language.

³ See generally MARYLAND SEXUAL ASSAULT EVIDENCE KIT POLICY AND FUNDING COMMITTEE, ANNUAL REPORT (2019), available at

http://www.marylandattorneygeneral.gov/Pages/Groups/2019_SAEK_Committee_Annual_Report.pdf.

⁴ *Id.* at 3–4.

⁵ This report also contains information regarding the Committee’s activities in fiscal year 2020.

02.08.01.05 of the Code of Maryland Regulations (“COMAR”); and (4) developed additional recommendations to enhance the collection and testing of SAEKs.⁶

I. Legislative Update

The SAEK Committee was very active during the 2019 legislative session. In January, the Committee hosted an informal legislative briefing in Annapolis to update legislators regarding the Committee and its recent activities. The Committee was subsequently asked to conduct a formal briefing before the House Judiciary Committee on March 3, 2019. Committee members discussed the creation of the SAEK Committee, its recommendations and accomplishments, and the Committee’s 2019 legislative priorities.

Throughout the legislative session, Committee members submitted oral and written testimony and lobbied legislators in support of the Committee’s legislative priority bills. Ultimately, the Maryland General Assembly passed three of the Committee’s five priority bills. Each of these bills are outlined below.

A. Uniform Statewide Testing Criteria

Early on, the Committee identified inconsistent SAEK testing policies as a principal concern and recommended the creation of uniform statewide SAEK testing criteria in its first annual report.⁷ This recommendation was in response to OAG’s 2017 audit, which found that law enforcement agencies (“LEAs”) in Maryland had varying reasons for not testing kits, including but not limited to: prosecutor declined to prosecute; the identity of the suspect was known; victim

⁶ The SAEK Committee met four times this year: January 17th, May 30th, September 25th, and December 10th. Each of the Subcommittees also met several times throughout the year. Information about SAEK Committee meetings is available on the Committee’s webpage, which can be accessed using this link: <http://www.marylandattorneygeneral.gov/Pages/Groups/SAEK.aspx>.

⁷ See *supra* note 3, at 21–22.

refused to cooperate; suspect admitted to consensual sex; and the allegations were deemed unfounded.⁸ House Bill 1096, Chapter 34 (2019)⁹ sponsored by Delegate Shelly Hettleman, codified the Committee’s recommendation by establishing uniform testing criteria and eliminating policy inconsistencies among jurisdictions.

Specifically, HB1096/SB767 creates a broad presumption to test all kits which contain evidence that is eligible to be uploaded into the Federal Bureau of Investigation’s Combined DNA Index System (“CODIS”)—a national database that stores DNA profiles which can be searched to solve and link crimes.¹⁰ All kits must be submitted to a forensic laboratory for testing unless:

- (1) There is clear evidence disproving the allegations of sexual assault.
- (2) The facts alleged could not be interpreted to violate the crimes of (1) assault, reckless endangerment, or related crimes; (2) sexual crimes; (3) abuse and other offensive conduct; or (4) prostitution or related crimes.
- (3) The victim declines to give consent for analysis.
- (4) The suspect’s profile was previously uploaded into CODIS as a convicted offender for a qualifying offense and the suspect pled guilty in the current sexual assault case.¹¹

Exceptions (1) and (2) are related to cases that meet the definition of “unfounded” according to the Federal Bureau of Investigation’s (“FBI”) Uniform Crime Report standards. Unfounded cases involve complaints that are deemed “false or baseless” by investigating authorities.¹² A “false or baseless” allegation is one where the investigation reveals that no crime has occurred or was

⁸ OFFICE OF THE ATTORNEY GENERAL, STATEWIDE ACCOUNTING OF UNTESTED SEXUAL ASSAULT EVIDENCE KITS IN THE STATE OF MARYLAND 11, 20–21 (2017), *available at* http://www.marylandattorneygeneral.gov/Reports/Rape_Kit_Report.pdf.

⁹ This bill was cross-filed at Senate Bill 767, Chapter 33 (2019), by Senator William Smith.

¹⁰ Nancy Ritter, *Solving Sexual Assaults: Finding Answers Through Research*, NIJ (June 17, 2012), <https://nij.ojp.gov/topics/articles/solving-sexual-assaults-finding-answers-through-research#sidebar-codis-the-national-dna-database>.

¹¹ MD. CODE, Crim. Proc. § 11-926(e)1–4 (2020).

¹² FEDERAL BUREAU OF INVESTIGATION, CRIMINAL JUSTICE INFORMATION SERVICES DIVISION, SUMMARY REPORTING SYSTEM USER MANUAL 111 (2013), *available at* <https://ucr.fbi.gov/nibrs/summary-reporting-system-srs-user-manual>.

attempted.¹³ Exception (1), which excludes from the testing requirement cases where there is clear evidence disproving the allegation of sexual assault, denotes false claims. Exception (2), which excludes cases where the facts alleged could not be interpreted to violate relevant criminal statutes, denotes baseless claims. Evidence associated with unfounded cases are not eligible to be entered into CODIS. As such, the new testing criteria excludes these kits from analysis.

Exception (3) refers to Jane Doe/Anonymous kits—where the victim receives a sexual assault forensic exam (“SAFE”) without reporting the crime to law enforcement, thereby deciding not to participate in the criminal justice process. There is broad consensus among advocates and other stakeholders that Jane Doe/Anonymous kits should not be tested without the victim’s consent.¹⁴ The new testing criteria rightfully declines to test a SAEK if the victim does not consent to analysis.¹⁵

Finally, exception (4) acknowledges the limited resources of laboratories by excluding specific circumstances where law enforcement is confident that a suspect’s DNA has already been entered into CODIS for comparison against other samples. Conserving resources is important due to the high costs associated with testing kits.¹⁶ This exception ensures that funding is used to target kits with offender DNA that is not currently in CODIS.

In addition to establishing the testing criteria, HB1096/SB767 also makes several important enhancements to SAEK policies. They include:

¹³ *Id.*

¹⁴ See NATIONAL CENTER FOR VICTIMS OF CRIME, UNREPORTED/ANONYMOUS SEXUAL ASSAULT KITS, <https://victimsofcrime.org/our-programs/past-programs/dna-resource-center/untested-sexual-assault-kits/unreported-sexual-assault-kits> (last visited Nov. 26, 2019).

¹⁵ Crim. Proc. § 11-926(e)(3).

¹⁶ *Supra* note 3, at 28; The Maryland State Police, for example, reports that it costs between \$3,000 and \$4,000 to test a SAEK thoroughly.

- **Victim Notification:** If a victim wishes to remain anonymous and declines to file a criminal complaint, LEAs must inform the victim that he/she may activate the case at a later date.¹⁷
- **Utilize Victim Services:** LEAs should utilize sexual assault crisis programs or other qualified community-based sexual assault service organizations to provide services and support to victims.¹⁸
- **Timely Testing:** A forensic laboratory must complete screening, testing, and analysis in a timely manner.¹⁹
- **Reporting on Timeframes:** To gain a better understanding of the turnaround time for SAEK testing, forensic laboratories must report annually to the SAEK Committee regarding the time it takes to complete testing.²⁰
- **Independent Review Process:** In recognition of the concerns raised about “unfounded” kits, the General Assembly directs the SAEK Committee to establish an independent process to review and make recommendations regarding a decision of a LEA not to test a SAEK.²¹

Perhaps most important among these additional provisions is the requirement that the Committee establish an independent review process of the decision not to test a kit. This mandate recognizes the widespread and documented concerns regarding the misuse of “unfounded,” “false,” and “baseless” designations and ensures that victims will be able to request an independent review of such determinations.²² The SAEK Committee has established a review process that allows victims

¹⁷ Crim. Proc. § 11-926(f)(1).

¹⁸ Crim. Proc. § 11-926(g)(2).

¹⁹ Crim. Proc. § 11-926(h)(1)(ii).

²⁰ Crim. Proc. § 11-926(h)(2).

²¹ Crim. Proc. § 11-927(e)(viii).

²² See e.g., Alex DeMetrick, *Changing the Culture of Rape Investigation*, The Baltimore Sun (Jan. 4, 2017), <http://www.baltimoresun.com/news/opinion/editorial/bs-ed-rape-kits-20170104-story.html> (explaining that “individual police agencies in Maryland appear to differ widely in how often they consider cases “unfounded.”); see also Alex Campbell and Katie J.M. Baker, *This Police Department Tosses Aside Rape Reports When A Victim Doesn't Resist “To The Best Of Her Ability,”* BuzzFeed (Sept. 8, 2016), <https://www.buzzfeednews.com/article/alexcampbell/unfounded> (“These departments routinely mark an extraordinary percentage of rape allegations as false or baseless...It is implausible that this many victims are making up rape allegations, experts say, raising crucial questions about how seriously police treat sexual assault claims — and how likely they are to be biased against women who report them.”).

to seek a second opinion and balances the appropriate level of oversight against the independence of LEAs. The Committee’s proposed review process is outlined in Section IV of this report.

In December, the SAEK Committee published a Frequently Asked Questions document to aid LEAs in implementing the new testing criteria. This guidance document is available on the Committee’s website and is attached to this report as Appendix A.

B. Rape Kit Testing Grant Fund

Recognizing the increased costs associated with expanding the testing criteria, the Committee recommended that the “General Assembly allocate sufficient funding to ensure that the...criteria does not unduly burden individual law enforcement agencies.”²³ Consistent with the Committee’s recommendation, Delegate Hettleman and Senator Sarah Elfreth introduced House Bill 1268 and Senate Bill 569, respectively, establishing the Rape Kit Testing Grant Fund.²⁴ LEAs can apply to use the funds for “equipment, supplies, personnel, and outsourcing” to test kits.²⁵ The Fund will be distributed by the Governor’s Office of Crime, Control and Prevention (“GOCCP”) in accordance with an LEA’s number of sexual assault investigations in the prior fiscal year and is designed to supplement the funding that LEAs already appropriate for testing.²⁶

The Maryland General Assembly directed \$3.5 million of the State’s FY2020 budget to the Grant Fund.²⁷ In October 2019, after Governor Hogan agreed to release the funding, GOCCP

²³ *Supra* note 3, at 28.

²⁴ H.B. 1268, Chapter 508 (2019); S.B. 569, Chapter 509 (2019)

²⁵ *Id.*

²⁶ *Id.*

²⁷ GOCCP, *Governor’s Office of Crime Control and Prevention Releases Notice of Funding Availability for Sexual Assault Kit Testing Grant* (Oct. 21, 2019), <http://goccp.maryland.gov/governors-office-of-crime-control-and-prevention-releases-notice-of-funding-availability-for-sexual-assault-kit-testing-grant/>.

issued a Notice of Funding Availability for the Grant Fund. Applications were due on November 18th and are expected to be awarded by December 2019.²⁸

C. HIV nPEP Pilot Program

Human Immunodeficiency Virus (“HIV”) non-occupational post-exposure prophylactic (“nPEP”) treatment is a form of medical intervention designed to prevent HIV infection after exposure to the virus.²⁹ Timely administration of the full 28-day course of nPEP treatment is necessary to effectively protect against HIV.³⁰ In its 2018 Preliminary Recommendations, the Committee recommended that sexual assault victims receive the full 28-day course of nPEP medication free of charge.³¹ The Committee expanded its recommendation in its first annual report by setting forth three funding strategies to help the State estimate and decrease the cost of providing the full nPEP regimen.³² One of these funding strategies included establishing a three-year pilot program.³³

Senate Bill 657, Chapter 431 (2019), and House Bill 1249 (2019),³⁴ sponsored by Senator Nancy King and Delegate Kirill Reznik, respectively, codified the Committee’s recommendation

²⁸ GOCCP, *FY 2020 Sexual Assault Kit Testing Grant Program (SAKT): Notice of Funding Availability Application Guidance Kit*, <http://goccp.maryland.gov/wp-content/uploads/SAKT-FY2020-NOFA.pdf> (last visited Dec. 2, 2019).

²⁹ If prescribed and started within 72 hours of the sexual assault, HIV nPEP can often prevent the contraction of HIV for patients who meet the criteria for nPEP treatment. See MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE & MARYLAND INSTITUTE OF EMERGENCY MEDICAL SERVICES SYSTEMS, *IMPROVED ACCESS TO SEXUAL ASSAULT MEDICAL FORENSIC EXAMINATIONS IN MARYLAND 15* (2015), available at <https://phpa.health.maryland.gov/Documents/Sexual-Assault-Forensic-Exam-Report-2015.pdf>;

³⁰ *HIV Post-Exposure Prophylaxis*, OH DEP’T. OF HEALTH, <https://www.odh.ohio.gov/-/media/ODH/ASSETS/Files/health/SADVP/Ohio-Protocol/HIV-Post-Exposure-Prophylaxis-March-14-2018.pdf?la=en2018.pdf?la=en> (last visited November 15, 2018) (“Incomplete PEP treatment presents a theoretical risk to the victim”).

