

Oklahoma Task Force on Sexual Assault Forensic Evidence

Report of Findings and Recommendations to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives

July 1, 2018

On April 24, 2017, Governor Mary Fallin through Executive Order 2017-11¹, ordered the formation of the Oklahoma Task Force on Sexual Assault Forensic Evidence (Task Force). The Task Force's focus includes: examining the process for gathering and analyzing sexual assault forensic evidence kits in the State; identifying the number of untested evidence collection kits in the possession of each law enforcement agency in the State by means of an audit conducted by each agency; identifying possible improvements for law enforcement training on responding to and investigating sexual assaults; identifying possible improvements for victim access to evidence other than sexual assault forensic evidence kits, including but not limited to police reports and other physical evidence; identifying possible procedures for the testing of anonymous sexual assault evidence kits; identifying additional rights of victims concerning the sexual assault forensic evidence kits testing process; and identifying and pursuing grants and other funding sources in to order to eliminate the backlog of untested sexual assault forensic evidence kits, reduce testing wait times, provide victim notification, and improve efficiencies in the kit testing process.

An integral component of the Task Force's work included the identification of the number of untested evidence collection kits in the possession of each law enforcement agency in the State by means of an audit conducted by each agency. The audit included a request from every law enforcement agency charged with the maintenance, storage or preservation of untested sexual assault forensic evidence kits. Audit data received from law enforcement agencies was compiled including for each untested kit, the unique identifier for the kit, the date the crime occurred and the date of the examination and forensic collection. Agencies were also requested, but not required to, disclose the reasons for not submitting the collected kit to the laboratory for analysis.

Defining Terms

The term "backlog" was used in the Governor's Executive Order and is a term commonly used during discussion of and when conducting research about untested sexual assault kits. For purposes of this report and the clarity of data collected, consideration of the varying definitions of the term must be made.

Although terms are often used interchangeably, the DNA Resource Center identifies two distinct concepts involved when discussing the issue of kits that have not been tested expeditiously: backlogged kits and untested kits. Backlogged kits refer to the untested evidence submitted to laboratory facilities, whereas untested kits remain in law enforcement custody and have not been

¹ <https://www.sos.ok.gov/documents/executive/1774.pdf>

sent to the lab for analysis.² According to the National Institute of Justice (NIJ) “there is no industry wide definition of a backlog”. The NIJ defines a backlogged case as one that has not been tested 30 days after it was submitted to the laboratory.³

The audit of law enforcement agencies was conducted to identify all untested sexual assault kits not yet submitted to a forensic lab for testing. The subject kits were collected, preserved and stored by law enforcement, but have not been submitted to the laboratory for analysis.

Report of Findings from Audit of Law Enforcement Agencies

As of May 31, 2018, 312 law enforcement agencies responded to the audit providing for each untested kit reported: the unique identifier for the kit, the date the crime occurred and the date of the examination and forensic collection. Agencies reported a total number of 7,270 untested sexual assault kits in their possession. Law enforcement agencies responding included 222 municipal law enforcement agencies, 67 sheriff’s offices, 6 tribal law enforcement agencies and 17 other law enforcement agencies such as state and educational, among others. See Attachment A for a full list of agencies that submitted audit responses and the number of untested kits reported by each agency.

Untested Sexual Assault Kits Possessed by Law Enforcement Agencies			
<u>Police Departments</u> (Including municipal, tribal, educational, state, etc.)			
# of Agencies Responded:	245	# of Untested Kits:	6,643
<u>Sheriff’s Offices</u>			
# of Agencies Responded:	67	# of Untested Kits:	627
<u>TOTAL</u>	312		7,270

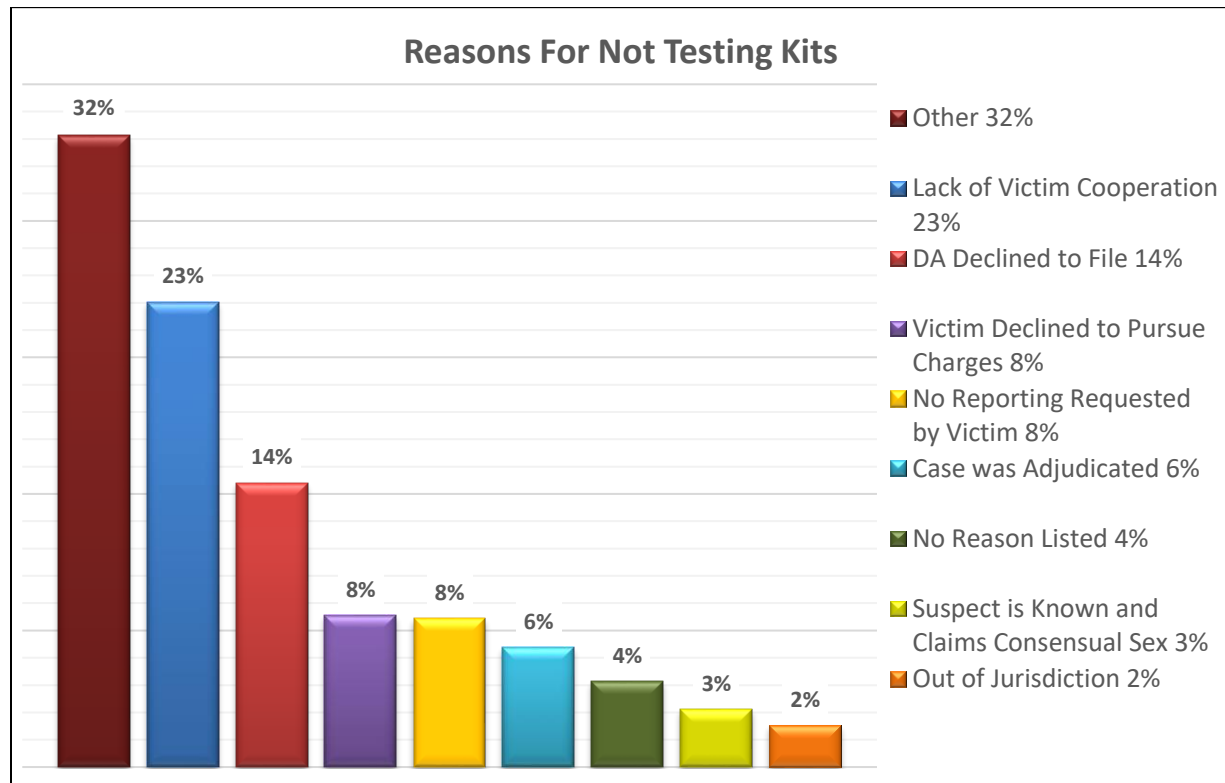
Of the law enforcement agencies identified as subject to the audit, a total of 120 agencies, including 110 municipal law enforcement agencies and 10 sheriff’s offices, did not, as of May 31, 2018, return a written report stating the results of the audit to the Task Force. See Attachment B for a full list of municipal law enforcement agencies and sheriff’s offices that did not submit audit responses.

