

Winter 12-2018

Maine Sexual Assault Kit Study

Alison Grey

University of Southern Maine, Muskie School of Public Service, Cutler Institute for Health and Social Policy

Erika Arthur

University of Southern Maine, Muskie School of Public Service, Cutler Institute for Health and Social Policy

Viacheslav Tomenko

University of Southern Maine, Muskie School of Public Service, Cutler Institute for Health and Social Policy

George Shaler MPH

University of Southern Maine, Muskie School of Public Service, Cutler Institute for Health and Social Policy

Elisabeth Snell

University of Southern Maine, Muskie School of Public Service, Cutler Institute for Health and Social Policy

Follow this and additional works at: <https://digitalcommons.usm.maine.edu/justice>



Part of the [Criminal Law Commons](#), [Evidence Commons](#), and the [Sexuality and the Law Commons](#)

Recommended Citation

Grey, A., Arthur, E., Tomenko, V., Shaler, G., & Snell, E. (2018). Maine Sexual Assault Kit Study. Maine Statistical Analysis Center, University of Southern Maine.

This Report is brought to you for free and open access by the Cutler Institute for Health & Social Policy at USM Digital Commons. It has been accepted for inclusion in Justice Policy by an authorized administrator of USM Digital Commons. For more information, please contact jessica.c.hovey@maine.edu.

Maine Sexual Assault Kit Study

December 2018

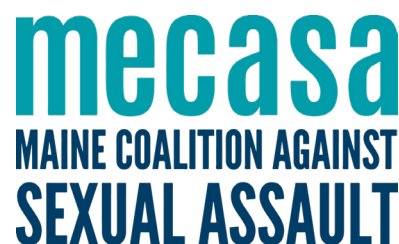


Acknowledgments

Research Team

Alison Grey, Policy Analyst
Erika Arthur, Policy Analyst
Viacheslav Tomenko, Research Analyst
George Shaler, Senior Research Associate
Elisabeth Snell, Senior Policy Associate

Produced for the Maine Coalition
Against Sexual Assault



Survey Design & Administration

Al Leighton, Manager, Cutler Institute Survey Research Center

Graphics, Layout, & Design

Alexa Plotkin, Research Assistant

The researchers gratefully acknowledge the assistance and expertise of MECASA's Sexual Assault Kit Study Advisory Committee, comprised of leaders from the Maine State Police, Maine Chiefs of Police Association, Maine Sheriffs Association, Maine Prosecutors Association, Sexual Assault Forensic Examiner Program, and MECASA's member centers.

This project was funded in part with a grant from the Office of Violence Against Women STOP Violence Against Women Formula Grant Program, through the Maine Department of Public Safety.

Suggested Citation

Grey, A., Arthur, E., Tomenko, V., Shaler, G., & Snell, E. (2018). *Maine Sexual Assault Kit Study*. Maine Statistical Analysis Center, University of Southern Maine.

Table of Contents

EXECUTIVE SUMMARY	1
INTRODUCTION	3
BACKGROUND	3
SCOPE & BURDEN OF SEXUAL ASSAULT	3
THE NATIONAL RESPONSE TO SEXUAL VIOLENCE	4
MAINE'S CURRENT RESPONSE TO SEXUAL VIOLENCE	5
METHODOLOGY	7
SURVEYS	7
FOCUS GROUPS	8
KEY INFORMANT INTERVIEWS	9
PEER STATES REVIEWS & INTERVIEWS.....	9
RESULTS	10
THE STATUS OF SAKS IN MAINE	10
NUMBER OF SAKS COLLECTED EACH YEAR	10
SAKS AT THE MSP CRIME LAB	11
STORAGE OF SAKS AT LAW ENFORCEMENT AGENCIES.....	12