³¹ MARYLAND SEXUAL ASSAULT EVIDENCE KIT POLICY AND FUNDING COMMITTEE, *PRELIMINARY RECOMMENDATIONS 6* (2019), available at http://www.marylandattorneygeneral.gov/Pages/Groups/SAEK_Committee_Preliminary_Recommendations_April_2018.pdf.

³¹ *Id.* at 3–4.

³² *Supra* note 3, at 26.

³³ *Id.*

³⁴ H.B. 1249 (2019) as vetoed by the Governor as duplicative.

by creating a three-year pilot program to fund the full-course of nPEP treatment “at the request of the victim and as prescribed by a health care provider.”³⁵ The pilot program went into effect October 1, 2019, and is being administered by GOCCP. The program is intended to ensure that victims who meet the criteria for nPEP treatment are provided the full course of medication and follow-up care with no out of pocket expense.³⁶ The total amount of payments made by the Criminal Injuries Compensation Board under the pilot program may not exceed \$750,000.³⁷ Furthermore, due to the challenges associated with estimating the cost of providing this treatment for all qualifying victims, GOCCP must track and report the following information:

- (1) The number of patients that qualified to receive [nPEP] under the pilot program.
- (2) The number of patients that chose to receive [nPEP].
- (3) The total amount reimbursed to providers for the [nPEP].
- (4) The cost of the [nPEP] and follow-up care provided under the pilot program.³⁸

This information will assist the General Assembly in implementing a permanent reimbursement program consistent with the Committee’s recommendation.

Members of the Maryland Hospital Association (“MHA”) and the Maryland Coalition Against Sexual Assault (“MCASA”) led the effort to secure the passage of this legislation. MHA and MCASA are also working closely with GOCCP and the Maryland Department of Health (MDH) to facilitate statewide implementation. The objective is to construct a protocol that will provide guidance to healthcare providers that dispense nPEP to victims of sexual assault.

³⁵ S.B. 657, Chapter 431 (2019).

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

While all entities involved are committed to performing their respective duties to ensure that this program is fully functional, there are some aspects of the program that are currently under consideration:

- **Where will the HIV nPEP medication be dispensed?**

GOCCP, MCASA, MHA, and MDH are exploring a number of potentially viable options that include inpatient and outpatient pharmacy dispensing. The most important consideration is lessening the burden for sexual assault victims to obtain the medication.

- **How will the nPEP medication be dispensed?**

GOCCP, MCASA, MHA, and MDH have been meeting with hospitals and retail pharmacies to determine the best method to dispense the medication. One consideration is to provide nPEP when the victim is discharged from the hospital using the hospital's inpatient or outpatient pharmacies to properly dispense the medication. Another option is for Maryland hospitals to partner with commercial pharmacies, such as Walgreens, that already have nPEP in stock. When determining the best method to dispense nPEP medication, the State must consider the rules and regulations governing dispensing, packing limitations, and cost.

- **How will follow-up care be addressed?**

GOCCP's Sexual Assault Reimbursement Unit ("SARU") will pay for follow-up care following a sexual-assault-related incident. However, current regulations do not clarify which medical services and/or testing are covered under the pilot program. There is also no protocol in place to reimburse additional healthcare providers that the victim may be referred to for follow-up testing and care.

- **How will the legislatively mandated data be collected?**

GOCCP modified the SARU reimbursement forms submitted by hospitals and other health care providers to ensure that the required data related to nPEP reimbursement is collected. This form can be reviewed on an ongoing basis to determine pilot objectives, outcomes and associated costs. The form will also inform future decisions regarding implementing a permanent reimbursement program.

- **How will GOCCP notify medical providers and pharmacies about the protocol?**

GOCCP, in partnership with MHA, will produce a webinar that will be utilized as a training tool for every entity involved in providing services to sexual assault

victims. This tool will also host an extensive list of Frequently Asked Questions (“FAQs”) that will address the most common inquiries from medical facilities, pharmacies, and all victim services organizations that provide services to victims of sexual assault-related incidents.

GOCCP, MHA, MCASA, and MDH are still working to resolve these issues. In the interim, GOCCP has indicated that it will process any nPEP claims that meet the designated criteria.

D. Unsuccessful Legislation

Two of the Committee’s priority bills for 2019 were not successful. House Bill 372/Senate Bill 369 sought to enact a “Notice & Demand” statute governing the chain of custody of DNA evidence.³⁹ The bills would permit prosecutors to introduce DNA evidence and establish a DNA profile without calling numerous live witnesses solely to establish the chain of custody. This would promote efficiency by avoiding the testimony of low-level lab technicians whose testimony add no substantive value to the proceeding. It would also preserve resources by ensuring that DNA analysts and law enforcement officers are only required to appear and testify regarding contested matters. The legislation provided for the interest of victims by shortening the length of trials, which cause long waiting periods for victims who oftentimes remain secluded, reliving the trauma, waiting for justice. The bills also considered the rights of the defendant by allowing the defense to require the presence of all witnesses if desired. The Committee remains committed to continuing its advocacy for this legislation.

The Committee also supported House Bill 1248/Senate Bill 933 which sought to protect the privacy of victims and increase access to sexual assault forensic exams (“SAFEs”). The legislation would preclude medical personnel from providing the victim’s medical chart, a

³⁹ In order to admit physical evidence during trial, the offering party must establish the chain of custody (i.e. account for its handling from the time it was seized until it is offered in evidence). *See Lester v. State*, 82 Md. App. 391, 394 (1990).

narrative description of the alleged sexual assault, as well as any pictures of the victim to the Criminal Injuries Compensation Board when seeking reimbursement for the SAFE. Furthermore, the legislation ensures that the time period within which SAFEs must be collected are consistent with current forensic medical standards. In its previous publications, the Committee advised that “[r]ecent advancements in forensic science have extended the window that DNA can be collected from a woman’s cervix to at least nine days after the assault and potentially up until the victim’s next menstrual cycle.”⁴⁰ Under current policies, medical personnel are only reimbursed for SAEK samples collected within five days after the sexual assault.⁴¹ HB1248/SB933 would extend the collection timeframe to at least 15 days after the sexual assault. During session, HB1248 passed in the House, but unfortunately stalled in the Senate. Delegate J. Sandy Bartlett, a member of the Committee and one of the bill’s primary sponsors, plans to introduce a similar bill during the 2020 legislative session. The Committee intends to support Delegate Bartlett in this endeavor.

II. SAKI Grant Update

At the conclusion of the 2019 legislative session, the Committee began to take steps toward implementing the Sexual Assault Kit Initiative (“SAKI”) grant. SAKI is a federal grant program administered by the U.S. Department of Justice’s Bureau of Justice Assistance (“BJA”).⁴² BJA provides funding to reduce the number of untested kits nationwide and help jurisdictions implement best practices and comprehensive reform in the handling of sexual assault cases.⁴³ In September 2018, Maryland was awarded \$2.6 million in SAKI grant funding to: (1) conduct a

⁴⁰ PATRICIA SPECK & JACK BALLANTYNE, POST-COITAL DNA RECOVERY STUDY 77–80 (2015), *available at* <https://www.ncjrs.gov/pdffiles1/nij/grants/248682.pdf>.)

⁴¹ *See* COMAR 10.12.02.03(B)(1)(a).

⁴² *Bureau of Justice Assistance Sexual Assault Kit Initiative*, BUREAU OF JUSTICE ASSISTANCE, https://www.bja.gov/ProgramDetails.aspx?Program_ID=117 (last visited Nov. 26, 2019).

⁴³ *Id.*

statewide inventory; (2) test a portion of the unsubmitted kits; (3) establish a statewide tracking system; and (4) provide victim services.

The grant is being administered by GOCCP and overseen by OAG. OAG is also responsible for conducting the statewide inventory of SAEKs required by BJA as a condition to accessing the grant funds. The Maryland State Police Forensic Sciences Division (“MSP”) is facilitating the process of testing kits and uploading qualifying DNA into CODIS and MCASA is developing and implementing victim notification policies. The SAEK Committee is selecting a tracking system and will continue to develop SAEK policies that are consistent with the goals of the grant.

The Committee recently met with representatives from RTI International—the SAKI Training and Technical Assistance Team (“SAKI TTA”) who provide support to SAKI grantees. SAKI TTA conducted a two-day training on the best practices regarding testing kits under the grant and notifying sexual assault victims of test results. The Committee used much of what was taught during the training to further its work under the grant.

A. SAKI Grant - Inventory

The statewide SAKI inventory must include all unsubmitted⁴⁴ kits that were obtained by an LEA on or before April 30, 2018—the month when Maryland applied for SAKI grant funding. In preparation for the inventory, OAG interviewed and hired six investigators to travel to each law

⁴⁴ An unsubmitted SAEK includes all SAEKs that have not been submitted to a forensic laboratory for testing regardless of the reason for not testing the kit.

enforcement agency in possession of one or more unsubmitted SAEKs to capture all data required under the grant.⁴⁵

In March 2019, members of the Committee conducted a training for the investigators. The training covered quality control and quality assurance when handling DNA evidence. The investigators also learned about the importance of DNA evidence in sexual assault cases and how to properly locate and document the inventory data elements.

OAG decided to conduct the inventory in four phases, dividing the State into geographical regions. The inventory started with the jurisdictions that possess the largest numbers of unsubmitted SAEKs and ended with the agencies who reported possessing smaller numbers of unsubmitted SAEKs.

On March 20, 2019, the investigators began the inventory at the Montgomery County Police Department (“MCPD”). To date, they have inventoried over 6,000 unsubmitted kits and visited 50 different LEAs. The LEAs who reported having kits subject to the inventory⁴⁶ are listed below:

Agencies	
1	Aberdeen Police Department
2	Allegany County Sheriff's Office
3	Annapolis City Police Department
4	Anne Arundel County Police Department
5	Baltimore County Police Department

⁴⁵ The investigators documented the following data elements for the SAKI inventory: (1) Date the SAEK was collected; (2) Date SAEK was obtained by the law enforcement agency; (3) Date of the offense; (4) Age of the victim; (5) Law enforcement incident number (or any other unique identifiers); (6) Agency in possession of the SAEK; (7) Location where the SAEK is stored (e.g. evidence room, offsite property storage facility); and (8) Reason why the SAEK was not submitted for testing (if attainable).

⁴⁶ Kits that are subject to the inventory include all unsubmitted kits that were obtained by an LEA on or before April 30, 2018.

Agencies Cont.	
6	Baltimore Police Department
7	Bel Air Police Department
8	Berlin Police Department
9	Cambridge Police Department
10	Carroll County Sheriff's Office
11	Cecil County Sheriff's Office
12	Charles County Sheriff's Department
13	Chestertown Police Department
14	Crisfield Police Department
15	Cumberland Police Department
16	Denton Police Department
17	Dorchester County Sheriff's Office
18	Easton Police Department
19	Elkton Police Department
20	Frederick County Sheriff's Office
21	Frederick City Police Department
22	Fruitland Police Department
23	Garrett County Sheriff's Office
24	Greenbelt Police Department
25	Hagerstown Police Department
26	Harford County Sheriff's Office
27	Havre de Grace Police Department
28	Howard County Police Department
29	Hurlock Police Department
30	Hyattsville City Police Department
31	Maryland State Police
32	Montgomery County Police Department
33	New Carrollton City Police Department
34	Ocean City Police Department
35	Pocomoke City Police Department
36	Prince George's County Police Department
37	Queen Anne's County Sheriff's Office
38	Salisbury Police Department

Agencies Cont.	
39	Salisbury University Police Department
40	St. Mary's County Sheriff's Office
41	St. Michaels Police Department
42	Takoma Park Police Department
43	Talbot County Sheriff's Office
44	Thurmont Police Department
45	UMES Department of Public Safety
46	University of Maryland Baltimore County Police
47	University of Maryland Police
48	Washington County Sheriff's Office
49	Wicomico County Sheriff's Office
50	Worcester County Sheriff's Office

Although the inventory is not yet complete, preliminary data indicates that about 84% of the unsubmitted kits are in the custody of eight LEAs. These agencies serve the most populated counties and cities in Maryland: (1) Anne Arundel County Police Department; (2) Baltimore County Police Department; (3) Baltimore Police Department; (4) Charles County Sheriff's Department; (5) Frederick City Police Department; (6) Howard County Police Department; (7) Prince George's County Police Department; and (8) Montgomery County Police Department. The remaining 16% of unsubmitted kits are dispersed among the 42 other jurisdictions.