² <http://victimsofcrime.org/our-programs/dna-resource-center/unttested-sexual-assault-kits/about-backlogs-and-unttested-kits>

³ <https://www.nij.gov/journals/266/Pages/backlogs.aspx>

Reasons Reported for Not Testing Sexual Assault Kits

As a part of the law enforcement audit, agencies were asked, but not required to, identify the reason that each kit held in evidence was not submitted for testing. The Task Force members identified eight categories from which to choose, including: Lack of Victim Cooperation; DA Declined to File; Suspect is Known and Claims Consensual Sex; Victim Declined to Pursue Charges; Case was Adjudicated; Out of Jurisdiction; No Reporting Requested by Victim and Other. Most agencies that responded to the audit also provided reasons for not testing the kits.



Aside from the Other category, the most reported reason was Lack of Victim Cooperation at 23%, followed by DA Declined to File at 14%. The categories of Victim Declined to Pursue Charges and No Reporting Requested by Victim each made up 8% of the reasons reported and Case Was Adjudicated equaled 6%. No reason was provided for 4% of the reported kits. The bottom two categories reported include Suspect is Known and Claims Consensual Sex at 3% and Out of Jurisdiction at 2%. When designating Other as the reason some agencies simply marked the category without providing additional information, while others gave a reason that was not listed. Those reasons include: Occurred 3 days prior; Ongoing Investigation; Case Suspended but Will be Reopened; Victim Changed Story; No Claim of Sex; Lack of Evidence; Suspect Killed; Suspect Incompetent; Dismissed; Arrest; Unfounded; Closed at Victim Request; Unknown Suspect; Warrant Request; Can't Locate Victim; No Evidence Log Form; SANE Video; among others.

Recommendations on Sexual Assault Kit Collection in Oklahoma

Within the State of Oklahoma, three different sexual assault kits are used in the collection of evidence from victims of sexual assault. The Oklahoma State Bureau of Investigation (OSBI) issues kits to all 77 counties for use in collections. The Oklahoma City Police Department (OCPD) and the Tulsa Police Department (TPD) each have their own kit.

In 2012, representatives from the District Attorneys Council (DAC), the Criminalistics Services Division at the OSBI, the TPD Forensic Laboratory, the OCPD Forensic Laboratory, SANE nurses and SANE educators met a number of times. As a result of the conversations, the group came together and agreed to one sexual assault kit that could be used statewide and would satisfy each agency's specific needs. Just before the ordering process was to begin, one of the forensic labs decided not to participate. The conversation did not continue.

The use of one standardized kit statewide would offer many possible benefits for Oklahoma, including:

- Development of a statewide training protocol for SANE practitioners;
- Development of statewide training protocols for processing sexual assault kits;
- Development of a statewide documentation form;
- Reduced costs for forensic laboratories by combining their separate kit purchases into one;
- Easier implementation when/if a statewide tracking program is introduced to track sexual assault kits within Oklahoma; and
- Assurance to victims that kits are processed the same, regardless of where evidence was collected or analyzed.

Task Force members have formed a workgroup in the form of a subcommittee, with the directive of developing and implementing one standardized Sexual Assault Kit to be used in all jurisdictions within Oklahoma. The subcommittee is comprised of representatives from the OSBI Criminalistics Services Division, the TPD Forensic Laboratory, the OCPD Forensic Laboratory, SANE nurses and SANE educators. The subcommittee shall be led by Task Force member Kathy Bell, Director of Forensic Nursing, TPD. The first committee meeting is to be held no later than 60 days from the date of this report. The subcommittee shall have the goal of one standard kit in use in Oklahoma by January 1, 2020.

Recommendations on the Maintenance and Preservation of Untested Sexual Assault Kits

There are currently no specific statutes addressing the maintenance and preservation of sexual assault kits. Oklahoma statutes require that a criminal justice agency having possession or custody of biological evidence from a violent felony offense shall retain and preserve that biological evidence for such period of time as any individual convicted of that crime remains incarcerated. (See Title 22 O.S. § 1372⁴) Although clearly applicable to violent crimes including cases of rape, lewd or indecent acts with a child and forcible sodomy, the provision is limited to those circumstances where an offender has been convicted and incarcerated for the crime. Further, the law allows for destruction of the biological evidence prior to the expiration

⁴ <http://www.oscn.net/applications/oscn/deliverdocument.asp?id=213651&hits=>

of that time frame if, after notice is provided to the incarcerated person and that person's counsel of record or the indigent defense organization for the judicial district, there are no written objections to its destruction.

Some law enforcement agencies have developed individual policies and protocols that determine how long sexual assault kits are to be kept. However, many agencies discard kits after various periods of time, eliminating the ability to test the evidence at a later date. National best practices dictate that all sexual assault kits should be kept for a minimum of 50 years.⁵

Task Force members wish to impress the importance of having the option to test untested kits at a later time for many reasons and therefore, recommend that Oklahoma adopt the national best practice standard of requiring law enforcement agencies to maintain in evidence all sexual assault kits for a minimum of 50 years, or the length of the statute of limitations, whichever is greater. It is further recommended that the Task Force work with the legislature to propose new or amended legislation specifically addressing the preservation and maintenance of untested sexual assault kits, including a requirement that each law enforcement agency is responsible for the maintenance and storage of the untested kits either in the agency's own evidence storage or through agreements with other agencies with a larger capacity and/or increased ability to adequately store the kits.

Recommended Protocols for Testing Sexual Assault Kits

First responders shall follow best practices to ensure victims are afforded advocacy support and medical care and to guarantee that victims are provided meaningful information about the options available to them. Law enforcement officers shall follow the following protocols in the submission of sexual assault kits for testing.