Table of Contents

CURRENT SUCCESSES & CHALLENGES	14
STAGE 1 - KIT DISTRIBUTION & MEDICAL-FORENSIC EXAM	15
CRIME LAB SAK DISTRIBUTION	15
MAINE CRIME VICTIMS' COMPENSATION PROGRAM	15
HOSPITAL & SAFE PRACTICES, POLICIES, & PROTOCOLS	16
MULTIDISCIPLINARY PARTNERSHIPS & STAKEHOLDER COMMUNICATION	18
STAGE 2 - LAW ENFORCEMENT RETRIEVAL OF EVIDENCE FROM HOSPITAL & KIT STORAGE	19
MAINE STATUTORY GUIDANCE	19
STAGE 3 - INVESTIGATION & DECISION-MAKING	22
LAW ENFORCEMENT & PROSECUTOR PRACTICES, POLICIES, & PROTOCOLS	22
DECISION-MAKING FACTORS	23
STAGE 4 - PROCESSING SEXUAL ASSAULT KITS	24
DISCUSSION	25
LIMITATIONS	27
RECOMMENDATIONS	27
REFERENCES	31
APPENDIX	34

This page left intentionally blank

Executive Summary

What are SAKs? Victims of sexual assault are often encouraged to seek medical care after an assault, in the hopes that they might receive trauma-informed care and connections to local advocates who can offer crisis intervention and support. For those who want, or may want in the future, to report the serious crime they've experienced to law enforcement, the collection of forensic evidence using a sexual assault kit, or SAK, is a critical aspect of this initial care.

Why do they matter? The evidence collected in a kit can validate a survivor's account of the sexual assault they experienced. The presence of a SAK can encourage a survivor's confidence in the system, and may make some survivors more willing to participate in the justice process. In addition, this evidence can also support identification of both known and unknown offenders, connect suspects to other crimes, and exonerate the wrongfully accused or convicted. At the same time, the mishandling of SAKs at any step in the process is a grave concern for victims, law enforcement agencies, the wrongfully accused, and society as a whole. This mismanagement, such as SAKs that are not appropriately analyzed at a crime lab or SAKs that are never reviewed by prosecutors, can cause victims further trauma. It can compromise a victim's willingness to participate in investigations, and dissuade victims from seeking urgently needed medical care.

In recent years, large stores of untested kits have been discovered in jurisdictions around the country. A growing body of research, media attention, advocacy, and funding initiatives have focused on SAKs and their role within justice processes. To understand how SAKs should appropriately be used, and how limited resources can be allocated wisely to SAK management, leaders must evaluate how sexual assault forensic evidence is collected and stored, how decisions are made to submit SAKs to the Crime Lab, and how decisions are made to accept cases for prosecution.

Current Study: In 2018, with funding from the Maine Department of Public Safety, the Maine Coalition Against Sexual Assault (MECASA) contracted with the Cutler Institute for Health and Social Policy at the Muskie School of Public Service to gather comprehensive data about sexual assault kits in Maine and to make recommendations for systems improvement.

Methods: The Cutler research team employed a mixed-methods approach to gather comprehensive data about the current status of SAKs in Maine; the challenges and successes of processing and storing SAKs in Maine; and nationally recognized best practices that Maine may already follow or might adapt.

Researchers conducted online surveys of law enforcement agencies, hospitals, Sexual Assault Forensic Examiners (SAFEs), and prosecutors, with high response rates that ranged from 68% to 83%. The research team also conducted four focus groups with sexual assault support center advocates, law enforcement officers, and SAFEs, and interviewed key stakeholders in Maine. To understand study findings within larger national contexts, the research team also conducted a comprehensive literature review and selected three states for additional interviews.

Findings: This research confirms that Maine has achieved key successes in the management of sexual assault kits, specifically, the provision of victim-centered, trauma-informed care, in addition to standardized, accredited practices, and dedicated resources at the Crime Lab. However, Maine also lacks a consistent, cohesive multidisciplinary management plan for kits, once they are collected. This study shows that decision-making to send kits for processing at the Crime Lab and/or present cases to prosecutors for review varies widely statewide, and local law enforcement agencies and prosecutors are often relying on their own intuition and previous case experience for guidance. As a result, a victim of sexual assault in one area of the state may experience a different response than a victim in another region of the state, and responses to victims may vary depending on staffing. There is a lack of clarity, communication, and understanding of decision-making involving kits being sent to the Crime Lab for analysis, in addition to a lack of guidance in retention, storage, and decision-making for disposal of kits. The following recommendations, based on this study's findings, will help key stakeholders, legislators, and community partners balance limited resources, hold offenders accountable, and center the needs and rights of sexual assault victims.