While conducting the inventory, OAG discovered that some unsubmitted SAEKs were housed at local hospitals for various reasons, including improper jurisdiction (i.e. the kit was collected in a different jurisdiction than where the crime occurred and the proper LEA did not respond to requests to collect the kit). Investigators contacted all Maryland hospitals who conduct SAFE Programs (i.e. SAFE Programs) to ensure that they do not possess any unsubmitted SAEKs for the time period specified under the grant. Five SAFE Programs were in possession of unsubmitted

kits. OAG inventoried the kits and are currently working with the hospitals, MCASA, and MHA to ensure that these kits are transferred to the correct LEA in compliance with State law.⁴⁷

Currently, only a few remaining LEAs have incomplete inventories, wherein the LEA must provide outstanding inventory data. At the direction of the SAKI TTA, OAG is working with LEAs to ensure that their data also includes the number of partially tested kits.⁴⁸ Once the inventory data is complete, OAG will submit each phase of the inventory for certification in order to access the additional grant funding. BJA releases 25% of the total grant amount to grantees to conduct an inventory and lay the groundwork for implementing the grant. Release of the remaining funds (to be used for SAEK testing, a statewide tracking system, and victim services) is conditioned upon completion of the inventory and approval of the inventory by BJA.

B. SAKI Grant – Testing

Testing under the SAKI grant will begin after the inventory is certified. MSP negotiated a contract with Bode Technology to outsource testing at a rate of \$1,000 per kit. This contract is available for use by all CODIS participating laboratories within Maryland. In September 2019, MSP hosted a meeting with each Maryland forensic laboratory to advise them of the existence of the Bode contract and provide instruction about how kits will be submitted to Bode for testing.

⁴⁷ MD. CODE, Crim. Proc. § 11-926(d)(1)(i) (2017) (“A sexual assault evidence collection kit shall be transferred to a law enforcement agency...by a hospital or a child advocacy center within 30 days after the exam is performed.”); COMAR 02.08.01.04(A)(1). OAG has proposed amendments to COMAR to improve compliance with this requirement. *See* Appendix D.

⁴⁸ Partially tested kits are “kits that received serology-only testing, or that were previously tested for DNA with antiquated technology (e.g., RFLP or DQAlpha) that prevented upload into CODIS...These types of partially tested SAKs may hold valuable forensic evidence for sexual assault cases.” SAKI, *SAKI Site Inventory Guidance*, SAKI TTA, https://sakitta.org/resources/docs/SAKI_Site_Inventory_Guidance.pdf.

C. Victim Notification

Once testing commences, MCASA will begin to provide victim services under the SAKI grant. To prepare for this endeavor, MCASA hired a full-time SAKI Project Manager to facilitate victim outreach and manage the victim advocates and crime victim rights attorneys who will provide services under the grant.

Thus far, the MCASA SAKI Project Manager has developed a victim-centered and trauma-informed victim notification protocol to ensure that law enforcement and victim advocates are adequately prepared to contact and interact with victims whose kits are subject to the grant. The notification protocol has two layers. The first layer is an opt-in system, which allows victims to make the first contact through an information line or email support. During this contact, the victim can outline their notification preferences including when, where, and how they want to be contacted about their case. The second layer, which is the “SAKI-initiated notification,” will be implemented for notifications in which the victim has not utilized the opt-in system. SAKI-initiated notification will be outlined in detail to ensure that any notifications are conducted in a trauma-informed and victim-centered manner while respecting the victim’s needs and concerns.

The victim-notification protocol is currently in the proposal stage. The SAEK Committee and MCASA both agree that the input of local jurisdictions is essential to guarantee successful implementation. The MCASA SAKI Project Manager arranged meetings with local Sexual Assault Response Teams (“SARTs”) throughout the State to advise them about the proposed protocol and obtain feedback.

The victim notification protocol has been well received by Maryland SARTs. MCASA will continue to work to finalize the protocol. The final victim notification protocol will reflect national

best practices and should be used by all LEAs to conduct notifications for SAEK testing in past, current, and future cases.

D. SAKI Grant – Tracking System

The Committee is responsible for recommending a tracking system that will be implemented pursuant to the SAKI grant. The Testing Subcommittee met in June, July, and August to explore the various tracking systems that are available. The Subcommittee reviewed the STACS DNA Track-Kit System, Portland’s Sexual Assault Management System (“SAMS”), Idaho’s tracking system, and Montgomery County Police Department’s tracking system. The Subcommittee also engaged other SAKI sites, like Michigan and North Carolina, which have both successfully implemented a statewide tracking system.

While the Subcommittee explored different systems, the Governor identified GOCCP as the host agency for Maryland’s tracking system. GOCCP is currently working with the Maryland Department of Information Technology to determine the technological requirements to launch and maintain a statewide tracking system. The Committee will aid GOCCP in the process of selecting and implementing the most effective and cost-efficient system.

III. Law Enforcement COMAR Reporting

Last year, OAG adopted regulations under COMAR 02.08.01.01–.05. These regulations established reporting requirements for LEAs to ensure compliance with the 20-year SAEK retention and victim notification requirements, promote accountability, and prevent the accumulation of unsubmitted kits in the future.⁴⁹ The reporting requirements can be divided into two reporting categories: law enforcement written policies and biennial reports.

⁴⁹ See COMAR 02.08.01.01–.05.

A. Law Enforcement Policies

Pursuant to Regulation 02.08.01.05, all agencies were required to provide OAG a copy of their written policies demonstrating compliance with the victim notification and retention requirements by January 6, 2019.⁵⁰ OAG sent a letter to 137 LEAs reminding them of the reporting requirements in October 2018.

To date, OAG has received updated policies from the following LEAs:

Agencies	
1	Annapolis City Police Department
2	Anne Arundel Community College
3	Anne Arundel County Police Department
4	Baltimore County Police Department
5	Baltimore Police Department
6	Bel Air Police Department
7	Brunswick Police Department
8	Calvert County Sheriff's Office
9	Cambridge Police Department
10	Charles County Sheriff's Department
11	Chevy Chase Village Police Department
12	Crisfield Police Department
13	Delmar Police Department
14	Denton Police Department
15	Dorchester Sheriff's Office
16	Easton Police Department
17	Elkton Police Department
18	Fairmont Heights Police Department
19	Frederick Police Department
20	Frostburg City Police Department
21	Frostburg State University Police Department

⁵⁰ COMAR 02.08.01.05.

Agencies Cont.	
22	Greensboro Police Department
23	Havre de Grace Police Department
24	Laurel Police Department
25	Maryland Capitol Police
26	Maryland State Police
27	Montgomery County Police Department
28	New Carrollton Police Department
29	North East Police Department
30	Oakland Police Department
31	Prince George's County Police Department
32	Ridgely Police Department
33	Rock Hall Police Department
34	Salisbury Police Department
35	Salisbury University Police Department
36	St. Mary's County Office of the Sheriff
37	St. Michaels Police Department
38	Sykesville Police Department
39	Talbot County Sheriff's Office
40	Thurmont Police Department
41	UMBC Police Department
42	Washington County Sheriff's Office
43	Westminster Police Department
44	Worcester County Sheriff's Office

Through the SAKI inventory process, OAG has identified 74 LEAs in the state that investigate sexual assault cases.⁵¹ Only 44 submitted their sexual assault policies to OAG.⁵² Of those, nearly all had updated their policies to include the new victim notification and 20-year kit retention requirements. The SAEK Committee strongly urges LEAs to update their sexual assault policies

⁵¹ See Appendix B, at Chart 1.

⁵² 53 agencies sent letters from their chief or sheriff advising that they do not investigate sexual assault cases and thus, did not have policies for handling sexual assault cases. A copy of the sample letter that was provided as an example for LEAs is attached to this report as Appendix E.

to conform to the new SAEK law and to submit them to OAG as required by COMAR. OAG will continue to remind LEAs of this reporting requirement and the status of their compliance with this regulation.

B. Biennial Reports

In addition to updating their written policies, LEAs were also required to submit reports to OAG starting on September 1, 2019, and every two years thereafter, providing the following information:

- (1) The number of sexual assault evidence collection kits in its possession as of June 30th of that calendar year;
- (2) The date each sexual assault evidence collection kit in its possession was received;
- (3) The number of sexual assault evidence collection kits tested within the prior 2 years as of June 30th of the calendar year;
- (4) The number of sexual assault evidence collection kits destroyed during the prior 2 years as of June 30th of that calendar year; and
- (5) The number of written requests received pursuant to Regulation .04D⁵³ of this Chapter during the prior 2 years as of June 30th of that calendar year.⁵⁴

In August, OAG sent an email to 137 LEAs reminding them about this reporting requirement. OAG received responses from 42 agencies. Agencies reported possessing zero to nearly 4,000 kits in total (tested and untested combined). Agencies were not required to report the number of untested kits in their possession, though a few did.⁵⁵ The agency with the highest total number of

⁵³ Under Regulation .04(D), which is COMAR 02.08.01.04(D), if a victim makes a written request to the law enforcement agency with custody of their SAEK or other crime scene evidence relating to a sexual assault, the law enforcement agency must “(1) notify the victim no later than 60 days before the date of the intended destruction of disposal of the evidence; or (2) retain the evidence for 12 months longer than the [20 year] period specified in § B of this regulation....” Law enforcement agencies must advise OAG in their biannual reports about the number of written requests they receive pursuant to Regulation .04(D).

⁵⁴ *Supra* note 50.

⁵⁵ In OAG’s newly proposed regulations, promulgated to ensure statewide compliance with the new testing criteria, LEAs will have to submit annually the number of both tested and untested kits in their possession. See Section IV below.

kits reported was Prince George's County Police Department with 3,995 kits, followed by Montgomery County Police Department with 2,276. As with OAG's 2017 audit, agencies' totals likely bear a relationship to their retention policies, with Prince George's County and Montgomery County identifying kits dated as far back as 1981 and 1979, respectively. For a summary of the data reported, see Appendix B.

IV. New Recommendations for FY2020

The SAEK Committee is organized into three Subcommittees: (1) Testing Subcommittee; (2) Availability of Exams and Shortage of Forensic Nurse Examiners ("FNE Subcommittee"); and (3) Funding Subcommittee. Throughout FY2019, the Subcommittees met several times to develop new recommendations, fulfill legislative mandates stemming from new legislation, and complete tasks relevant to implementation of the SAKI grant. This year, many of the Subcommittees' recommendations do not require supplementary funding beyond what has already been allocated. As such, the Funding Subcommittee has not developed any new recommendations. The following new recommendations and policies are put forth by the Testing Subcommittee and the Availability of Exams and Shortage of Forensic Nurse Examiners Subcommittee ("FNE Subcommittee").

A. Testing, Retention, Tracking, and Victim Notification

Many of the Committee's tasks for FY2019 involved SAEK testing. Consequently, the Testing Subcommittee led the discussions establishing these recommendations and policies. The Subcommittee focused on three areas: (1) developing the independent review process required by the new testing criteria; (2) establishing the order in which kits will be tested and the protocol for testing kits under the grant; and (3) updating COMAR regulations and reporting requirements to ensure compliance with the 2019 changes to SAEK policies.

1. Independent Review Process

As discussed above, the SAEK Committee was required to develop an independent review process of law enforcement determinations not to test a SAEK under the new testing criteria.⁵⁶ To fulfill this obligation, the Testing Subcommittee developed the “Untested Kit Review,” which will be formalized by OAG via regulations.⁵⁷ OAG submitted the proposed regulations to the Maryland Register for publication in January 2020.

Under the Untested Kit Review process, when law enforcement decides not to test a kit, the victim, victim’s advocate, a member of the SAEK Committee, or a member of the SART where the alleged assault occurred may request a review of that determination. The review process will be a two-tiered system, with the first review conducted by the local SART, if the local SART includes representation from the following disciplines:

- Forensic Nurse Examiner providing services at a local SAFE program or other qualified health care provider from the local hospital;
- Local Law Enforcement
- Local States Attorney’s Office
- Local certified Rape Crisis Center
- Maryland Coalition Against Sexual Assault
- Crime Lab, if available
- Crime Victim Rights Attorney, if available⁵⁸

The above members represent the minimum requirements for SART membership and required participants in an Untested Kit Review. The local SART may expand the case review, within reason, to include other members.

⁵⁶ Crim. Proc. § 11-927(e)(viii).

⁵⁷ See Appendix D.

⁵⁸ MCASA and the FNE Subcommittee assisted the Testing Subcommittee in identifying this core SART membership which is based on best practices.

When the local SART issues its recommendation, the victim, victim’s advocate, a member of the Committee, or a member of the local SART may request a subsequent review by the SAEK Committee. In jurisdictions where there is not a functioning SART, the victim or victim’s advocate may submit a request for review directly to the Committee.