- Submit all sexual assault kits (including blood and urine for drug facilitated sexual assaults) for testing on the following cases:
 - The victim has consented to the testing of the kit and is participating in the investigation⁶, regardless of whether the offender is known or claims consent to the sexual contact, and
 - The victim has consented to the testing of the kit and the reported offender is a stranger to the victim, regardless of whether the victim is participating in the investigation.
- If the victim has not reported the sexual assault to law enforcement, the kit should not be tested, but preserved for the possibility of future testing.

Sexual assault kits should be submitted to the forensic laboratory for serology/DNA testing within 20 days after receipt of the evidence. Law enforcement shall prioritize the testing of sexual assault kits where the anticipated results will provide evidentiary value to the investigation and prosecution of the case.

⁵ <https://www.ncjrs.gov/pdffiles1/nij/250384.pdf>

⁶ "participating in the investigation" is defined as the law enforcement agency has made contact with the victim either by phone or in person and the victim has expressed interest in the involvement of the case.

Recommendations for Prioritizing Testing of Previously Unsubmitted Sexual Assault Kits

Best practices recommend that each previously unsubmitted sexual assault kit accompanied by a report or where the suspect is a stranger to the victim and for which a victim has consented, be submitted to the forensic laboratory for testing. However, at this time the state's available resources do not allow for a "fork lift"⁷ approach on testing due to the large volume of untested kits identified in the audit of law enforcement agencies.

In order to determine how many sexual assault kits to test and in what order they should be submitted, the following are recommended criteria for prioritizing the unsubmitted kits: A Testing Prioritization Model

- Sexual assault kits that were never examined at a forensic laboratory, then review sexual assault kit samples that have been partially tested for probability of obtaining Combined DNA Index System (CODIS)-eligible DNA profiles and serology-negative samples.
- Determine if the case is within the statute of limitations.
- Determine if the offender is a stranger vs. a non-stranger to the victim.
- All cases where the victim is/was participating in the process and has consented to the testing of the kit.
- Do not test kits for cases that the victim has not reported to law enforcement.
- Do not test kits for cases where the victim has requested that the kit not be tested.
- Do not test kits for cases where the offender has been convicted for that crime and the profile is in CODIS.

It should be noted, that although the laboratories that test kits in Oklahoma currently have the necessary capacity to keep up with the regular demands of processing kits that are submitted to them for analysis, the recommendation to test unsubmitted kits may create a backlog depending upon how many kits are submitted and under what time period they are submitted to a forensic laboratory for testing. The Task Force has created a subcommittee comprised of the three forensic laboratories in Oklahoma (OSBI, TPD and OCPD) to work together to develop a plan for accepting these kits and that the plan shall be provided to the Task Force no later than December 1, 2018. If legislative action is required to implement the plan, proposed legislation should be prepared by the Task Force and presented during the upcoming legislative session.

Cost of Testing Untested Sexual Assault Kits Identified During the Audit of Law Enforcement Agencies

Based on the implementation of the plan to test untested kits and the strain on resources that will follow the submittal of the untested kits, it is highly likely that the labs will need additional funding to hire personnel, pay overtime, outsource samples, purchase consumables, and/or buy new equipment. The labs should strongly consider applying for a federal grant directed at analyzing previously untested kits. The TPD applied for a federal grant to address its inventory of untested sexual assault kits.⁸ For the OSBI or the OCPD to have applied for grants this past

⁷ "fork lift" approach is defined as shipping all untested sexual assault kits to a forensic laboratory to be tested without prioritization.

⁸ See the section of the report on Ongoing Activities of Task Force Members for more information about the TPD's federal grant application.

grant cycle would have been premature, as the Task Force and the labs did not yet have a solid understanding of the extent of the State's untested kit situation. However, now that the Task Force has a fairly accurate count of the untested kits identified through the audit of law enforcement agencies, the state is in a much better position to apply for and be awarded federal grant funds to address the issue.

During the audit of law enforcement agencies, over 7,200 untested cases in Oklahoma were identified. Approximately 3,500 of those are in the possession of the Tulsa Police Department and approximately 1,500 kits are in the possession of the Oklahoma City Police Department, both of which have their own labs to process kits. The remaining untested kits equal approximately 2,200 that could be submitted to the OSBI for processing. The costs to each laboratory may differ due to the screening/DNA techniques used, type of kits, reagents, etc. For ease of analysis, the following calculations account for the approximate costs of outsourcing the processing of a total of 7,200 kits, and the approximate costs of in-house processing of kits at the three laboratories.

Outsourcing

- \$995 per kit X 7,200 kits = \$7,164,000 for autosomal testing of 3 forensic samples and the victim's sample
- \$225 per known suspect/consensual partner sample X 1,800 reference samples = \$405,000
- \$270 per case X 7,200 cases = \$1,944,000 for overtime for current employees to prep evidence, perform Technical Reviews of results and CODIS entry

\$9,513,000 estimated total to outsource 7,200 kits for analysis

In-house analysis at OSBI

- \$1,000 per kit X 2,200 kits = \$2,200,000 for testing ~6 samples per kit
 - \$345,000 for validation and instrumentation needed to implement Y-screening
 - \$250,000 for two (2) new analysts
- \$2,795,000 estimated total for 2,200 kits

In-house analysis at OCPD

- \$1,000 per kit X 1,500 kits = \$1,500,000 for testing ~6 samples per kit
 - \$250,000 for two (2) new analysts
- \$1,750,000 estimated total for 1,500 kits