Recommendations:

1. Invest state funding in the Maine State Police Crime Lab for dedicated staffing to provide ongoing analysis of sexual assault kits as needed to maintain minimal backlog.
2. Implement staffing incentives for recruitment of and retention of SAFEs.
3. Develop statewide standards for training of non-SAFE emergency department (ED) staff to provide medical-forensic exams.
4. Implement curriculum on sexual assault forensic evidence collection and provide it to all cadets as part of the Maine Criminal Justice Academy. Ensure ongoing training of law enforcement to include sexual assault response and handling of the kit.
5. Develop legislative requirements for the retention of all sexual assault kits (reported and anonymous) by law enforcement for a minimum of the statute of limitations for gross sexual assault OR after all post conviction options have been resolved, whichever is longer.
6. Develop and implement a statewide model policy for prosecutorial review of all sex crimes cases with kits.
7. Develop, implement, and invest funding in a tracking system of kits.
8. Conduct an audit of all kits currently in storage at law enforcement statewide.
9. Review current victim notification procedures for all cases when a kit has been collected, regardless of prosecution of the case.
10. Explore the status of regional Sexual Assault Response Teams and/or other multidisciplinary teams and increase use of case review.

Introduction

For the past 35 years, the Maine Coalition Against Sexual Assault (MECASA) has worked to support quality sexual violence prevention and response services in Maine communities. MECASA does this by supporting policy development, spearheading public awareness and communications efforts, funding sexual violence service providers, and providing training and technical assistance to the sexual assault support centers located throughout Maine. These sexual assault support centers provide 24-hour services, support groups, medical and legal accompaniment, referrals, education, and more. Central to MECASA's work is their focus on evaluating these efforts to continually understand more about those who seek services and how to better improve those services.

In March 2018, using funding from the Maine Department of Public Safety, MECASA convened an advisory committee and contracted with the Muskie School of Public Service's Cutler Institute for Health and Social Policy (Cutler) to conduct a statewide study on sex crimes forensic evidence exams in Maine. The goals of this study were to gather comprehensive data about the status of sexual assault kits (SAKs) in Maine; to highlight successes and challenges related to processing and storing these SAKs; to research national best practices; and to make recommendations for systems improvement.

It is Cutler's hope that the findings and recommendations presented here help stakeholders, the Legislature, and community partners implement improvements that balance limited resources, hold offenders accountable, and center on the needs and rights of sexual assault victims.

Background

The Scope & Burden of Sexual Assault

Sexual violence, broadly defined as nonconsensual sexual acts such as rape, attempted rape, or threats of sexual violence, is highly prevalent; about one in five, or 19.1% of women in the United States have experienced rape (completed or attempted) in their lifetimes.¹ Similar data from the most recent [Maine Crime Victimization Survey](#) shows that nearly a quarter, or 23.2% of respondents, reported that they had been raped in their lifetimes.² Sexual assault survivors may experience short- and long-term physical injuries and higher rates of adverse and chronic health conditions, such as depression or PTSD, than those who have not been sexually assaulted.^{3,4,5}

Despite these well-documented consequences, reporting rates remain low. A national study found that in 2014 only 33.6% of rapes and sexual assaults were reported to law enforcement.⁶ In Maine, as in other states nationwide, victims of sexual assault are burdened with immediate decision-making in the aftermath of a deeply personal crime. While the decision to seek help seems obvious for most injuries, victims of sexual assault are often reluctant to access medical care and most do not report this crime to law enforcement.² The Maine Department of Public Safety's recent [Uniform Crime Report data](#) shows that, in the midst of an overall drop in reported crimes in the state, reports of rape increased by 17% from 2016 to 2017.⁷ The increase may be due in part to recent high profile national attention casting light on sexual violence, or other community-level factors.

Even with an increase in reports, most sexual assaults reported to law enforcement do not result in arrests, referrals to prosecutors, or formal prosecutorial charges.^{8,9} For instance, of the 448 rapes reported in Maine in 2017, 165 cases were cleared, and 74 arrests were made.⁷

The National Response to Sexual Violence

Well-trained first responders, comprehensive victim-centered medical care, and connections to follow-up support and referrals can contribute to better outcomes for survivors who report sexual assault. These practices can also lead to improved accountability for offenders. In addition, the timely and thorough processing of sexual assault kits can contribute to better survivor outcomes and enhance offender accountability.¹⁰⁻¹³ However, the effective use of this medical-forensic tool relies on the smooth functioning of a variety of systems in multiple fields.