The SAEK Committee’s review and determination will serve as a recommendation. The LEA retains authority to make and maintain all testing determinations in accordance with the law.

Prior to finalizing the review process, SAEK Committee members visited eighteen local SARTs⁵⁹ to advise them of the proposed review process, obtain feedback, and answer questions.⁶⁰ All of the SARTs were agreeable to the review process and offered feedback that was reviewed by the Committee and incorporated into the review process guidelines.

To assist local SARTs in implementing the review process, the Testing Subcommittee (with assistance from the FNE Subcommittee) developed “Guidelines for Reviewing Law Enforcement Agency’s Determination Not to Test a Kit.” These guidelines outline the parameters of the review process and also includes a case review form that should be used during the review. The form reflects best practices and if executed correctly, ensures that each case receives adequate consideration. The guidelines document is attached to this report as Appendix C.⁶¹

⁵⁹ This far, the SAEK Committee has visited the following SARTs: (1) Allegany County; (2) Anne Arundel County; (3) Baltimore City; (4) Baltimore County; (5) Caroline County; (6) Carroll County; (7) Cecil County; (8) Charles County; (9) Dorchester County; (10) Frederick County; (11) Harford County; (12) Kent/Queen Anne’s Counties; (13) Montgomery County; (14) Prince George’s County; (15) St. Mary’s County; (16) Talbot County; (17) Washington County; (18) Wicomico/Somerset Counties.

⁶⁰ The Committee is also scheduled to meet with additional SARTs in January and February.

⁶¹ All members of a SART which conducts Untested Kit Reviews should sign confidentiality agreements. A sample confidentiality agreement will be available on the Committee webpage in January 2020.

2. SAKI Kit Testing Order

In addition to developing a review process, the Testing Subcommittee also assisted with SAKI grant implementation by establishing the order in which kits will be tested under the grant. We anticipate that approximately \$900,000 of the current SAKI grant will be used to test kits, with the remainder going to the inventory, a statewide tracking system, and victim services. This will allow the State to test around 900 kits. Recognizing that this is only a small portion of Maryland's backlog of untested kits, the Committee has committed to continuing to seek funding until all unsubmitted kits (excluding Jane Doe/Anonymous and truly unfounded kits) have been tested.

After consultation with SAKI TTA, the Testing Subcommittee developed the following order in which kits will be tested under the SAKI grant:

- All agencies who have less than 10 untested kits will be able to submit all of their kits for testing under the SAKI grant. This will allow 22 LEAs to eliminate their backlog.
- The remaining grant funds allocated for testing will be distributed among the remaining agencies proportionate to the number of untested kits in their possession. All calculations will be based on the inventory data.
 - For example, an agency with 900 kits (out of 5,000 kits) would be able to send 18% of their kits for testing, which is equivalent to 162 kits.
- Each agency will submit kits for testing based on the date of the offense. The more recent kits will be tested first.
- Anonymous/Jane Doe kits will not be tested.
- If the offender's DNA is already in CODIS, testing is discretionary.
 - The LEA must determine if any charges were filed related to the case from which the SAKI kit was obtained. If charges were filed and it is determined that (1) there was only one offender involved in the case; (2) that offender was convicted and a final judgement was entered in the case; [and] (3) a DNA profile of that offender was obtained pursuant to Public Safety Article §2-504(a) and uploaded into CODIS, then the SAKI kit is not required to be tested.

- **Unfounded Cases:**
 - All cases previously labeled as “unfounded” should be pulled and reviewed first by the LEA.
 - If the LEA decides to change the “unfounded” designation, then the kit should be submitted for testing with all other untested kits.
 - If the LEA chooses to retain the “unfounded” designation, then the kit must be reviewed.
 - The case will first be reviewed by the local SART, if the SART includes representation from the same disciplines outlined in Section A.
 - There will be no further review if the SART unanimously agrees that the case is “unfounded.”
 - If the SART’s decision is not unanimous, then the case will be reviewed by a subset of the SAEK Committee, to include one representative from each discipline listed above.

The Testing Subcommittee also developed a testing protocol for the LEAs that outlines the proper procedure following testing:

- (1) All SAKI kits must be separately coded and submitted to Bode in accordance with the contract terms negotiated by MSP. Kits may also be tested in-house at any of the State’s forensic laboratories so long as the cost per kit does not exceed the cost negotiated under the Bode contract. All non-SAKI kits may be submitted for testing in accordance with the LEAs’ policies.
- (2) Once testing is complete, labs will notify the appropriate LEA of the result. Each LEA must designate a SAKI Grant Liaison who will be responsible for monitoring and notifying MCASA and OAG in regular intervals (at least monthly) of the results of any kit tested under the SAKI Grant.
 - The SAKI Grant Liaison must also track and report the following information to OAG:
 - Number of kits sent for testing
 - Number of kits tested to completion
 - Number of profiles uploaded to CODIS
 - Number of CODIS hits
 - Number of investigations aided
 - Number of cases charged
 - Number of convictions

- (3) MCASA will then employ the victim notification protocol developed pursuant to the SAKI Grant (and approved by the SAEK Committee).

In November 2019, the Committee held a meeting for all LEAs who possess unsubmitted kits inventoried under the SAKI grant. Nineteen law enforcement agencies sent representatives. The Committee discussed the proposed testing order and both the testing and victim notification protocols. The Committee subsequently provided the proposed testing order and protocol to those agencies who were not able to attend the meeting. The testing order and protocol will be implemented during the remainder of FY2020 and for the duration of the grant.

3. Update to COMAR Regulations

To fulfill the new legislative mandates and address inquiries received in response to the regulations adopted last year, the Committee decided to update and expand COMAR's SAEK regulations. The Committee assisted OAG in drafting regulatory language to supplement and add to Title 02 of COMAR. A complete copy of the proposed regulations is attached to this report as Appendix D.

Listed below is a summary of the proposed regulatory changes:

- (1) **Transfer of SAEKs to LEAs**—Hospitals, child advocacy centers, and other government agencies are required to transfer kits to LEAs within 30 days. LEAs which are or would be responsible for investigating the underlying sexual assault are responsible for retrieving the kit from the hospital, child advocacy center, or government agency.
- (2) **New Testing Criteria**—The new testing criteria will be incorporated into OAG regulations and will track the provisions of Section 11-926 of the Criminal Procedure Article.
- (3) **Review Process: LEA Decision Not to Test a Kit**—As previously discussed, the review process developed by the SAEK Committee will be formalized via COMAR.
- (4) **LEA Notice of Decision Not to Test**—upon the victim's request, an LEA must notify the victim of its decision not to test his/her kit within 30 days after making that decision or as soon as practicable.

(5) **Notice of Review Process**—Health care providers who perform SAFEs, must notify victims of their right to request an independent review if an LEA decides not to test their SAEK.

(6) **LEA Reporting**—LEAs are now required to submit a report to OAG every year, starting in September 2021, providing the following information:

- The number of SAEKs in its possession as of June 30th of that calendar year.
- *The number of untested SAEKs in its possession as of June 30th of that calendar year.*⁶²
- The date each SAEK was received.
- The number of SAEKs tested within the prior year as of June 30th of that calendar year.
- *The number of SAEKs not tested pursuant to each of the exceptions outlined in the testing criteria.*
- *The number of any other kits that were not tested and the reason why those kits were not tested.*
- *The number of untested kit reviews requested during the prior year as of June 30 of that calendar year;*
- *The written recommendation resulting from each of the untested kit reviews conducted during the prior year as of June 30 of that calendar year;*
- *The number of sexual assault evidence collections kits tested at the recommendation of an untested kit review;*
- The number of kits destroyed in the prior year as of June 30th of that calendar year.
- The number of written request received from victims requesting to be notified prior to the destruction or disposal of the evidence.⁶³

(7) **Forensic Lab Reporting Requirements**—Pursuant to Section 4-401 of the Public Safety Article, on or before September 2021 and every year thereafter, forensic labs must report the following information to OAG:

- The number of SAEKs tested within the prior fiscal year.
- The date the lab received each SAEK from law enforcement.
- The date that the lab prepared the report summarizing any test results for each kit.

The new regulations will help to promote compliance and consistency among jurisdictions and advance sexual assault reform in Maryland. As noted above, the proposed regulations were submitted to the Maryland Register for publication in January 2020.

⁶² The newly added reporting requirements are italicized.

⁶³ New reporting requirements are italicized.

B. Availability of Exams and Shortage of Forensic Nurse Examiners (“FNE Subcommittee”)

During FY2019, the FNE Subcommittee advanced its previous recommendations and developed new recommendations and areas of focus for FY2020. The Subcommittee previously recommended that the Maryland Board of Nursing amend its application, certification, and recertification policies for forensic nurse examiners.⁶⁴ In July, MHA orchestrated a meeting between the Board, members of the Committee, and other interested stakeholders. The Board agreed to consider the Committee’s recommendations and has since established its own Maryland Board of Nursing FNE Stakeholders Committee comprised of Board of Nursing staff members, SAFE Program Coordinators from hospitals throughout the state, MCASA, and MHA. The Board’s Committee is working to implement the SAEK Committee’s recommendation to update the FNE certification process to ensure that FNEs in Maryland receive quality training that reflects the standards provided by the International Association of Forensic Nurses and includes national best practices.

During FY2019, the FNE Subcommittee focused its efforts on addressing the standard of follow-up care and outreach victims receive after a SAFE is conducted. With the goal of ensuring that victims obtain the proper resources and feel supported, the FNE Subcommittee reached a consensus regarding the following recommendations:

- (1) SAFE Programs are encouraged to have a policy in place regarding discharge and SART services coordination. Patient follow-up should be offered to all victims, regardless of presence or absence of injury, initiation or declination of HIV prophylaxis, or their decision to remain anonymous or report the sexual assault to law enforcement.
- (2) Patient follow-up may include assessing medical status and any additional testing recommended. In addition, the SAFE Program should offer referrals to advocacy services,

⁶⁴ *Supra* note 3, at 24.

local support resources, and provide information regarding law enforcement reporting options.^{65,66}

- (3) An optimal time for follow-up contact is between 24 and 48 hours after discharge.⁶⁷ Patients may be in a traumatic state during a SAFE, which can impair their ability to retain important information. This time frame provides patients with the opportunity to determine any questions or concerns post event.
- (4) The patient's privacy and safety should be considered when determining appropriate methods and time of contact. Follow-up contact may be conducted via phone or in-person and should reflect the patient's preference. Federal and state laws regarding patient privacy must be met.
- (5) Protocol adopted by SAFE Programs should provide guidance regarding coordination of outreach between the FNE and advocate in order to minimize the number of follow-up calls patients receive. Coordination of services between disciplines is recommended.
- (6) The party responsible for conducting follow-up should be familiar with the case, the patient's confidentiality rights, and potential medical and emotional needs.⁶⁸
- (7) When available, SAFE Programs should assist in facilitating an opportunity for an anonymous consult with a law enforcement officer or Assistant State's Attorney. The law enforcement representative and Assistant State's Attorney can provide a victim with additional information regarding reporting options, investigation procedures, and criminal justice related considerations.

The FNE Subcommittee is willing to consult with SAFE Programs that wish to obtain guidance to implement the above referenced recommendations.

In addition to these new recommendations, drug-facilitated sexual assault ("DFSA") remains a prevalent concern for society and an issue that the Committee is committed to address. In 2019, MCASA, and FNE Subcommittee members, collaborated with FBI Chief Toxicologist

⁶⁵ Office on Violence Against Women, United State Department of Justice (2013, April). *A National Protocol for Sexual Assault Medical Forensic Examiners (Adults/Adolescents)*. Washington DC (NCJ 228119).

⁶⁶ In 2019 the FNE Subcommittee submitted recommendations regarding FNE workforce support and reimbursement services. Included was a recommendation that the state clarify the definition of "follow up medical testing" as referenced in COMAR 10.12.02.05(B)(2). The FNE Subcommittee further recommended that the definition include follow up visits. The FNE Subcommittee encourages the state to provide the requested clarification and further include services provided under the SAFE Program Discharge and Sexual Assault Response Team Services Coordination.

⁶⁷ Office on Violence Against Women, United States Department of Justice, opt. cit., p. 1

⁶⁸ Office on Violence Against Women, United States Department of Justice, opt. cit., p. 1

Marc LeBeau to provide two DFSA trainings that addressed common drugs used, testing standards, and overcoming common challenges in DFSA cases. In FY2020, DFSA will again be a pressing area of focus for the FNE Subcommittee.