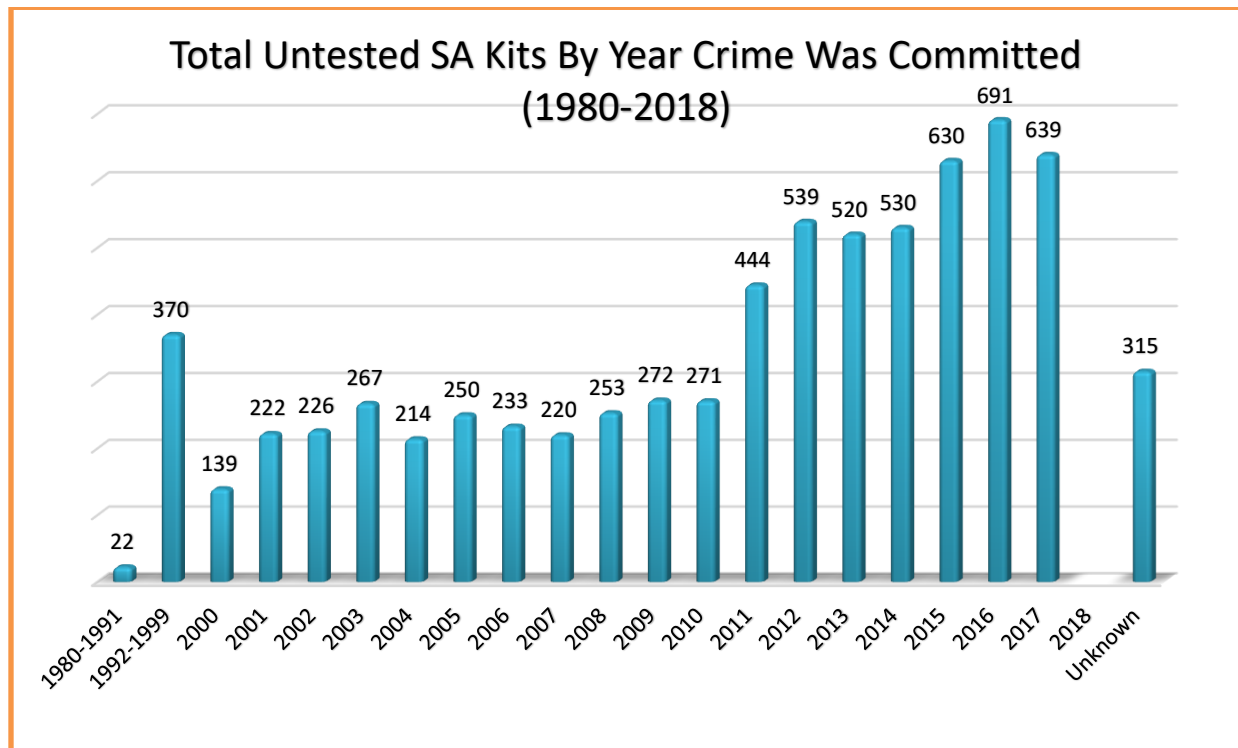
In-house analysis at TPD

- \$2,000 per kit X 3,500 kits = \$7,000,000 for testing ~6 samples per kit
 - \$480,000 for additional equipment and instrumentation needed to equip two (2) to three (3) analysts
- \$7,480,000 estimated total for 3,500 kits

Statutes of Limitations

Effective November 1, 2017, prosecutions for a sexual assault crime committed against a child must be commenced by the 45th birthday of the alleged victim and for a sexual assault crime committed against an adult must be commenced within 12 years after the discovery of the crime. Discovery is defined as the date that a physical or sexually related crime involving a victim eighteen (18) years of age or older is reported to a law enforcement agency. However, the law allows a prosecution to be commenced at any time after the commission of the offense if: 1) physical evidence is collected and preserved that is capable of being tested to obtain a profile from DNA, and 2) the identity of the offender is subsequently established through such evidence. Once the identity of the suspect is established by DNA testing, prosecution must occur within three (3) years. (See Title 22 O.S. § 152⁹) Previous versions of the statute of limitations include varying time frames and requirements for commencing a prosecution. See Attachment C for a chart outlining the timeline of the applicable statutes of limitations.

Law enforcement agencies reported for each untested kit in their possession, the date on which the crime was committed. This date determines what law was in effect at the time of the offense, which will then identify the applicable statute of limitations. Cases can be prioritized for testing kits after the statute of limitations has been determined. Although specific dates are needed to compare to effective dates of the legislation, the following chart places the number of identified untested sexual assault kits held in evidence by the year of the commission of the crime, which preliminarily may identify which statute of limitations applies.



⁹ <http://www.oscn.net/applications/oscn/deliverdocument.asp?id=70298&hits=>

Recommended Model Sexual Assault First Responder Protocol

To emphasize the importance of the first responder's actions, the Task Force members formed a subcommittee to develop a model first responder protocol for use by law enforcement officers statewide. Additionally, training on the use of the protocol is essential. The Task Force recommends that the protocol be added to the Evidence Based Sexual Assault training required as a part of the Council on Law Enforcement Education and Training (CLEET) academy and incorporated into all continuing education training provided to law enforcement officers regarding the response to sexual assault. The following protocol should be used by all law enforcement officers in Oklahoma.

Sexual Assaults Reported to Law Enforcement

- Upon arrival determine if the victim is in need of immediate medical attention. If so, notify police dispatch an ambulance is needed. Follow the victim to the hospital to continue the investigation.
- Obtain an initial victim statement. This will include basic information: who, what, when where, and how. Victims should never be asked by a first responder to complete a written witness statement unless directed by a detective.
- Establish where the crime scene is located and whether or not the scene needs to be processed. Secure and preserve the crime scene.
- Determine if the sexual assault occurred within the past 120 hours. Child exams may be performed within the past 72 hours of genital to genital contact, oral contact, ejaculation or genital trauma.
- For child victims, SANE exams are generally performed at the same location; however some will be conducted at a location specific to children.
- Provide the victim with information on the right to obtain a free Sexual Assault Nurse Examination (SANE).
- Contact your local victim advocacy center and SANE nurse via police dispatch in order to notify them of a sexual assault victim in need of an exam. Provide transport for the victim to the SANE room or provide them with the location if they prefer to transport themselves.
- Make contact and question any possible witnesses to the sexual assault.
- If an arrest is made for the sexual assault, transport the suspect to the local jail and if applicable, contact the appropriate on-call detective.

Non-Report SANE Exams

- Provide the sexual assault victim with information on how to obtain a SANE exam without making a police report.
- Contact police dispatch to notify the advocacy agency and SANE nurse. Provide the SANE room location to the victim.
- Law enforcement is responsible for collecting the non-report SANE kit and turning it into their police property room even if the crime occurred outside their jurisdiction.

In All Circumstances

- Provide the victim with information about the local victim service provider and if the victim wishes, connect the victim to that service provider.