When evidence collected from SAKs is analyzed, it can help identify or confirm known and unknown perpetrators, validate a survivor's account, connect suspects to other crimes, and exonerate the wrongfully accused or convicted.¹⁴ The presence of DNA evidence may also encourage survivor confidence and participation in the prosecutorial process.¹⁵ Because of these possibilities, the mishandling of SAKs at any step in the process is a grave concern for victims, law enforcement agencies, the wrongfully accused, and society as a whole.

More than a decade has passed since the first discoveries of large stores of untested SAKs and the ensuing media stories, investigative efforts, research, and reform and advocacy initiatives surrounding sexual assault kits.¹⁶ To best understand how SAKs can appropriately be used, and how limited resources should be allocated to the management of SAKs, leaders must evaluate key points such as how sexual assault forensic evidence is collected and stored, how decisions are made to submit evidence, and how decisions are made to accept cases for prosecution.

A great deal of research has focused on law enforcement decision-making, since law enforcement officers are generally responsible for submitting evidence to crime labs as part of their investigations. Researchers have also probed the factors that inform prosecutorial decision-making. In Detroit, Campbell et al found that police victim-blaming beliefs and chronic resource scarcity were major factors in decisions not to test SAKs.¹⁴ In a large study of SAK submissions to the crime lab in Utah, wherein only 38.2% of collected SAKs were submitted, Valentine et al found that the jurisdiction in which a rape took place was the primary factor influencing submission rates. In addition, the study showed that extralegal

Two in-depth studies of sexual assault kits were multi-year action research projects (ARPs) in **Detroit** and **Houston**, first funded by the National Institute of Justice (NIJ) in 2011 after the discovery of large stores of untested kits in these jurisdictions. Detroit's ARP resulted in policy changes in the local police department to submit all SAKs for testing, victim-centered and trauma-informed trainings, funding to test stored kits, and passage of statewide legislation requiring submission of all SAKs for testing if the victim consents.^{17,18} The work in Detroit and Houston has provided blueprints for similar efforts around the country.

While the term **"backlog"** has become a catch-all in popular media for all untested sexual assault kits, it is important to distinguish between several different categories of kits. The Department of Justice (DOJ) refers to kits that have been collected but not submitted to a lab for analysis as **"untested/unsubmitted."** The term **"backlog"** is then reserved for kits that have been submitted to the lab but have not been tested by the lab after a period of 30 days. Further, the DOJ refers to kits which are collected from victims who do not wish to report a crime as **"non-investigative."** VAWA provides that victims should have access to a medical-forensic exam without the requirement to report a crime to law enforcement. Non-investigative kits are also known as **unreported or anonymous**, as well as **Jane/John Doe kits**.^{19,20}

factors – such as sex of victim, victim use of drugs, or victim’s mental or physical impairment – weighed more heavily than legal factors in determining submission.²¹ Other research indicates that law enforcement agencies may not submit SAKs because of the belief that DNA evidence is not useful if the suspect has not yet been identified.^{22,23} These findings and additional case studies in other jurisdictions point to high levels of subjectivity – and potential bias – in both investigative and prosecutorial decision-making around whether or not to submit SAKs for testing, rather than a reliance on the legal characteristics of the crime.^{24,25}

In 2013, Congress passed the [Sexual Assault Forensic Evidence Reporting \(SAFER\) Act](#). A national work group was convened to address the act’s recommendations, which included the development of protocols for the collection and analysis of sexual assault evidence.²⁶ The multidisciplinary panel of experts developed 35 recommendations emphasizing the use of collaborative, victim-centered, trauma-informed approaches, with particular input from underserved groups; the utilization of a standardized SAK, specially trained professional medical-forensic care providers (ideally sexual assault nurse or forensic examiners, or SANEs/SAFEs), and careful medical-forensic record retention policies; transparency, accountability, and efficiency of law enforcement and crime laboratory processes; the testing of all reported SAKs; and the development of victim notification and evidence retention policies/laws.²⁷

The Joyful Heart Foundation is a national non-profit organization working on issues surrounding sexual assault and is a driver of much of the media attention given to sexual assault kits across the nation. Through education, advocacy, and legislative initiatives, Joyful Heart’s End the Backlog Project (www.endthebacklog.org) seeks solutions to the large numbers of untested kits in the U.S. Their use of the term backlog notably includes all untested kits, both those stored in law enforcement facilities and those awaiting testing at laboratories. See the terminology sidebar above for more information on the language surrounding kits.