CONCLUSION

The Sexual Assault Evidence Kit Policy and Funding Committee continues to make substantial advancements in sexual assault reform, addressing both new and backlogged kits. In FY2019, the Committee successfully advocated for legislation that created a uniform testing criteria and established a grant fund to support SAEK testing-laws that will greatly bolster the State's ability to secure justice for victims of sexual assault. The Committee also advanced legislation creating an HIV nPEP Pilot Program that will provide sexual assault victims with full access to vital HIV prevention medication. Finally, the Committee made significant progress in developing policies to effectively and efficiently implement the current SAKI grant and is committed to seeking additional grant funding to ensure that all unsubmitted kits in the State are eventually tested. In FY2020, the Committee will continue its efforts to ensure compliance with the new testing criteria, advance the SAKI grant initiatives, improve the quality of follow-up care and resources victims receive, and establish best practices to address drug-facilitated sexual assault.⁶⁹

⁶⁹ A list of the current members of the SAEK Committee has been attached to this report as Appendix F.

Appendix

Appendix A
New SAEK Testing Criteria: Frequently Asked Questions



**Maryland Sexual Assault Evidence Kit
Policy and Funding Committee**

**NEW CRITERIA FOR TESTING SEXUAL ASSAULT EVIDENCE KITS IN
MARYLAND EFFECTIVE JANUARY 1, 2020**

FREQUENTLY ASKED QUESTIONS

Earlier this year, the Maryland General Assembly enacted [Chapter 34 \(2019\)](#) setting forth the criteria to be applied by all law enforcement agencies when determining whether to submit a sexual assault evidence kit (“SAEK”) to a forensic laboratory for analysis. Under the new law, which becomes effective January 1, 2020, a SAEK shall be submitted for testing unless:

- A. There is clear evidence disproving the allegation of sexual assault;
- B. The facts alleged, if true, could not be interpreted to violate a provision of Title 3, Subtitle 2, Title 3, Subtitle 3, Title 3, Subtitle 6, or Title 11, Subtitle 3 of the Criminal Law Article of the Maryland Annotated Code;
- C. The victim from whom the evidence was collected declines to give consent for analysis; or
- D. The suspect’s profile has been collected for entry as a convicted offender for a qualifying offense in the Combined DNA Index System (CODIS) maintained by the Federal Bureau of Investigation and the suspect has pleaded guilty to the offense that led to the sexual assault evidence collection kit.

The Sexual Assault Evidence Kit Policy and Funding Committee (“SAEK Committee”) issues the below guidance to assist law enforcement agencies and other stakeholders in successfully implementing the new law. If you have additional questions regarding the new testing criteria, please contact Zenita Wickham Hurley, SAEK Committee Chair at zhurley@oag.state.md.us.

1. To which SAEKs does the new testing criteria apply?

The new testing criteria applies to any SAEK in the possession of a law enforcement agency (“LEA”) as of January 1, 2020 for which no decision has yet been made regarding whether the kit should be tested. While this unquestionably includes any SAEK received by an LEA after January 1, 2020, it may also include SAEKs received prior to that date. Although the law does not require agencies to revisit SAEKs that they previously determined should not be tested, the SAEK Committee recommends that agencies do so to promote equal access to justice for all

victims of sexual assault.¹ Recognizing that implementation of the new testing criteria could result in increased expenditures for some jurisdictions, the legislature established a SAEK Testing Grant Fund. See <http://goccp.maryland.gov/grants/programs/sakt/> for more information.

2. What is meant by “clear evidence disproving the allegation”?

This term is meant to capture a case that would be designated as “false” under the Federal Bureau of Investigation’s (FBI) Uniform Crime Reporting (UCR) Program’s definition of “unfounded.” According to that standard, a case may only be designated as false if it is determined through investigation that no crime occurred or was attempted. For example:

A woman claimed a man attempted to rape her in his automobile. When law enforcement personnel talked to both individuals, the complainant admitted she had exaggerated and the man did not attempt to rape her. This case may be properly designated as unfounded due to false allegations.

The FBI’s UCR definition also makes clear that “the refusal of the victim to cooperate with prosecution, or the failure to make an arrest does not unfound a legitimate offense.”²

3. What is meant by “the facts alleged, if true, could not be interpreted to violate [a provision] of the Criminal Law Article”?

This term is meant to capture a case that would be designated as “baseless” under the FBI’s UCR Program’s definition of “unfounded.” Distinct from the false designation, a case is baseless when the facts alleged do not meet the elements of a crime of sexual assault. Like the false designation, a case should only be designated as baseless if it is determined through investigation that no crime occurred or was attempted. Again, a victim’s refusal to cooperate or a decision not to make an arrest or prosecute a case does not render that case unfounded.³ Law enforcement officers should work closely with their state’s attorney’s office to ensure that they understand the elements of each crime of sexual assault and stay abreast of recent changes to Maryland law (e.g., that evidence of physical resistance is no longer required to prove rape).⁴

¹ Untested SAEKs in an agency’s possession as of April 2018 are covered by the State’s 2018 federal Sexual Assault Kit Initiative (“SAKI”) grant. The testing protocol developed for SAKI kits requires that they be re-evaluated under the State’s new testing criteria. See *Annual Report*, SAEK Committee (January 2020), at 24–25.

² *Criminal Justice Information Services (CJIS) UCR Program Summary Reporting System User Manual*, U.S. Department of Justice, FBI (2013) at p. 111. The false case example has been excerpted directly from this manual.

³ See *Id.*

⁴ MD ANN. CODE, Crim. Law, §3-319.1(a) (West 2017).

4. How does a law enforcement agency determine that no crime occurred? Does that determination need to be documented in writing?

Law enforcement officers should be trained in using victim-centered and trauma-informed techniques to interview victims and in conducting thorough investigations to evaluate the evidence and determine the facts of each case.⁵ Importantly, “[a]ll reports of sexual assault should be actively investigated, regardless of the circumstances of the incident, the status of the victim, or the status of the suspect.”⁶ If, after an active and thorough investigation, a law enforcement agency determines that no crime occurred, the agency’s findings should be documented in writing in the case files. Although such documentation is not directed by law, newly proposed regulations require agencies to inform victims (upon request) whether their SAEKs will be tested and establish a process for victims to seek an independent review of an agency’s decision not to test a kit.⁷ Having a well-documented record of an unfounded determination will aid in this review process.

5. Does the new law require the testing of Jane Doe kits?

No. “Jane Doe” or “Anonymous” kits are those kits for which the victim declines to give consent for analysis. These kits are expressly exempted from testing under the new law. See Md. Ann. Code, Criminal Procedure Article, §11-926(e)(3).

6. Does the language “victim declines to give consent” mean that law enforcement must always obtain consent for analysis?

No. Maryland law does not require law enforcement to obtain a victim’s consent for testing prior to submitting a SAEK for analysis. However, Section 11-926(b) requires a health care provider to provide a victim with “information describing the laws and policies governing the testing, preservation, and disposal of a sexual assault evidence collection kit.” Consistent with this mandate, all victims receiving a SAEK exam should be made aware that Maryland’s law requires that a SAEK be submitted for testing unless they decline to consent for analysis or the case falls under one of the other three enumerated testing exceptions.

⁵ See *Preliminary Recommendations*, SAEK Committee (April 2018) at p. 1.

⁶ *National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach*, U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, (August 2017) at p. 47 (USDOJ SAEK Best Practices Report), available at <https://www.ncjrs.gov/pdffiles1/nij/250384.pdf>. For more best practices in conducting investigations of sexual assault crimes see USDOJ SAEK Best Practices Report, Chapter 4; and *Sexual Assault Incident Reports: Investigative Strategies*, International Association of the Chiefs of Police, (August 2018), (IACP Report) available at <https://www.theiacp.org/sites/default/files/all/s/SexualAssaultGuidelines.pdf>.

⁷ *Annual Report*, SAEK Committee (January 2020), at Appendix C. Chapter 34 (2019) directed the SAEK Committee to establish an independent process for reviewing any determination by a law enforcement agency not to test a kit.

7. Does the new law require that the SAEK be tested if the suspect admits the presence of DNA, but claims it was consensual?

Yes. The only exceptions to testing are outlined expressly in the statute. However, the new law provides an exemption for testing a SAEK in certain circumstances where the suspect's DNA is already in (or in the process of being uploaded to) CODIS. Specifically, a law enforcement agency is not required to submit a SAEK for testing if the suspect's profile has already been collected for entry as a convicted offender for a qualifying offense in CODIS and the suspect has pled guilty to the offense that led to the collection of the SAEK.

8. What about cases closed by exception? Or cases with arrests or convictions that have been expunged? Should the SAEKs related to those cases still be tested?

Again, the criteria for testing a SAEK is clear. Unless the case was closed or expunged for reasons that constitute an exception under the statute, the SAEK should be tested. For example, if a case was expunged because it was determined that the underlying allegations of sexual assault were false, that case should be designated "false" (unfounded) and thus is not required to be tested. In comparison, a case closed by exception due to a victim's failure to cooperate does not render a case unfounded, and thus does not fall into a testing exemption. The SAEK in that case should still be tested unless the victim has explicitly declined to consent to testing and the agency has documented this decision.⁸

⁸ Agencies are cautioned, however, that they should not pressure victims to sign waivers declining prosecution, particularly in the early stages of the investigation. *See e.g., IACP Report* at p. 5.

Appendix B
Chart 1: List of Agencies Who Investigate Sexual Assaults (Self-Reported)

Agencies Who Investigate Sexual Assault	
1	Aberdeen Police Department
2	Allegany County Sheriff's Office
3	Annapolis City Police Department
4	Anne Arundel County Police Department
5	Baltimore County Police Department
6	Baltimore Police Department
7	Bel Air Police Department
8	Berlin Police Department
9	Boonsboro Police Department
10	Brunswick Police Department
11	Calvert County Sheriff's Office
12	Cambridge Police Department
13	Caroline County Sheriff's Office
14	Carroll County Sheriff's Office
15	Cecil County Sheriff's Office
16	Centreville Police Department
17	Charles County Sheriff's Department
18	Chestertown Police Department
19	Crisfield Police Department
20	Cumberland Police Department
21	Denton Police Department
22	Dorchester County Sheriff's Office
23	Eastern Shore Hospital Center Police Department

Appendix B
Chart 1: List of Agencies Who Investigate Sexual Assaults (Self-Reported)

Agencies Who Investigate Sexual Assault Cont.	
24	Easton Police Department
25	Elkton Police Department
26	Frederick County Sheriff's Office
27	Frederick Police Department
28	Frostburg City Police Department
29	Fruitland Police Department
30	Gaithersburg Police Department
31	Garrett County Sheriff's Office
32	Greenbelt Police Department
33	Greensboro Police Department
34	Hagerstown Police Department
35	Harford County Sheriff's Office
36	Havre de Grace Police Department
37	Howard County Police Department
38	Hurlock Police Department
39	Hyattsville City Police Department
40	Kent County Sheriff's Office
41	Maryland Capitol Police
42	Maryland State Police
43	Maryland Transit Administration Police
44	Maryland Transportation Authority Police
45	MD National Capital Park Police/ Prince George's County Division
46	Montgomery County Police Department

Appendix B
Chart 1: List of Agencies Who Investigate Sexual Assaults (Self-Reported)

Agencies Who Investigate Sexual Assault Cont.	
47	New Carrollton City Police Department
48	Ocean City Police Department
49	Pocomoke City Police Department
50	Princess Anne Police Department
51	Prince George's County Police Department
52	Queen Anne's County Sheriff's Office
53	Ridgely Police Department
54	Riverdale Park Police Department
55	Rock Hall Police Department
56	Salisbury Police Department
57	Salisbury University Police Department
58	Somerset County Sheriff's Office
59	Spring Grove Health Center Police Department
60	St. Mary's County Sheriff's Office
61	St. Michaels Police Department
62	Sykesville Police Department
63	Takoma Park Police Department
64	Talbot County Sheriff's Office
65	Thurmont Police Department
66	Towson University Police Department
67	University of Maryland Baltimore County Police Department
68	University of Maryland, Baltimore Police
69	University of Maryland Eastern Shore Department of Public Safety

Appendix B
Chart 1: List of Agencies Who Investigate Sexual Assaults (Self-Reported)

Agencies Who Investigate Sexual Assault Cont.	
70	University of Maryland College Park Police
72	Westminster Police Department
73	Wicomico County Sheriff's Office
74	Worcester County Sheriff's Office

Appendix B

Chart 2: List of Agencies Who Do Not Investigate Sexual Assaults (Self-Reported)