- Provide the victim with written notice of crime victim rights (Crime Victims Rights Brochure), including the 24-hour statewide hotline established by the Office of the Attorney General (Safeline Card) and the right to apply for an emergency protective order.
- If the victim wishes to petition for an emergency protective order, assist the victim in completing the form and notify a district court judge. Inform the victim whether the judge approved or denied the request and the next steps.

Recommended Law Enforcement Focused Training

- Model Policies and Protocols for the Response to Sexual Assault
- Guidelines for the Collection and Maintenance of Sexual Assault Kits
- Continuing Education on Trauma Informed Sexual Assault Response and Investigation

The Future of the Task Force

Task Force members recommend continued and ongoing meetings to accomplish the goals and deadlines set through this report and to further address the tasks identified in the Governor's Executive Order. Two specific areas in need of additional collaboration and effort include:

- 1) The identification of possible procedures for the testing of anonymous sexual assault evidence kits and
- 2) The development of a comprehensive training plan for equipping and enhancing the work of law enforcement, prosecutors, victim advocates, Sexual Assault Nurse Examiners (SANEs) and multidisciplinary Sexual Assault Response Teams (SARTs) across all jurisdictions in Oklahoma.

Task Force members have voiced an interest in gathering additional data to compare and with which to identify additional gaps within the various parts of the system.

To adequately address these issues, the Task Force recommends that additional representatives be appointed to the Task Force, including the following:

- A representative of the Administrative Office of the Courts (AOC) familiar with data coding and running queries;
- The Executive Director of the Council on Law Enforcement Education and Training (CLEET), or designee;
- A law enforcement officer from a rural municipal law enforcement agency;
- A law enforcement officer from a rural sheriff's office;
- The Executive Director of the Oklahoma Coalition Against Domestic Violence and Sexual Assault (OCADVSA), or designee; and
- A survivor of sexual assault committed in Oklahoma who has participated in the justice system process.

Ongoing Activities of Task Force Members

Statewide Tracking System Implementation by the OSBI

Reporting a rape can be extremely difficult for victims of sexual assault. Historically, in Oklahoma, when a victim had a sexual assault kit collected, the victim had no idea whether or not the kit was ever submitted to a crime lab for testing. Victim Advocate groups at the national level have pushed for states to implement some sort of tracking system through which victims could have access to information about their kits at any time.

The Task Force is working to implement an electronic tracking system that would track every kit collected in Oklahoma. Victims, law enforcement officials, medical staff, and district attorneys could access the system at any time to find out exactly where a specific kit is in the system – in a police department’s evidence room, at a crime lab, released to a district attorney’s office, etc. The system provides transparency and accountability for Oklahoma’s sexual assault kits.

Tulsa Police Department Applied for Federal Grant Funding

The Tulsa Police Department has submitted an application for the National Sexual Assault Kit Initiative (SAKI) Project. The purpose for the project is to implement the BJA model to address the underlying problem of unsubmitted sexual assault kits, specifically to inventory, test and track the kits. The grant, if awarded, provides funding for a three-year project.

During Phase 1 a complete and valid inventory of sexual assault kits will be completed, including those in inventory and those submitted to the lab for testing. Prior to the inventory the Sexual Assault Response Team (SART) will together develop protocols on how to conduct the inventory, develop a tracking database, prioritize which SAKs to test, identify an outsourced forensic laboratory to test the kits and create a victim-centered approach to notifying victims of their re-opened cases.

The TPD strives to support and optimize necessary protocols and policies in support of improved collaboration among the victims, victim services, the district attorney’s office and the TPD Laboratory. The overall goal of this proposal is to understand the scope of the problem that led to the unsubmitted kits and establish kit testing protocols for the TPD in order to sustain the number of kits being administered. This protocol will provide resources to inventory the SAKs and identify an accredited lab to test the kits. The TPD is currently engaged in an interdisciplinary group of stakeholders which forms the SART. The SART is instrumental in understanding and addressing the complexities of sexual assault. Value can be found in improved community partners which leads to an increased victim centered approach from investigations to medical and advocacy services.

The Task Force has determined that this effort by the Tulsa Police Department, if awarded, will serve as a model or a “test run” in determining what recommended efforts may be made in other communities or on a regional or state-wide basis to further inventory and test unsubmitted sexual assault kits, and identify issues in the notification of victims and eventual prosecution of cases.

Task Force Members and Contributors

Kathy Bell, MS, RN
Director of Forensic Nursing
Tulsa Police Department

William Citty
Chief of Police
Oklahoma City Police Department

Ray McNair
Executive Director
Oklahoma Sheriff's Association

David Prater
District Attorney
District 7/Oklahoma County

Dawn Stover
Executive Director
Native Alliance Against Violence

Danielle Tudor
Sexual Assault Survivor

Johnny Tadlock
Representative, District 1

Tiffany Clanahan
Research Assistant
Office of the Attorney General

Phil Cotton, Ret.
Executive Director
Oklahoma Association of Chiefs of Police

Tom Jester
Deputy Chief, Investigations Bureau
Oklahoma City Police Department

Johnny Kuhlman
U.S. Marshal
Western District of Oklahoma

Lesley March
Assistant District Attorney
McClain County

Melissa Blanton
Chief, Victim Services Unit
Office of the Attorney General

Karla Docter
Senior Officer of Sexual Violence Prevention
& Response, YWCA Oklahoma City

Jillian Phippen
Sergeant, Special Victims Unit
Tulsa Police Department

Robert Ravitz
Chief Public Defender
Oklahoma County

Andrea Fielding
Division Director, Criminalistics
Oklahoma State Bureau of Investigation

Kay Floyd
Senator, District 46

Trent Baggett
Executive Coordinator
District Attorneys Council

Jason Clifton
Major, Investigations Bureau
Oklahoma City Police Department

Karen Cunningham
Victim Services Coordinator
Office of the Attorney General

Amanda Kemp
Director of Forensic Exams
YWCA Oklahoma City

Dennis Larsen
Deputy Chief, Investigations Bureau
Tulsa Police Department

Richard Smothermon
District Attorney
District 21/Lincoln & Pottawatomie Counties

Resources

National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach

U.S. Department of Justice, Office of Justice Programs, National Institute of Justice (NIJ)

<https://www.ncjrs.gov/pdffiles1/nij/250384.pdf>

National Sexual Assault Kit Initiative (SAKI) FY 2018 Competitive Grant Announcement