For a complete list of the SAFER Working Group’s recommendations, see Appendix A.

Maine’s Current Response to Sexual Violence

The Maine sexual assault kit (known officially as the Maine State Sex Crimes Evidence Collection Kit) is a standardized investigative tool that has been used in conjunction with medical-forensic care for victims of sexual assault for almost 20 years.²⁸ Unlike some states that use non-standardized SAKs, Maine utilizes this uniform SAK at the recommendation of a statewide Commission to Propose an Alternative Process for Forensic Examinations for Sexual Assault Victims, convened in 1999. In addition to a standardized SAK, the Commission recommended other practices that were later implemented, including consistent payment for forensic examinations for alleged victims of sexual assault.²⁹

The Maine State Police (MSP) Crime Lab, an accredited crime laboratory, is the sole site for distribution of SAKs to hospitals, as well as all sexual assault kit forensic analysis in Maine. SAKs include a tracking number sticker on the outside, which corresponds with tracking stickers inside that are affixed to each piece of individually packaged evidence. Each time the evidence changes hands (e.g., from hospital to law enforcement to crime lab for analysis), it is visibly documented in a formal “Chain of Custody” of evidence.

In efforts to improve post-assault care for victims of sexual assault and to address inconsistent evidence collection, Maine implemented statewide guidelines for healthcare practitioners to advise their care of sexual assault patients. The guidelines were created by the Sexual Assault Forensic Examiner (SAFE) Program Advisory Board, established by the Maine Legislature in 2001. Published in 2011, the guidelines promote victim-centered, quality care of adult and adolescent patients of sexual assault, and outline exactly how forensic evidence should be collected, packaged, and documented.^{30,31} The SAFE Program Director provides training and technical assistance statewide to healthcare providers and other multidisciplinary responders on the medical-forensic response and on preparation for testifying in legal proceedings related to the evidence gathered during the medical-forensic exam. The program also trains and certifies healthcare providers as Sexual Assault Forensic Examiners (SAFEs), who then provide specialized care for sexual assault patients around the state.

Maine is in compliance with the federal **Violence Against Women Act (VAWA)**, which stipulates the requirements regarding the medical-forensic exam in order to receive federal funds.³² Maine healthcare facilities bill the Crime Victims' Compensation Program in the Office of the Maine Attorney General directly for services related to the forensic exam and medical treatment relevant to the assault (such as prophylaxis for pregnancy and sexually transmitted infections). VAWA also prohibits the billing of forensic examinations to victims, regardless of victim participation with law enforcement and the criminal justice system.

Maine law requires that law enforcement transport and store the SAKs.³³ If a victim of sexual assault chooses not to report the crime, that anonymously collected SAK must be stored for at least 90 days from time of receipt by law enforcement. There are no requirements in Maine regarding retention of reported, or non-anonymous SAKs. Individual law enforcement agencies must use their discretion as to how long they store and dispose of SAKs, in the absence of statewide guidance.

MECASA provides two hours of basic instruction to every Maine Criminal Justice Academy cadet and also produced a [statewide brochure with guidelines for law enforcement response to sexual assault](#). MECASA's member sexual assault support centers also convene multidisciplinary Sexual Assault Response Teams (SARTs) to coordinate unified, informed responses to sexual assault in their regions. SARTs vary in their composition, attendance, and activities and in some regions these multidisciplinary partnerships also focus on human trafficking, child abuse, or other topics, as well as sexual assault.

In addition to MECASA, another source of statewide leadership and legislative guidance exists in the Maine Commission on Domestic and Sexual Abuse which makes recommendations on legislative and policy actions, including training of law enforcement and prosecutors, and produces a biennial [report](#).³⁴

Beyond these statutes, trainings, and guidelines – mostly prompted by federal legislation – Maine lacks comprehensive protocols for law enforcement response and prosecution of sexual assault crimes. While local law enforcement may provide their own standard operating procedures for response and some prosecutorial districts may provide guidance for retention of SAKs in their districts, the response may vary by department and prosecutorial region. Thus, high levels of subjectivity in law enforcement decision-making may contribute to different responses based on jurisdiction and even different investigators within a jurisdiction.