Agencies Who Do Not Investigate Sexual Assault	
1	Anne Arundel Community College Police Department
2	Anne Arundel County Sheriff's Office
3	Baltimore City Community College Department of Public Safety
4	Baltimore City Public Schools Police
5	Baltimore City Sheriff's Department
6	Baltimore County Sheriff's Office
7	Baltimore Environmental Police
8	Berwyn Heights Police Department
9	Bladensburg Police Department
10	Boonsboro Police Department
11	Bowie State University Police Department
12	Brentwood Police Department
13	Capitol Heights Police Department
14	Cheverly Police Department
15	City of Bowie Police Department
16	City of Seat Pleasant Police Department
17	Colmar Manor Police Department
18	Coppin State University Department of Public Safety
19	Cottage City Police Department
20	Crofton Police Department
21	District Heights Police Department
22	Edmonston Police Department
23	Fairmont Heights Police Department

Appendix B
Chart 2: List of Agencies Who Do Not Investigate Sexual Assaults (Self-Reported)

Agencies Who Do Not Investigate Sexual Assault	
24	Federalsburg Police Department
25	Frostburg State University Police Department
26	Frostburg State University Police Department
27	Glenarden Police Department
28	Hagerstown Community College Police Department
29	Hampstead Police Department
30	Howard County Sheriff's Office
31	La Plata Police Department
32	Landover Hills Police Department
33	Luke Police Department
34	Manchester Police Department
35	MD- National Capital Park Police/ Montgomery County Division
36	Montgomery County Sheriff's Office
37	Morgan State University Police and Public Safety Department
38	Morningside Police Department
39	Mount Rainier Police Department
40	North East Police Department
41	Perryville Police Department
42	Prince George's County Community College Campus Police
43	Prince George's County Sheriff's Office
44	Rising Sun Police Department
45	Rockville City Police Department
46	Snow Hill Police Department

Appendix B
Chart 2: List of Agencies Who Do Not Investigate Sexual Assaults (Self-Reported)

Agencies Who Do Not Investigate Sexual Assault	
47	Sykesville Police Department
48	Taneytown Police Department
49	Towson University Police Department
50	University of Baltimore Police Department
51	University Park Police
52	Upper Marlboro Police Department
53	Washington Suburban Sanitary Commission (WSSC) Police Department

Appendix B
Chart 3: LEA Biennial Report Data

Biennial Reports		Total # of Kits as of June 30, 2019	Date Range	# of Kits Tested in prior 2 years	# of Kits Destroyed in prior 2 years	# of Written Requests Received from Victims
1	Aberdeen Police Department	35	2001-2019	4	0	0
2	Anne Arundel County Police Department	1390	1982-2019	185	0	0
3	Baltimore County Police Department	1113	1992-2019	27	5	0
4	Baltimore Police Department	1411	1995-2019	415	0	0
5	Bel Air Police Department	8	2017-2019	0	1	0
6	Berlin Police Department	22	2009-2019	0	0	0
7	Calvert County Sheriff's Office	54	2001-2019	3	1	0
8	Cambridge Police Department	94	2005-2019	3	0	0
9	Carroll County Sheriff's Office	126	2012-2019	10	0	0
10	Cecil County Sheriff's Office	60	2010-2019	4	0	0
11	Centreville Police Department	5	2001-2018	1	0	0
12	Charles County Sheriff's Department	397	1997-2019	18	1	0
13	Chestertown Police Department	22	2011-2019	0	0	0
14	Chevy Chase Village Police Department	0	N/A	0	0	0
15	Crisfield Police Department	4	2000-2013	1	0	0
16	Cumberland Police Department	35	2012-2019	3	0	0
17	Delmar Police Department	1	2016	0	0	0
18	Denton Police Department	18	2003-2019	1	0	0
19	Eastern Shore Hospital Center Police Department	0	N/A	0	0	0
20	Elkton Police Department	22	2006-2019	5	11	0
21	Frederick County Sheriff's Office	53	1998-2019	4	26	0
22	Frederick Police Department	318	1990-2019	26	84	0
23	Frostburg City Police Department	14	2007-2019	0	0	0
24	Fruitland Police Department	9	2010-2019	2	0	0
25	Gaithersburg Police Department	0	N/A	0	1	0

Appendix B
Chart 3: LEA Biennial Report Data

	Biennial Reports	Total # of Kits as of June 30, 2019	Date Range	# of Kits Tested in prior 2 years	# of Kits Destroyed in prior 2 years	# of Written Requests Received from Victims
26	Garrett County Sheriff's Office	11	2013-2019	1	0	0
27	Greenbelt Police Department	3	2017-2019	3	3	0
28	Hagerstown Police Department	52	1988-2019	7	15	0
29	Harford County Sheriff's Office	146	2002-2019	21	87	0
30	Havre de Grace Police Department	41	2001-2019	1	4	0
31	Howard County Police Department	667	1991-2019	68	0	0
32	Hurlock Police Department	4	2015-2019	1	0	0
33	Hyattsville City Police Department	58	1999-2019	0	10	0
34	Laurel Police Department	69	Not Provided	22	0	0
35	Maryland Capitol Police	0	N/A	0	0	0
36	Maryland State Police	144	1996-2019	23	6	0
37	Maryland Transit Administration Police	0	N/A	0	0	0
38	Maryland Transportation Authority Police	1	2018	0	0	0
39	Montgomery County Police Department	2276	1979-2019	560	0	0
40	New Carrollton Police Department	1	2017	0	0	0
41	Oakland Police Department	0	N/A	0	0	0
42	Prince George's County Police Department	3955	1981-2019	205	0	0
43	Princess Anne Police Department	7	2014-2019	0	11	0
44	Queen Anne's County Sheriff's Office	29	2005-2019	5	0	0
45	Ridgely Police Department	0	N/A	0	0	0
46	Riverdale Park Police Department	0	N/A	0	0	0
47	Rock Hall Police Department	0	N/A	0	0	0
48	Salisbury Police Department	106	1991-2019	5	0	0
49	Salisbury University Police Department	2	2016-2019	0	0	0
50	Spring Grove Health Center Police Department	3	2018-2019	6	0	0

Appendix B
Chart 3: LEA Biennial Report Data

Biennial Reports		Total # of Kits as of June 30, 2019	Date Range	# of Kits Tested in prior 2 years	# of Kits Destroyed in prior 2 years	# of Written Requests Received from Victims
51	St. Mary's County Sheriff's Office	118	2006-2019	5	0	0
52	St. Michaels Police Department	6	2006-2015	0	0	0
53	Talbot County Sheriff's Office	22	2001-2019	0	0	0
54	Thurmont Police Department	4	2013-2019	0	0	0
55	UMBC Police Department	4	1994-1996	0	0	0
56	University of Maryland College Park Police	11	2008-2018	1	0	0
57	University of Maryland, Baltimore Police	0	N/A	0	0	0
58	Washington County Sheriff's Office	40	2006-2019	14	0	0
59	Westminster Police Department	2	2001-2019	0	0	0
60	Wicomico County Sheriff's Office	54	1988-2018	0	0	0
61	Worcester County Sheriff's Office	9	1991-2019	1	2	0

Appendix C
Untested Kit Review Process Guidelines



**Maryland Sexual Assault Evidence Kit
Policy and Funding Committee**

**GUIDELINES FOR REVIEWING A LAW ENFORCEMENT AGENCY'S
DETERMINATION NOT TO TEST A KIT**

(January 2020)

The Maryland General Assembly directed the Sexual Assault Evidence Kit Policy and Funding Committee (the “Committee”) to establish an independent process to review a decision by a law enforcement agency not to test a sexual assault evidence collection kit.⁷⁸ Those proposed regulations (COMAR 02.08.03.01- .06), establish a two-tier review process—first by local Sexual Assault Response Teams (“SARTs”) and second, by the Committee. The Committee has developed the following guidelines to provide additional direction to SARTs and Committee members and to ensure uniform statewide implementation of the new review process.

COMAR 02.08.03.02:-3

I. Definitions

(1) “Committee” means the Maryland Sexual Assault Evidence Kit Policy and Funding Committee.

(2) “Kit” means a sexual assault evidence collection kit.

(3) "SART" means a Sexual Assault Response Team which includes at least one representative from the following professions and organizations:

- (a) Forensic Nurse Examiner providing services at a local sexual assault forensic examination program, or other qualified health care provider from the local hospital;
- (b) Local Law Enforcement Agency;
- (c) Local States Attorney’s Office;
- (d) Local certified Rape Crisis Center;
- (e) Maryland Coalition Against Sexual Assault;
- (f) Crime Lab, if available; and
- (g) Crime Victim Rights Attorney, if available.

(4) “Untested Kit Review” refers to the independent review by a SART or the Committee of a law enforcement agency’s decision not to test a kit.

⁷⁸ See Chapter 34 (2019).

Appendix C

Untested Kit Review Process Guidelines

II. Untested Kit Review by SARTs

A. When a law enforcement agency decides not to test a kit, the victim, the victim's representative, a Committee member, or a member of the SART where the alleged assault occurred, may request an Untested Kit Review.

B. The request for an Untested Kit Review must first be submitted to the SART where the alleged assault occurred, if one exists.

C. A person involved in the investigation of a sexual assault case may not participate in the Untested Kit Review for a kit related to that case.

D. The SART may request and consider case files and any other evidence it deems appropriate when conducting an Untested Kit Review.

E. The SART shall issue a written determination pursuant to an Untested Kit Review in a timely manner.

F. The SART's determination will serve as a recommendation only and is not a contested case under the Administrative Procedure Act.

G. In jurisdictions where there is not a functioning SART as defined in I(3) above, the victim, the victim's representative, a Committee member, or a member of the SART where the alleged assault occurred shall submit a request for an Untested Kit Review directly to the Committee.

Additional Guidelines:

The request to review a law enforcement agency decision not to test a kit shall be submitted in writing to a member of the SART where the alleged assault occurred. Only those SARTs meeting the membership requirements set forth in I(3) above may conduct an Untested Kit Review. The case review may be conducted by a designated subcommittee of the local SART. This subcommittee must include at least one member from each of the required professions and organizations in I(3). The law enforcement agency member must represent the agency charged with investigating the case related to the untested kit. The Crime Victim Rights Attorney participating in the SART may not be the attorney representing the victim in the case being reviewed. The certified Rape Crisis Center representative participating in the SART Untested Kit Review may not be the advocate assigned to work with the victim. When possible, the FNE that administered the SAFE should not be the FNE participating in the case review. A SART may expand the Untested Kit Review, within reason, to include other members. This may depend on the specific case being reviewed and the local practice. If a case involves a child, for example, the local child advocacy center may be an appropriate participant. A case involving a college campus may benefit from including a representative who has Title IX expertise. If a local jurisdiction uses

Appendix C

Untested Kit Review Process Guidelines

advocacy services from the hospital where the SAFE program is located, an advocate from that program should also be included.

SART membership and the process for requesting an Untested Kit Review should be available to the public and easily accessible.

All SART members should review and have a thorough understanding of the regulations and guidelines governing the Untested Kit Review process.

Although a person involved in the investigation of a sexual assault case should not be involved in Untested Kit Review related to that case, that person may be required to be available for questions. The SART may also meet with the victim, at the victim's discretion. The SART should consider only including the victim in the review process if the request has been submitted by the victim or with the victim's knowledge. If the request for the Untested Kit Review was not requested by the victim, but their participation is deemed necessary, inclusion of the victim should be done in a trauma-informed and victim-centered manner in order to minimize retraumatization.

Organizations and individuals requested to provide documents or other information to the SART in support of its Untested Kit Review, should do so promptly but no later than 30 days after receipt of the request.

Recommendations shall be determined by a majority of the SART members, with each profession/organization receiving one vote. SARTs should utilize the Untested Kit Review form developed by the Committee to memorialize its review and recommendations (See Attachment A). The form should clearly outline the reasons for the recommendation, including all evidence supporting the recommendation, and be signed by all SART members who participated in the Untested Kit Review.

SARTs should endeavor to complete their reviews and share their recommendation in writing to the requestor within 90 days of receiving the request. Recommendations by the SART shall reflect the decision of the majority of the SART members who participated in the Untested Kit Review and need not be unanimous.

A request for a second review by the Committee shall be made in writing to both the SART and the Committee, via the Committee Chair.

Upon request for a Committee review, the SART shall submit a copy of the Untested Kit Review Form and any supporting documentation to the Chair of the Committee within 15 days of receiving the request.

Appendix C

Untested Kit Review Process Guidelines

COMAR 02.08.03.04:

III. Untested Kit Review by the Committee

- A. After the SART issues its recommendation, the victim, victim's representative, or member of the SART where the alleged assault occurred may request an Untested Kit Review by the Committee.
- B. (1) The Committee shall designate a subcommittee with one Committee representative from each of the professions/organizations listed in Regulation .02B(3) of this Chapter to review the law enforcement agency's decision not to test a kit.
(2) The subcommittee shall include a representative from the Office of the Attorney General.
(3) A subcommittee member who participated in an Untested Kit Review by a SART may not participate in an Untested Kit Review of the same kit by the Committee.
- C. A person involved in the investigation of a sexual assault case may not participate in the Untested Kit Review for a kit related to that case.
- D. The Committee may request and consider case files and any other evidence it deems appropriate when conducting an Untested Kit Review.
- E. The Committee shall issue a written determination pursuant to an Untested Kit Review in a timely manner.
- F. The Committee's determination will serve as a recommendation only and is not a contested case under the Administrative Procedure Act.
- G. Upon request by the victim, the victim's representative, a Committee member, or a member of the SART where the alleged assault occurred, and in those cases where there was no Untested Kit Review by the SART, the full Committee may conduct an Untested Kit Review.

