



**Maryland Sexual Assault Evidence Kit
Policy and Funding Committee
Meeting
Wednesday, October 24, 2018
2:00 pm
Office of the Attorney General
200 St. Paul Place
22nd Floor, Kornbaltt Conference Room
Baltimore, MD 21202**

MEETING MINUTES

In attendance: Argi Magers, Barbara Darby, Captain Chris Kelly, Carrie Williams, Claire Kelleher-Smith, Donald Hogan, Daniel Katz, Del. Shelly Hettleman, Donna “Melynda” Clarke, Jane Krienke, Jennifer Witten, Jessica Volz, Jessica Wheeler, Jessica Williams, Joyce Dantzler, Laura Jessick, Lieutenant Jordan Satinsky, Lieutenant Russell Trow, Lisae Jordan, Randi Walters, Renee Donald, Ronald Levitan, Scott Shellenberger, Stephanie Eidice, Tianna Mays, Zenita Wickham Hurley

Committee Meeting

Welcome & Opening Comments by Carrie Williams, Chair

The Chair welcomed everyone and asked all new attendees to introduce themselves.

Sexual Assault Kit Initiative (SAKI) Grant

Assistant Attorney General and Chief Counsel for Civil Rights, Zenita Wickham Hurley, informed the Committee that Maryland received a \$2.6 million grant from the Department of Justice’s Sexual Assault Kit Initiative. Ms. Hurley explained the components of the grant: (1) conducting a statewide inventory, (2) testing unsubmitted kits, (3) establishing a statewide tracking system, and (4) providing victim services. Ms. Hurley ended by explaining the next steps to execute the grant.

Maryland Hospital Association (MHA) Presentation

Jennifer Witten, Vice President of Government Affairs for MHA, gave a presentation on the results of two surveys completed by a broad geographical spectrum of hospitals. The two surveys involved drug-facilitated sexual assault and Non-occupational Post-exposure Prophylaxis (nPEP) treatment for HIV. The results of the survey regarding drug-facilitated sexual assault revealed that

none of the hospitals surveyed in Maryland have the capacity to conduct toxicology screening in-house. Therefore, hospitals usually independently outsource toxicology testing. Additionally, during the presentation on nPEP, questions were raised about strategies to decrease the cost of nPEP treatment. In light of the additional questions, the Funding Subcommittee agreed to have a meeting to continue the discussion.

Finalize Subcommittee Recommendation for January Report

Availability of Exams and Shortage of Forensic Nurse Examiners Subcommittee (FNE Subcommittee)

The Chair of the FNE Subcommittee, Claire Kelleher-Smith—Senior Staff Attorney at the Maryland Coalition Against Sexual Assault (MCASA)—led the discussion of this Subcommittee’s prior meetings. The Subcommittee reached a consensus on recommendations concerning the following topics: (1) FNE Workforce Support & Reimbursement for Services, (2) Board of Nursing FNE Certification, and (3) Advocate Presence during Sexual Forensic Exams. The FNE Subcommittee also advised that additional changes to the regulations concerning reimbursement will be an area of focus for the Subcommittee in 2019.

Testing Retention, Tracking, and Victim Notification Subcommittee (TRTVN Subcommittee)

The Committee Chair led the discussion of the TRTVN Subcommittee’s recommendation. The Subcommittee presented proposed regulatory language to expand the testing criteria for sexual assault evidence kits (SAEKs). In pertinent part, the Subcommittee recommends that law enforcement agencies submit all SAEKs for analysis except (1) kits where the allegations of sexual assault are determined to be false or baseless, (2) cases where the defendant pled guilty to an offense requiring DNA collection upon conviction, and (3) Jane Doe/Anonymous kits. This criteria would create a uniform standard for law enforcement agencies to utilize when determining whether to test a SAEK. The Committee also discussed whether there should be an oversight process for law enforcement determinations. The Subcommittee agreed to continue to develop this recommendation in 2019.

Funding Subcommittee

The Committee Chair led the discussion summarizing the work of the Funding Subcommittee. The Subcommittee has focused its efforts on the following three areas:

1. Expanded Testing Criteria

The Funding Subcommittee supports the recommendation of the TRTVN Subcommittee to expand the testing criteria for SAEKs. However, in order to effectively implement this recommendation, it is important to obtain an accurate estimate of the cost associated with testing SAEKs. The Funding Subcommittee conducted a survey to determine the cost of implementing the expanded testing criteria. The survey was sent to 15 law enforcement agencies—13 jurisdictions with the most untested kits, as well as 2 smaller jurisdictions

located in Western Maryland. The Subcommittee hopes to obtain sufficient data to support legislation to expand the testing criteria.

2. Reimbursement for Exams and Collection of Cervical Swabs up to 15 Days Post Assault

The Subcommittee renewed its recommendation that GOCCP expand its reimbursement for collection and submission of cervical swabs from 5 days to 15 days after the sexual assault. In support of this recommendation, the Committee wrote a letter to and met with members of GOCCP in an effort to determine the potential cost of expanded reimbursement and ultimately, expand the criteria for reimbursement.

3. HIV Non-Occupational Post-Exposure Prophylactic (nPEP) Treatment Reimbursement

The Funding Subcommittee renewed its recommendation that the State expand reimbursement to cover the full 28-day nPEP treatment. Over the past few months, the Subcommittee has worked to identify a funding strategy that would support legislation to cover the full 28-day treatment. The Subcommittee has surveyed other states to discover the best practices to provide reimbursement for the full treatment. The Subcommittee intends to continue its discussion at a future Subcommittee meeting.

Other Updates

Assistant Attorney General Jessica Williams provided two updates. First, on October 3, 2018, members of the Committee met with the Maryland Police Training and Standards Commission to discuss preliminary recommendation 5(d), which encouraged law enforcement to implement trauma-informed training in sexual assault cases. The Commission agreed to amend its current curricula for sexual assault cases to include the trauma-informed approach.

Second, Ms. Williams advised the Committee about new regulations. On October 8, 2018, the Office of the Attorney General (OAG) adopted new regulations under Title 2 of the Code of Maryland Regulations, entitled *Sexual Assault Victims Rights–Disposal of Rape Kit Evidence and Notification*. COMAR 02.08.01.01–.05 ensure the uniform statewide implementation of House Bill 255/Chapter 159 (2017), which expanded the state’s victim notification and sexual assault evidence kit retention requirements.

Prior to the enactment of the new regulations, the OAG received two responses. The responses raised important questions which were presented to the Committee for discussion.

1. In addition to health care providers, what (if any) other agencies should be responsible for providing the victim with the contact information for the law enforcement agency handling their case? (Sections .03(A))
2. Which law enforcement agency should be responsible for collecting kits from hospital’s and child advocacy centers, keeping in mind that victims often seek treatment from a medical provider located in a different jurisdiction than the one in which the crime occurred? (Section .04(A))

3. What is the most effective way to implement the victim notification requirements in the proposed regulation while also ensuring anonymity for victims in Jane Doe/Anonymous cases? Specifically, what is the best practice to ensure anonymity while allowing for submission of the request provided for in Sections .03(B) and .04(D)?

After a brief discussion of the questions with the Committee, the meeting was adjourned at approximately 4:30 PM.