Methodology

The Cutler research team used a mixed-methods approach to determine the current status of sexual assault kits in Maine. This approach included statewide surveys, focus groups, key informant interviews, and peer states research.

Surveys

The Cutler Institute's Survey Research Center (SRC) conducted four surveys in the summer/early fall of 2018 to determine what policies, guidelines, and/or practices exist regarding management of sexual assault kits in Maine. Surveys were sent to:

1. Law enforcement agencies;
2. Hospitals;
3. Sexual Assault Forensic Examiners (SAFEs); and
4. Prosecutors.

Survey questions were developed in conjunction with MECASA's kit study advisory committee, which includes representatives from each of the fields surveyed.

Survey Recruitment

To identify potential participants for the law enforcement survey, researchers compiled a list of all 132 law enforcement agencies in the state. One survey was sent to each Chief/Sheriff, who could forward it on to someone within their department if they chose. There were 90 complete responses ($n = 90$), for a final response rate of 68%. The law enforcement survey included questions about the number of SAKs currently stored at the department, processes and protocols regarding SAKs, as well as decision-making around SAKs being sent to the Crime Lab.

A list of all 34 hospitals in the state that provide sexual assault medical-forensic care in their emergency departments (EDs) was compiled and they were contacted directly to confirm the contact information of Nurse Managers (NMs), who are the administrators of their facility. Of these potential participants, there were 27 respondents ($n = 27$) and a final response rate of 79%. The NM survey included questions about hospital policies and protocols for providing medical-forensic care, training provided to hospital staff regarding medical-forensic care, as well as law enforcement response to transport sexual assault kits.

Because there is no public list of SAFEs, potential participants for the SAFE survey were recruited via the SAFE Program Director at the Department of Health and Human Services, who invited SAFEs to opt in to the SRC survey. Thirty SAFEs opted in, and of these there were 25 respondents for a final response rate of 83%. Survey participants were asked which hospital(s) they provide services for; if multiple SAFEs responded from the same hospital, responses were de-duplicated. SAFE survey questions were similar to NM survey questions and included questions regarding their hospital's policies and protocols as well as their own observations about medical-forensic care provided at their hospitals.

To identify prosecutors in Maine’s eight prosecutorial districts, researchers used public listings of 95 prosecutors. Of these, there were 75 respondents (n = 75) and a response rate of 79%. Those respondents who indicated that they do not make decisions regarding sex crimes cases skipped to the end of the survey. The prosecutor survey of the remaining 60 respondents included questions about the decision-making process for submission of SAKs to the Crime Lab for analysis, communication with victims, and the importance of forensic analysis of SAKs in determining whether a case is accepted for prosecution.

Each survey was introduced to potential participants via an advance email from the SRC using the names of statewide leaders including a Sheriff, District Attorney, and the SAFE Program Director, all of whom consented to the use of their names. The initial email outlined the survey’s purpose and importance, and included a request to participate. A subsequent email included an individualized link to the online survey, which was followed by emailed reminders to all non-respondents. Finally, SRC staff made multiple phone calls at different times of day to reach potential participants.

After the data was cleaned, completed surveys were analyzed using SPSS 25 descriptive statistics and results were reported as frequency distributions. Responses were also examined to see how they differed according to the size of the law enforcement agency, as well as respondents’ prosecutorial regions in the state.

Focus Groups

Four focus groups with relevant disciplines were conducted in the summer of 2018. Focus group participants were identified and invited with the help of contacts in the field, including members of the MECASA kit study advisory committee. The semi-structured group interview processes were moderated by one researcher while another took notes. Each focus group was recorded, then transcribed and expanded with written notes. Findings were analyzed independently by the two researchers in order to identify themes and sub-themes based on the guiding research questions as well as emergent themes. To ensure inter-rater reliability, the two researchers then compared their findings and highlighted areas of concurrence and divergence. This process was repeated after each focus group and again in the context of the study’s other mixed methods data, in order to triangulate key findings.