Additional Guidelines:

All Committee members participating in Untested Kit Reviews should review and have a thorough understanding of the regulations and guidelines governing the Untested Kit Review process.

Requests for the Committee to conduct an Untested Kit Review should be submitted in writing to the Committee Chair.

Although a person involved in the investigation of a sexual assault case should not be involved in Untested Kit Review related to that case, that person may be required to be available for questions. The Committee may also meet with the victim, at the victim's discretion. The Committee may request and review information not reviewed by the SART.

Appendix C

Untested Kit Review Process Guidelines

Organizations and individuals requested to provide documents or other information to the Committee in support of its Untested Kit Review, should do so promptly but no later than 30 days after receipt of the request.

Recommendations shall be determined by a majority of the Committee members, with each profession/organization receiving one vote. The Committee shall memorialize its review and determination in writing. The document should clearly outline the reasons for the recommendation, including all evidence supporting the recommendation, and be signed by all participating Committee members.

The Committee should endeavor to complete its review and share its recommendation in writing to the requestor within 90 days of receiving the request.

The Committee will consider the lack of unanimity in a SART's recommendation affirming a decision not to test a kit when conducting its Untested Kit Review.

Before issuing a recommendation contradicting a SART's review, the Committee will alert the SART, share its reasoning, and provide the SART with an opportunity to reconsider its recommendation. If the SART does not change its recommendation within 45 days of receiving the Committee's feedback, the Committee shall share its recommendation with the requestor and the law enforcement agency.

COMAR 02.08.03.05:

IV. Confidential Proceedings

- A. SART and Committee meetings held for the purpose of conducting Untested Kit Reviews are not open to the public.
- B. Information provided to, or gathered by, a SART or the Committee for purposes of conducting an Untested Kit Review are confidential.
- C. Written determinations issued by a SART or Committee are not confidential, however, any personally identifying information shall be redacted prior to release.

Additional Guidelines:

All members of a SART which conducts Untested Kit Reviews should sign confidentiality agreements. A sample confidentiality agreement will be available on the SAEK Committee's webpage in January 2020. All documents created and collected by SARTs and the Committee should be placed in the official case file upon the conclusion of the Untested Kit Review process. Duplicate documents should be shredded or otherwise destroyed in a manner which protects confidential information.

Written determinations issued by a SART or Committee are subject to disclosure and must include the reasons for the determination.

**Attachment A
Untested Kit Review Form**

**SEXUAL ASSAULT RESPONSE TEAM
CASE REVIEW**

ALL CONTENT CONTAINED IN THIS DOCUMENT IS CONFIDENTIAL

Case Number: _____ Date of Incident: _____ Case Review Date: _____

Investigating Detective/Supervisor: _____

Current Case Status (see definitions):

Unfounded:

False Baseless

Cleared by Arrest

Cleared by Exception:

Victim Prosecution

Other (i.e. administrative): _____

Reason for declining to test SAEK:

False Baseless Suspect in CODIS Jane Doe/Anonymous Victim Declined Testing

Other: _____

SART Case Review Recommendation

Recommendation:

Uphold decision not to test Submit SAEK for testing

Other: _____

How was this recommendation reached?:

Unanimously By majority

Local SART point of contact:

Name: _____

Email: _____

Phone: _____

Attachment A Untested Kit Review Form

A. Instructions

Local SARTs that wish to conduct Untested Kit Reviews must include at least one representative from the following professions and organizations:

- (a) Forensic Nurse Examiner providing services at a local sexual assault forensic examination program, or other qualified health care provider from the local hospital;
- (b) Local Law Enforcement Agency;
- (c) Local States Attorney's Office;
- (d) Local certified Rape Crisis Center;
- (e) Maryland Coalition Against Sexual Assault;
- (f) Crime Lab, if available; and
- (g) Crime Victim Rights Attorney, if available.

The Sexual Assault Evidence Kit Policy and Funding Committee recommends that this case review form be utilized by all local SARTs conducting Untested Kit Reviews. This form will ensure that each SART is considering a minimum level of information during the review process.

A final copy of this form, which includes member comments, decisions, and the recommendation of the SART, should be placed in the official case file. Any remaining copies should be returned to the appointed Coordinator to be shredded or otherwise destroyed in a manner which protects confidential information.

Upon the SARTs final recommendation, all participating members must sign the form indicating their participation in the review process. Members must also include their profession or organization in the space provided and indicate their final vote. If the case is reviewed by the SAEK Committee, the Committee will consider the lack of unanimity in a SART's recommendation affirming a decision not to test a kit when conducting its Untested Kit Review.

Upon request for a Committee Review, the SART shall submit a copy of the Untested Kit Review Form and any supporting documentation to the Chair of the SAEK Committee within 15 days of receiving the request.

B. Definitions

- **Cleared by Arrest:** A law enforcement agency may report that an offense is cleared by arrest, or solved for crime reporting purposes, when three conditions have been met. Those three conditions are as follows:
 - Arrested.
 - Charged with the commission of the offense.
 - Turned over to the court for prosecution (whether following arrest, court summons, or police notice).
- **Cleared by Exception:** Law enforcement can clear an offense exceptionally when elements beyond law enforcement's control prevent the agency from arresting and formally charging the offender. The following four conditions must be met by the

Attachment A Untested Kit Review Form

law enforcement agency in order to clear an offense by exceptional means. The agency must have:

- Identified the offender.
 - Gathered enough evidence to support an arrest, make a charge, and turn over the offender to the court for prosecution.
 - Identified the offender's exact location so that the suspect could be taken into custody immediately.
 - Encountered a circumstance outside the control of law enforcement that prohibits the agency from arresting, charging, and prosecuting the offender.
 - Examples of appropriate exceptional clearances include, but are not limited to:
 - Death of the offender
 - Victim's refusal to cooperate with the prosecution after the offender has been identified
 - Denial of extradition because the offender committed a crime in another jurisdiction and is being prosecuted for that offense.
- **Unfounded:** it is determined, through investigation, that no offense occurred nor was attempted. An unfounded complaint is *either* false or baseless.
 - **False:** a report can only be determined to be false if the evidence from the investigation establishes that the crime was not completed or attempted.
 - In order to classify a report as false there must be a thorough investigation that factually proves that a criminal offense neither occurred nor was attempted.
 - **Baseless:** a reported sexual assault that does not meet the elements of a crime
 - The following are examples in which a case may not be classified as false or baseless:
 - Insufficient evidence to prove sexual assault happened;
 - Identity of the suspect is known;
 - Suspect admitted to sex with the victim, but maintained that it was consensual;
 - Suspicions that a report is false;
 - Victim changes their account of events;
 - The State's Attorney's Office determined that a crime had been committed, but declined prosecution.
 - **Suspect in Combined DNA Index System (CODIS):** cases in which the suspect is already in the CODIS as a convicted offender, the identity of the suspect is not

Attachment A
Untested Kit Review Form

disputed, and there has been a final conviction, with all appeals having been exhausted.

- **OR** as outlined in COMAR §11-926(e)(4), the suspect's profile has been collected for entry as a convicted offender for a qualifying offense in CODIS and the suspect has pleaded guilty to the offense that led to the sexual assault evidence collection kit.
- **Jane Doe/Anonymous:** sexual assault evidence kits that are collected from a victim who does not wish to report the assault to law enforcement and engage with the criminal justice system. The victim may choose to engage with the criminal justice system at a later date. If and when the victim chooses to report the assault to law enforcement, the case is reclassified as reported and the SAEK may be eligible for testing.
- **Safety needs:** victims of sexual assault may have unique needs that need to be addressed during an investigation. These needs may directly impact a victim's ability or willingness to participate in an investigation. These needs are often, but not solely, related to cases of intimate partner violence. The safety needs of a victim may include, but are not limited to, the following:
 - Safe housing separate from the suspect
 - Access to child care not dependent on the suspect
 - Fear of suspect retaliation

B. Summary of case:

Report Date: _____ Charge(s): _____

Age/Sex of victim(s): _____ Age/Sex of offender(s): _____

Relationship between victim and suspect:

Family member Spouse/Partner Friend/Acquaintance Stranger

Other (please indicate): _____

C. First Responders

Law Enforcement

- | | | | |
|--|------------------------------|-----------------------------|----------------------------------|
| 1. Was there direct contact with the victim? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Unknown |
| 2. Is the offender known? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Unknown |
| 3. Was a suspect arrested? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> Unknown |
| 4. Were the victim's safety needs addressed? | <input type="checkbox"/> Yes | <input type="checkbox"/> No | <input type="checkbox"/> N/A |

Attachment A
Untested Kit Review Form

5. Was the victim notified and provided information regarding crime victim rights?
 Yes No Unknown
6. Date case was closed? _____

Advocacy

1. Did the victim have access to an advocate before, during, or immediately following the SAFE?:
 Yes No Unknown
2. Was an advocate present with the victim during the SAFE?
 Yes No Victim Declined Unknown

If no, please explain _____

3. Was the victim older than 17 but has a legal guardian due to disability?
 Yes No Unknown
4. Was counseling or other victim services offered to the victim?
 Yes No Unknown
5. Was an advocate utilized throughout the investigative process?
 Yes No Unknown

Health

6. Date of the SAFE: _____
7. If indications of drug-facilitated sexual assault, was a toxicology screening completed?
 Yes No Unknown
- a. If not, why not? _____
8. Was the SAEK transported to law enforcement within 30 days?
 Yes No Unknown
- a. If not, what date was the SAEK transferred to LE? _____

C. Prosecution

9. Was the case accepted for prosecution? Yes No Unknown
- a. If not, why not?

Attachment A
Untested Kit Review Form

b. If so, what charges have been filed?

c. Were any other charges considered?

D. Unfounded Cases

10. Was an investigation completed? Yes No N/A
11. Is there documentation of evidence supporting finding that reported claim is false?
 Yes No N/A
12. Is there documentation of evidence supporting finding that reported claim is baseless?
 Yes No N/A
13. Is there evidence of another crime? Yes No Unknown

E. Recommendations

- Uphold determination not to test SAEK
- Test SAEK
- Other, provide explanation (i.e. additional investigation steps need to be taken):

Is there anything that can be handled differently during future cases to improve response?

Appendix D
Title 2 COMAR Updated Regulations

TITLE 02 OFFICE OF THE ATTORNEY GENERAL

Subtitle 08 SEXUAL ASSAULT EVIDENCE KITS

02.08.01 (Chapter 1) Disposal of Rape Kit Evidence and Notification

02.08.01.00

**Title 02 OFFICE OF THE ATTORNEY
GENERAL**

Subtitle 08 SEXUAL ASSAULT EVIDENCE KITS

Chapter 01 Sexual Assault Victims' Rights — Disposal of Rape Kit Evidence and Notification

Authority: Criminal Procedure Article, §11-926(e), Annotated Code of Maryland

.03 Information Provided to Victims.

A. A health care provider that performs a sexual assault evidence collection kit exam on a victim of sexual assault shall provide the victim with:

- (1) [~~Contact~~] *If known, contact* information for the investigating law enforcement agency that the victim may contact about the status and results of the kit analysis; [~~and~~]
- (2) Written information describing the laws and policies governing the testing, preservation, and disposal of a sexual assault evidence collection kit; *and*
- (3) *Notice of the right to request an independent review of a law enforcement agency's decision not to test a sexual assault evidence collection kit.*

B. An investigating law enforcement agency that receives a sexual assault evidence collection kit, within 30 days after a request by the victim from whom the evidence was collected, shall provide the victim with:

- (1) *The law enforcement agency's decision regarding whether to send the sexual assault evidence collection kit to a forensic laboratory for analysis;*
[(1)] (2)—[(2)] (3) (text unchanged)

.04 Transfer and Destruction of Kits.

A. *Kit Transfers.*

- (1) A sexual assault evidence collection kit shall be transferred to a law enforcement agency:
[(1)] (a)—[(2)] (b) (text changed)
- (2) *A hospital or child advocacy center shall cause a sexual assault evidence collection kit to be transferred by notifying the appropriate law enforcement agency as set forth in §A(4) and (5) of this regulation.*

Appendix D
Title 2 COMAR Updated Regulations

(3) Upon notification, the law enforcement agency shall promptly send a representative to retrieve the kit.