<https://www.bja.gov/funding/SAKI18.pdf>

About Backlogs and Untested Kits

National Center for Victims of Crime DNA Resource Center

<http://victimsofcrime.org/our-programs/dna-resource-center/untested-sexual-assault-kits/about-backlogs-and-untested-kits>

Making Sense of DNA Backlogs – Myths vs. Reality

National Institute of Justice (NIJ) Journal No. 266

<https://www.nij.gov/journals/266/Pages/backlogs.aspx>

Results of Initiatives in Other Jurisdictions

Detroit, Michigan

- <https://www.npr.org/2018/01/13/577833643/detroit-kit-tests-indicate-hundreds-of-serial-rapists>
- <http://www.newsweek.com/rape-kit-untested-sexual-assault-serial-rapist-detroit-prosecutor-nation-752440>
- <http://www.fox2detroit.com/the-americans-with-charlie-leduff/killer-rapist-roams-detroit-while-dna-evidence-collects-dust>

Memphis, Tennessee

- <https://www.memphisflyer.com/NewsBlog/archives/2017/01/17/rape-kit-backlog-testing-to-finish-this-year>
- <http://wreg.com/2017/05/25/dna-results-from-rape-kit-backlog-in-memphis-reveal-possible-serial-killer/>
- <https://www.forensicmag.com/news/2018/01/rape-kits-america-battling-backlog-backlog-saki>

Houston, Texas

- <https://www.theatlantic.com/national/archive/2015/02/how-many-crimes-could-clearing-the-rape-kit-backlog-stop/385943/>
- https://www.huffingtonpost.com/2015/02/24/houston-rape-kit-backlog_n_6742588.html
- <https://www.forensicmag.com/news/2017/09/appalling-violation-law-woman-sues-houston-saying-they-let-her-rapist-remain-free>

Cleveland, Ohio (Akron, Ohio)

- <https://www.forensicmag.com/news/2018/01/rape-kits-america-battling-backlog-backlog-saki>
- <https://www.npr.org/2015/05/19/407766821/reporting-on-rape-kit-backlog-leads-to-new-law-and-arrests-in-ohio>
- http://www.cleveland.com/nation/index.ssf/2017/06/processing_rape_kits_saves_he.html

Attachment A

Total Number of Untested Sexual Assault Kits Reported

Numbers Updated as of May 31, 2018

Law Enforcement Agency		Number of Untested Kits Per Agency
1	13th Judicial District - Drug & Violent Crimes Task Force	0
2	27th Judicial District	0
3	Absentee Shawnee Tribal PD	0
4	Ada PD	63
5	Adair PD	0
6	Alex PD	0
7	Allen PD	0
8	Altus PD	38
9	Amber PD	0
10	Anadarko PD	5
11	Antlers PD	0
12	Apache PD	0
13	Arapaho PD	0
14	Ardmore PD	7
15	Atoka PD	0
16	Barnsdall PD	0
17	Bartlesville PD	18
18	Bernice PD	0
19	Bethany PD	0
20	Binger PD	1
21	Bixby PD	26
22	Blanchard PD	1
23	Blackwell PD	3
24	Boise City PD	0
25	Bokchito PD	0
26	Braggs PD	0
27	Broken Arrow PD	97
28	Broken Bow PD	4
29	Burns Flat PD	0
30	Cache PD	0
31	Caddo PD	0
32	Calera PD	0
33	Calumet PD	0
34	Cameron University PD	0
35	Caney PD	0
36	Carnegie PD	1
37	CarneyPD	0
38	Catoosa PD	6
39	Cement PD	1
40	Chandler PD	5
41	Chelsea PD	0

Attachment A

42	Cherokee Nation Marshal		0
43	Cherokee PD		0
44	Chickasaw Nation Lighthouse PD		3
45	Chickasha PD		31
46	Choctaw PD		2
47	Claremore PD		59
48	Clayton PD		0
49	Cleveland PD		0
50	Clinton PD		0
51	Collinsville PD		5
52	Comanche Nation PD		0
53	Commerce PD		0
54	Covington PD		0
55	Coweta PD		6
56	Coyle PD - DEBANDED		0
57	Crescent PD		1
58	Cushing PD		0
59	Custer City PD		0
60	Cyril PD		0
61	Davis PD		1
62	Del City PD		34
63	Dewar PD		0
64	Dewey PD		0
65	Dibble PD		0
66	District One Narcotics Task Force		0
67	Drumright PD		0
68	Duncan PD		44
69	Durant PD		28
70	East Central University PD		1
71	Edmond PD		105
72	El Reno PD		21
73	Elgin PD		0
74	Elk City PD		2
75	Enid PD		34
76	Enid Public Schools PD		0
77	Fairland PD		0
78	Fairview PD		0
79	Fletcher PD		0
80	Forest Park PD		0
81	Fort Gibson PD		1
82	Fort Cobb PD		0
83	Frederick PD		0
84	Gage PD		0
85	Gans PD		0
86	Geary PD		3
87	Geronimo PD		0
88	Glenpool PD		7

Attachment A

89	Goodwell PD		0
90	Grand River Dam Authority Police		0
91	Grove PD		5
92	Guthrie PD		0
93	Guymon PD		12
94	Guymon Public Schools PD		0
95	Haileyville PD		0
96	Harrah PD		0
97	Hartshorne PD		0
98	Haworth PD		0
99	Healdton PD		2
100	Hennessey PD		1
101	Henryetta PD		0
102	Hobart PD		1
103	Holdenville PD		0
104	Hollis PD		0
105	Hominy PD		2
106	Hooker PD		0
107	Hydro PD		0
108	Idabel PD		2
109	Inola PD		4
110	Iowa Tribe PD		0
111	Jenks PD		8
112	Jennings		0
113	Jones PD		0
114	Kansas PD		0
115	Kellyville PD		0
116	Keota PD		0
117	Kiefer PD		0
118	Kingfisher PD		0
119	Kingston PD		0
120	Kiowa PD		0
121	Lamont PD		0
122	Langley PD		0
123	Langston PD		0
124	Lawton PD		207
125	Lexington PD		0
126	Lindsay PD		0
127	Lone Grove PD		0
128	Luther PD		0
129	Madill PD		1
130	Mangum PD		0
131	Marble PD		0
132	Marietta PD		0
133	Marlow PD		0
134	McAlester PD		9
135	McCloud PD		0