Semi-Structured Focus Groups				
	Advocates	SAFEs	Law Enforcement 1	Law Enforcement 2
Sample Size	6	6	6	8
Sampling Strategy	Non-random, invited by MECASA	Non-random, invited by SAFE Program Director	Non-random, invited by local Police Chief	Non-random invited by local Police Chief
Composition/ Prosecutorial District Representation	All districts represented; experience range of < 1-18 years	Districts 3, 4, 5, 6; experience range of 1-19 years	Districts 1, 2, 3, & Maine State Police; experience range of 7-33 years	Districts 1, 4, 5 & Maine State Police; experience range of 5-24 years

Key Informant Interviews

Researchers conducted semi-structured interviews in September and October 2018 with key stakeholders, chosen based on their understanding of the existing statutes, guidelines, practices, and protocols related to SAKs:

1. Maine State Police Crime Laboratory Director and former Director;
2. Maine SAFE Program Director;
3. Maine Crime Victims' Compensation Program Director; and
4. Maine National Guard Joint Force Headquarters Sexual Assault Response Coordinator and Maine Air National Guard Sexual Assault Response Coordinator.

The Maine State Police Crime Laboratory Director and his predecessor, who is currently the Deputy Chief of the Maine State Police, were interviewed at the Crime Lab, which allowed for an opportunity for researchers to tour the facility and the site where evidence is submitted and processed.

The SAFE Program Director and the Maine Crime Victims' Compensation Program Director were both interviewed about their programs, the number of medical-forensic exams provided each year, and the process by which exams are paid for by the Victims' Compensation Program. Additionally, the Maine National Guard's Joint Force Headquarters Sexual Assault Response Coordinator and Sexual Assault Response Coordinator for the Maine Air National Guard were identified by MECASA as stakeholders in the statewide multidisciplinary response. Interview questions included inquiry into federal protocols, including Department of Defense guidelines, as well as reporting options within the military.

Peer States Review & Interviews

To understand Maine's findings within the larger national context, researchers conducted a general statute, policy, and practice review of states nationwide. Sources included peer-reviewed scholarly research; state government websites; and reports from non-profit organizations, technical assistance providers, and coalitions working in sexual assault response.

With input from MECASA, researchers chose to interview Idaho, Vermont, and Connecticut based on their state's use of national best practices, its geographic similarity to Maine (large, rural, New England), and/or its implementation of tracking systems. Contact was made with key stakeholders in each state:

1. Laboratory System Director, Idaho State Police Forensic Services;
2. Deputy Director of the Vermont Network Against Domestic and Sexual Violence and that state's SANE Program Coordinator; and
3. Executive Director of the Connecticut Alliance to End Sexual Violence and Chair of the Governor's Sexual Assault Kit Working Group and Connecticut's Sexual Assault Kit Initiative (SAKI) Specialist.

These interviews were conducted using standard video conferencing technology and a standard set of questions, with some variation based on knowledge of each state's specific management of sexual assault kits. Since all of these states have been engaged in years-long endeavors to examine and improve practices surrounding sexual assault kits, questions largely focused on challenges, lessons learned, intended and real outcomes, and future directions.