(4) Sexual assault evidence collection kits transferred pursuant to §A(1) of this regulation shall be given to the law enforcement agency responsible for investigating the crime associated with the kit, if known.

(5) If the law enforcement agency responsible for investigating the crime associated with the kit is unknown, the kit shall be given to a law enforcement agency in the county:

- (a) Where the hospital, child advocacy center, or government agency is located; or
- (b) Where the alleged sexual assault occurred.

B.—D. (text unchanged)

Chapter 02 Sexual Assault Evidence Collection Kits — Analysis

Authority: Criminal Procedure Article, §11-926(e), Annotated Code of Maryland

.01 Criteria for Analysis.

A sexual assault evidence collection kit shall be submitted to a forensic laboratory for analysis unless:

- A. There is clear evidence disproving the allegation of sexual assault;*
- B. The facts alleged, if true, could not be interpreted to violate a provision of the Criminal Law Article, Title 3, Subtitle 2, 3, or 6, or Title 11, Subtitle 3, Annotated Code of Maryland;*
- C. The victim from whom the evidence was collected declines to give consent for analysis; or*
- D. The suspect's profile has been collected for entry as a convicted offender for a qualifying offense in the Combined DNA Index System (CODIS) maintained by the Federal Bureau of Investigation and the suspect has pleaded guilty to the offense that led to the sexual assault evidence collection kit.*

.02 Anonymous Kits.

A. If a victim of sexual assault wishes to remain anonymous and not file a criminal complaint, the victim shall be informed that the victim may file a criminal complaint at a future time.

B. If a provision of Regulation .01 of this chapter is determined to be satisfied after the submission of the victim's sexual assault evidence collection kit for analysis, testing may be terminated or not initiated.

.03 Submission to Forensic Laboratories.

A. Except as provided in Regulation .01 of this chapter, an investigating law enforcement agency that receives a sexual assault evidence collection kit shall submit the kit and all requested associated reference standards to a forensic laboratory for analysis within 30 days of receipt of the kit and all requested associated reference standards.

B. Testing by Forensic Laboratories.

(1) A forensic laboratory that receives a sexual assault evidence collection kit and all requested associated reference standards for analysis shall determine suitability and complete screening, testing, and analysis in a timely manner.

(2) Failure to complete the screening, testing, and analysis in a timely manner as required in §B(1) of this regulation may not constitute the basis for excluding the analysis or results as evidence in a criminal proceeding.

Appendix D
Title 2 COMAR Updated Regulations

.04 Use of Victim Services Organizations.

A law enforcement agency that receives a sexual assault evidence collection kit shall make use of certified sexual assault crisis programs or other qualified community-based sexual assault victim service organizations that can provide services and support to survivors of sexual assault.

.05 CODIS.

A. The eligible results of an analysis of a sexual assault evidence collection kit shall be entered into CODIS.

B. The DNA collected from a victim under this chapter may not be used for any purpose except as authorized by this subtitle.

Chapter 03 Review of Law Enforcement Decisions Not to Test a Kit

Authority: Criminal Procedure Article, §§11-926(e) and 11-927(f), Annotated Code of Maryland

.01 Scope.

This chapter sets out the procedures under which a person may request the review of a law enforcement agency's decision not to test a sexual assault evidence collection kit.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Committee" means the Maryland Sexual Assault Evidence Kit Policy and Funding Committee.

(2) "Kit" means a sexual assault evidence collection kit.

(3) "SART" means a sexual assault response team which includes at least one representative from the following professions and organizations:

(a) Forensic nurse examiner providing services at a local sexual assault forensic examination program or other qualified health care provider from the local hospital;

(b) Local law enforcement agency;

(c) Local State's attorney's office;

(d) Local certified rape crisis center;

(e) Maryland Coalition Against Sexual Assault;

(f) Crime lab, if available; and

(g) Crime victim rights attorney, if available.

(4) "Untested kit review" means the independent review by a SART or the Committee of a law enforcement agency's decision not to test a kit.

.03 Untested Kit Review by SARTs.

A. When a law enforcement agency decides not to test a kit, the victim, the victim's representative, a Committee member, or a member of the SART where the alleged assault occurred may request an untested kit review.

B. The request for an untested kit review shall first be submitted to the SART where the alleged assault occurred if one exists.

C. All SART members representing the professions and organizations listed in Regulation .02B(3) of this chapter shall participate in the untested kit review.

D. A person involved in the investigation of a sexual assault case may not participate in the untested kit review for a kit related to that case.

Appendix D
Title 2 COMAR Updated Regulations

E. The SART may request and consider case files and any other evidence it deems appropriate when conducting an untested kit review.

F. The SART shall issue a written determination pursuant to an untested kit review in a timely manner.

G. The SART's determination will serve as a recommendation only and is not a contested case under the Administrative Procedure Act, State Government Article, §10-222, Annotated Code of Maryland.

H. In jurisdictions where there is not a functioning SART as defined in Regulation .02B(3) of this chapter, the victim, the victim's representative, a Committee member, or a member of the SART where the alleged assault occurred shall submit a request for an untested kit review directly to the Committee.

.04 Untested Kit Review by the Committee.

A. After the SART issues its recommendation, the victim, victim's representative, or member of the SART where the alleged assault occurred may request an untested kit review by the Committee.

B. Subcommittee Membership.

(1) The Committee shall designate a subcommittee with one Committee representative from each of the professions or organizations listed in Regulation .02B(3) of this chapter to review the law enforcement agency's decision not to test a kit.

(2) The subcommittee shall include a representative from the Office of the Attorney General.

(3) A subcommittee member that participated in an untested kit review by a SART may not participate in an untested kit review of the same kit by the Committee.

C. A person involved in the investigation of a sexual assault case may not participate in the untested kit review for a kit related to that case.

D. The Committee may request and consider case files and any other evidence it deems appropriate when conducting an untested kit review.

E. The Committee shall issue a written determination pursuant to an untested kit review in a timely manner.

F. The Committee's determination will serve as a recommendation only and is not a contested case under the Administrative Procedure Act.

G. Upon request by the victim, the victim's representative, a Committee member, or a member of the SART where the alleged assault occurred, and in those cases where there was no untested kit review by the SART, the full Committee may conduct an untested kit review.

.05 Confidential Proceedings.

A. SART and Committee meetings held for the purpose of conducting untested kit reviews are not open to the public.

B. Information provided to, or gathered by, a SART or the Committee for purposes of conducting an untested kit review are confidential.

C. Written determinations issued by a SART or Committee are not confidential.

D. Personally identifying information shall be redacted from a written determination prior to its release.

Chapter 04 Reporting

Authority: Criminal Procedure Article, §§11-926(e) and 11-927(f) Annotated Code of Maryland

Appendix D
Title 2 COMAR Updated Regulations

.01 Reporting by Law Enforcement Agencies.

A. A law enforcement agency shall submit a copy of its written policies demonstrating compliance with this subtitle to the Office of the Attorney General within 90 days of the date this regulation goes into effect.

B. On or before September 1, 2021, and every year thereafter, a law enforcement agency shall submit the following information to the Office of the Attorney General:

(1) The number of sexual assault evidence collection kits in its possession as of June 30 of that calendar year;

(2) The number of untested sexual assault evidence collection kits in its possession as of June 30 of that calendar year;

(3) The date each sexual assault evidence collection kit in its possession was received;

(4) The number of sexual assault evidence collection kits tested during the prior year as of June 30 of that calendar year;

(5) The number of sexual assault evidence collection kits not tested during the prior year as of June 30 of that calendar year pursuant to COMAR 02.08.02.01A, B, C, or D;

(6) The number of any other kits not tested and an explanation of why the kit was not tested.

(7) For untested kit reviews:

(a) The number of untested kit reviews requested during the prior year as of June 30 of that calendar year;

(b) The written recommendation resulting from each of the untested kit reviews conducted during the prior year as of June 30 of that calendar year; and

(c) The number of sexual assault evidence collections kits tested at the recommendation of an untested kit review;

(8) The number of sexual assault evidence collection kits destroyed during the prior year as of June 30 of that calendar year; and

(9) The number of written requests received pursuant to COMAR 02.08.01.04D during the prior year as of June 30 of that calendar year.

.02 Reporting by Forensic Laboratories.

On or before September 1, 2021, and every year thereafter, a forensic laboratory shall submit the following information to the Office of the Attorney General:

A. The number of sexual assault evidence collection kits tested within the prior completed fiscal year;

B. The date each sexual assault evidence collection kit tested was received from a law enforcement agency; and

C. The date upon which a report summarizing the results of the test was prepared for each sexual assault evidence collection kit.

Appendix E
Sample Letter for Agencies that Do Not Investigate Sexual Assaults

SAMPLE LETTER

Agencies that Do NOT Investigate Sexual Assaults

Date

Jessica Williams
Office of the Attorney General
200 Saint Paul Place
Baltimore, MD 21202

Dear Ms. Williams,

I am writing to advise that the **[INSERT LAW ENFORCEMENT AGENCY’S NAME]** does not handle sexual assault investigations. All sexual assaults that occur in the **[City/County]** of **[INSERT THE NAME OF THE COUNTY OR CITY WHERE YOUR AGENCY IS LOCATED]** are investigated by **[INSERT NAME OF AGENCY THAT HANDLE SEXUAL ASSAULT INVESTIGATIONS THAT OCCUR IN YOUR JURISDICTION]**. Consequently, I certify that the **[INSERT LAW ENFORCEMENT AGENCY’S NAME]** does not have any sexual assault evidence kits in its possession.

If you have any questions please contact **[INSERT POINT OF CONTACT NAME]** at **[INSERT POINT OF CONTACT NUMBER]**.

Sincerely,

Name: Chief/Sheriff
Title
Law Enforcement Agency Name
Address

Appendix F
SAEK Committee Members

SAEK COMMITTEE MEMBERS

Zenita Wickham Hurley (Chair)	Chief Counsel, Civil Rights, Office of the Attorney General	Office of the Attorney General
Daniel Katz	Director	MSP - Forensic Sciences Division
Karin Green	Director	Criminal Injuries Compensation Board
Kimberly Irvine	Deputy Secretary for Programs	Department of Human Services
Joyce Dantzer	Chief, Center for Injury and Sexual Assault Prevention	Department of Health
Kristen Lease	Crime Lab Director	Prince George's County Police Department - Forensic Science Division
Pamela Holtzinger	Forensic Nurse Coordinator	Frederick Memorial Hospital
Steven O'Dell	Chief	Baltimore Police Dept - Forensic Sciences and Evidence Management Div.
Ashley Young	Managing Attorney	Sexual Assault Legal Institute
Laura Jessick	SAKI Victim Notification Project Manager	Maryland Coalition Against Sexual Assault
Scott Shellenberger	State's Attorney	Baltimore County

Appendix F
SAEK Committee Members

SAEK COMMITTEE MEMBERS CONT.

Keva Jackson McCoy	Deputy Director	State Board of Nursing
Barbara Darley	Deputy Director of Victim Services	Governor's Office of Crime, Control and Prevention

EX-OFFICIO MEMBERS

Senator Adelaide C. Eckardt	Senator and Member, Budget and Taxation	Maryland Senate
Senator William C. Smith	Senator and Vice-Chair of Judicial Proceedings	Maryland Senate
Delegate J. Sandy Bartlett	Delegate and Member, House Judiciary	Maryland House of Delegates
Delegate Shelly Hettleman	Delegate and Member, House Appropriations	Maryland House of Delegates

ADVISORY MEMBERS

Lt. Russell C. Trow	Asst. Commander of our Criminal investigations Division	St. Mary's County Sheriff's Office
Jennifer Witten	Government Relations Director	Maryland Hospital Association
Jane Krienke	Legislative Analyst	Maryland Hospital Association
Donna Melynda Clarke	Program Director	Domestic Violence & Sexual Assault Ctr., Prince George's Hospital Center

Appendix F
SAEK Committee Members

ADVISORY MEMBERS CONT.

Brian Browne, MD	Chair, Emergency Medicine, UM School of Medicine	UM School of Medicine
Argi Magers	Forensic Scientist Manager, Biology Section	MSP - Forensic Sciences Division
Heather Amador	Program and Policy Administrator of Victim Services	Governor's Office of Crime, Control and Prevention
Michelle Groves	CODIS State Administrator	Maryland State Police

STAFF

Carrie Williams (Former Chair)	Division Director, Criminal Appeals Division, Office of the Attorney General	Office of the Attorney General
Jessica Williams (Committee Counsel)	Assistant Attorney General, Civil Rights, Office of the Attorney General	Office of the Attorney General
Ron Levitan	Counsel, State Police, Office of the Attorney General	Office of the Attorney General