Attachment A

136	Medford PD		0
137	Meeker PD		0
138	Miami PD		0
139	Midwest City PD		134
140	Minco PD		1
141	Moore PD		135
142	Mooreland PD		1
143	Mounds PD		0
144	Mountain View PD		1
145	Muldrow PD		0
146	Muskogee PD		143
147	Mustang PD		2
148	Nash PD		0
149	Newcastle PD		0
150	Newkirk PD		0
151	Nichols Hills PD		0
152	Nicoma Park PD		0
153	Ninnekah PD		0
154	Noble PD		9
155	Norman PD		86
156	North Enid PD		0
157	North Miami PD		0
158	Nowata PD		0
159	OCCC PD		0
160	OCU PD		0
161	Oilton PD		0
162	Okarche PD		0
163	Okeene PD		0
164	Okemah PD		0
165	Oklahoma ABLE Commission		0
166	Oklahoma Bureau of Narcotics		0
167	Oklahoma City PD		1593
168	Oklahoma Department of Corrections		16
169	Okmulgee PD		0
170	Oologah PD		0
171	Osage Nation PD		2
172	OSBI		4
173	OSU-IT Campus Police		0
174	Owasso PD		74
175	Paoli PD		0
176	Pauls Valley PD		7
177	Pawnee PD		0
178	Perkins PD		4
179	Perry PD		0
180	Piedmont PD		2
181	Pocola PD		0
182	Ponca City PD		44

Attachment A

183	Pond Creek PD		0
184	Poteau PD		9
185	Pryor PD		4
186	Purcell PD		2
187	Quapaw PD		0
188	Quinton PD		0
189	Ramona PD		0
190	Rush Springs PD		1
191	Salina PD		0
192	Sallisaw PD		6
193	Sand Springs PD		1
194	Sapulpa PD		121
195	Sayre PD		0
196	Seminole PD		17
197	Shattuck PD		0
198	Shawnee PD		123
199	Skiatook PD		3
200	Snyder PD		0
201	South Coffeyville PD		0
202	Spavinaw PD		6
203	Sterling PD		0
204	Stillwater PD		62
205	Stilwell PD		0
206	Stratford PD		0
207	Stringtown PD		0
208	Stroud PD		0
209	Talihina PD		0
210	Tecumseh PD		37
211	Texhoma PD		0
212	Thomas PD		0
213	Tishomingo PD		0
214	Tonkawa PD		5
215	Tulsa Airport PD		0
216	Tulsa PD		3003
217	Tupelo PD		0
218	Tuttle PD		1
219	Tyrone PD		0
220	Union City PD		0
221	University of OK PD		6
222	Valley Brook PD		0
223	Velma PD		0
224	Verden PD		0
225	Verdigris		4
226	Village PD		10
227	Vinita PD		1
228	Wagoner PD		11
229	Wakita PD		0

Attachment A

230	Walters PD		0
231	Warr Acres PD		0
232	Washington PD		0
233	Watts PD		0
234	Waynoka PD		0
235	Weatherford PD		12
236	Weleetka PD		0
237	West Siloam Springs PD		0
238	Westville PD		0
239	Wilburton PD		9
240	Wister PD		0
241	Woodward PD		3
242	Wright City PD		0
243	Wynnewood PD		0
244	Wynona PD		0
245	Yukon PD		10
246	Alfalfa Co Sheriff		0
247	Atoka Co Sheriff		0
248	Beaver Co Sheriff		0
249	Beckham Co Sheriff		0
250	Blaine Co Sheriff		0
250	Bryan Co Sheriff		0
252	Caddo Co Sheriff		0
253	Canadian Co Sheriff		0
254	Carter Co Sheriff		1
255	Choctaw Co Sheriff		12
256	Cleveland Co Sheriff		0
257	Coal Co Sheriff		0
258	Comanche Co Sheriff		0
259	Cotton Co Sheriff		0
260	Craig Co Sheriff		0
261	Creek Co Sheriff		0
262	Custer Co Sheriff		0
263	Delaware Co Sheriff		0
264	Dewey Co Sheriff		0
265	Ellis Co Sheriff		0
266	Garfield Co Sheriff		26
267	Garvin Co Sheriff		0
268	Grady Co Sheriff		0
269	Grant Co Sheriff		0
270	Harper Co Sheriff		0
271	Hughes Co Sheriff		0
272	Jackson CO Sheriff		1
273	Jefferson Co Sheriff		0
274	Johnston Co Sheriff		0
275	Kay Co Sheriff		0
276	Kingfisher Co Sheriff		0

Attachment A

277	Kiowa Co Sheriff		0
278	Latimer Co Sheriff		7
279	LeFlore Co Sheriff		0
280	Lincoln Co Sheriff		0
281	Logan Co Sheriff		0
282	Love Co Sheriff		1
283	Major Co Sheriff		0
284	Marshall Co Sheriff		0
285	Mays Co Sheriff		4
286	McClain Co Sheriff		0
287	McCurtain Co Sheriff		0
288	McIntosh Co Sheriff		0
289	Muskogee Co Sheriff		0
290	Noble Co Sheriff		0
291	Nowata Co Sheriff		0
292	Oklahoma Co Sheriff		0
293	Osage Co Sheriff		0
294	Ottawa Co Sheriff		0
295	Payne Co Sheriff		11
296	Pittsburg Co Sheriff		0
297	Pontotoc Co Sheriff		0
298	Pottawatomie Co Sheriff		0
299	Push Co Sheriff		0
300	Rogers Co Sheriff		0
301	Roger Mills Co Sheriff		0
302	Seminole Co Sheriff		0
303	Sequoyah Co Sheriff		0
304	Stephens Co Sheriff		11
305	Texas Co Sheriff		0
306	Tillman Co Sheriff		0
307	Tulsa Co Sheriff		0
308	Wagoner Co Sheriff		0
309	Washington Co Sheriff		10
310	Washita Co Sheriff		0
311	Woods Co Sheriff		0
312	Woodward Co Sheriff		0

TOTAL			7270
--------------	--	--	-------------

Attachment B

Law Enforcement Agencies That Did Not Submit a Response to the Audit Request as of May 31, 2018

Achille	Davenport	Maud	Sulphur
Agra	Depew	McCurtain	Tahlequah
Alva	Dickson	Medicine Park	Talala
Arcadia	Disney	Moffett	Thackerville
Arkoma	Duke	Morriss	Tipton
Asher	Earlsboro	Olustee	Tryon
Avant	Eldorado	Pawhuska	Tushka
Beaver	Elmore City	Porum	Valliant
Beggs	Erick	Prague	Vian
Bennington	Eufaula	Ratliff City	Vici
Big Cabin	Fairfax	Rattan	Warner
Billings	Fargo	Red Oak	Watonga
Blair	Forgan	Ringling	Waukomis
Bokoshe	Gore	Riley	Waurika
Boley	Granite	Rock Island	Webbers Falls
Boswell	Haskell	Roff	Wellston
Bristow	Heavener	Roland	Wetumka
Butler	Helena	Ryan	Wewoka
Calvin	Hinton	Savannah	Wilson
Canton Police	Howe	Sawyer	Yale
Cashion	Hugo	Seiling	Adair County
Chattanooga	Hulbert	Sentinel	Cherokee County
Checotah	Jay	Shady Point	Cimarron County
Cheyenne	Konawa	Sparks	Greer County
Chouteau	Krebs	Spencer	Harmon County
Coalgate	Lahoma	Sperry	Haskell County
Colbert	Laverne	Spiro	Murray County
Colcord	Locust Grove	Sportsmen Acres	Okfuskee County
Comanche	Lone Wolf	Stigler	Okmulgee County
Cordell	Mannford	Stonewall	Pawnee County

Attachment C

Sexual Assault Statute of Limitations for Adult and Child Victims

Title 22 O.S. § 152(C)

Includes crimes of 21 O.S. § 21 O.S. § 886 - Crimes Against Nature; § 888-Forcible Sodomy; § 1111 - Rape; § 1111.1 - Rape by Instrumentation; § 1113 - Slight Penetration; § 1114 - Rape in the First Degree; § 1123 - Lewd or Indecent Proposals to Child Under 16; § 843.5 - Abuse, Neglect, Exploitation, or Sexual Abuse of a Child; § 866 - Child Trafficking

Dates Effective	General Rule	Exceptions
11/1/2017 – Present	<p>Child: by the 45th birthday of the alleged victim</p> <p>Adult: 12 years after the discovery of the crime</p> <p>Discovery is defined as the date that a physical or sexually related crime involving a victim eighteen (18) years of age or older is reported to a law enforcement agency.</p>	<p>May be commenced any time after the commission of the offense if:</p> <ul style="list-style-type: none"> • Physical evidence is collected and preserved that is capable of being tested to obtain a profile from DNA, <i>and</i> • The identity of the offender is subsequently established through such evidence <p>Once the identity of the suspect is established by DNA testing, prosecution must occur within three (3) years.</p>
11/1/2005 – 10/31/2017	<p>12 years after the discovery of the crime</p> <p>Discovery Standard for children: Discovery means the date that a physical or sexually related crime involving a victim under the age of eighteen (18) years of age is reported to a law enforcement agency, up to and including one (1) year from the eighteenth birthday of the child.</p> <p>Discovery for adults is defined as “when any person (including the victim) other than the wrongdoer or someone in pari delicto with the wrongdoer has knowledge of both (i) the act and (ii) its criminal nature.” <i>State v. Day</i>, 1994 OK CR 67, ¶ 12, 882 P.2d 1096, 1098.</p> <p>The crime has not been discovered during any period that the crime is concealed because of fear induced by threats made by the wrongdoer, or anyone acting in pari delicto with the wrongdoer. <i>State v. Day</i>, 1994 OK CR 67, ¶ 13, 882 P.2d 1096, 1098.</p>	<p>May be commenced any time after the commission of the offense if:</p> <ul style="list-style-type: none"> • Victim notified law enforcement within 12 years after discovery of crime • Physical evidence is collected and preserved that is capable of being testing to obtain a profile from DNA, <i>and</i> • The identity of the offender is subsequently established through such evidence <p>Once the identity of the suspect is established by DNA testing, prosecution must occur within three (3) years.</p>

Attachment C

<p>08/23/2002-10/31/2005</p>	<p>7 years after the discovery of the crime</p> <p>Discovery Standard for children: Discovery means the date that a physical or sexually related crime involving a victim under the age of eighteen (18) years of age is reported to a law enforcement agency, up to and including one (1) year from the eighteenth birthday of the child.</p> <p>Discovery for adults is defined as “when any person (including the victim) other than the wrongdoer or someone in pari delicto with the wrongdoer has knowledge of both (i) the act and (ii) its criminal nature.” <i>State v. Day</i>, 1994 OK CR 67, ¶ 12, 882 P.2d 1096, 1098.</p> <p>The crime has not been discovered during any period that the crime is concealed because of fear induced by threats made by the wrongdoer, or anyone acting in pari delicto with the wrongdoer. <i>State v. Day</i>, 1994 OK CR 67, ¶ 13, 882 P.2d 1096, 1098., 882 P.2d 1096.</p>	<p>May be commenced at any time after the commission of the offense if:</p> <ul style="list-style-type: none"> • The victim notified law enforcement within 7 years after discovery of the crime • Physical evidence is collected and preserved that is capable of being tested to obtain a profile from DNA, <i>and</i> • The identity of the offender is subsequently established through the use of such evidence <p>Once the identity of the offender is established through DNA testing, prosecution must be commenced within three (3) years from that date.</p> <p><i>This paragraph shall have retroactive application to crimes committed prior to the effective date of this act.</i></p>
<p>8/22/2002-11/1/2000</p>	<p>7 years after discovery of the crime</p> <p>Discovery Standard for children: Discovery means the date that a physical or sexually related crime involving a victim under the age of eighteen (18) years of age is reported to a law enforcement agency, up to and including one (1) year from the eighteenth birthday of the child.</p> <p>Discovery for adults is defined as “when any person (including the victim) other than the wrongdoer or someone in pari delicto with the wrongdoer has knowledge of both (i) the act and (ii) its criminal nature.”</p> <p>The crime has not been discovered during any period that the crime is concealed because of fear induced by threats made by the wrongdoer, or anyone acting in pari delicto with the wrongdoer. <i>State v. Day</i>, 1994 OK CR 67, ¶ 13, 882 P.2d 1096, 1098.</p>	<p>No exceptions</p>