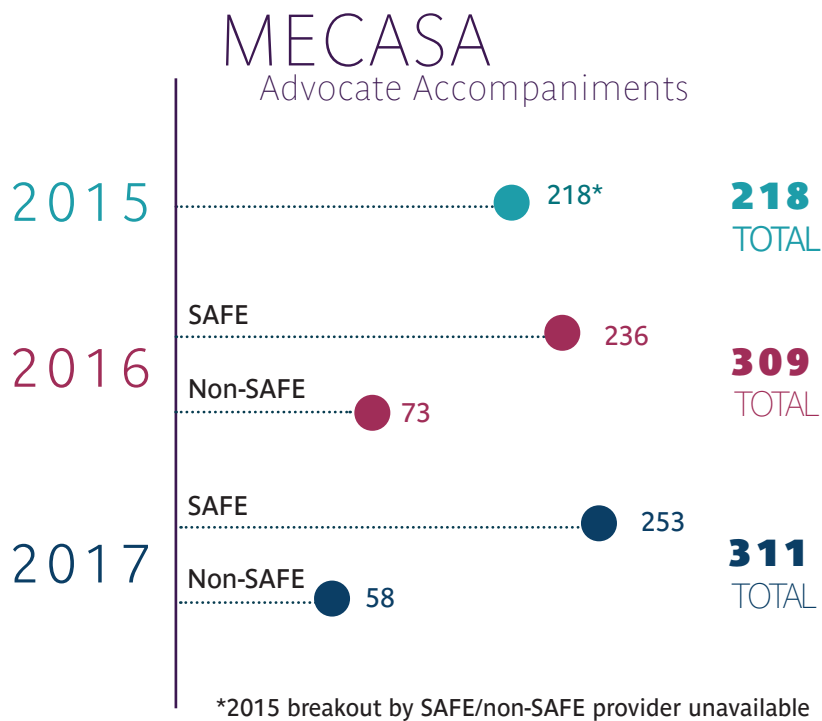
Results

The Status of SAKs in Maine

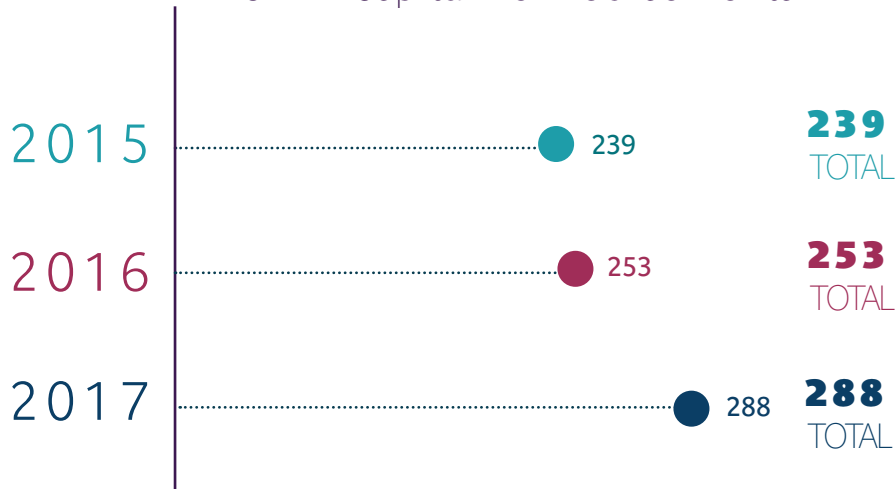
Number of SAKs Collected Each Year

Maine does not have a comprehensive method for tracking sexual assault kits. While some agencies track aspects of the SAK for their own purposes, there is no uniform count statewide of how many SAKs are collected.

The information that was available was provided from MECASA member centers and the Maine Crime Victims' Compensation Program. Member centers track the number of accompaniment services they provide to victims for medical-forensic exams and whether a SAFE or non-SAFE trained personnel provided care. However, some advocates appear to be counting non-forensic medical accompaniments as well, so this number should be approached with caution. The Maine Crime Victims' Compensation Program tracks the number of SAKs that are billed to their program in a calendar year. However, the Program Director noted that not all hospitals submit for reimbursement, so this number likely under-represents the total number of SAKs collected in a year.



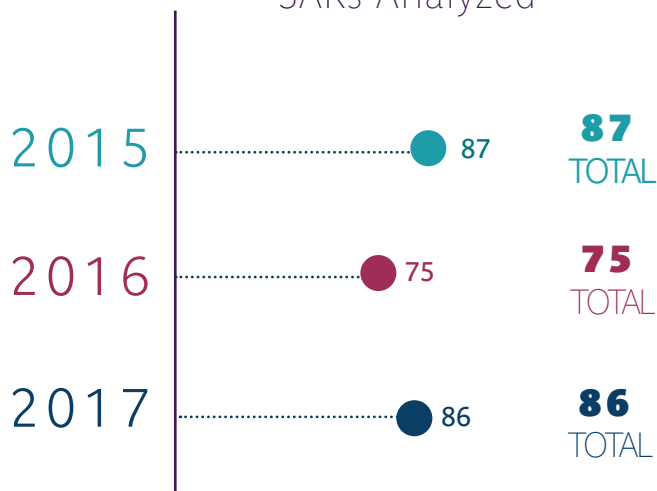
Maine Crime Victims' Compensation Program SAK Hospital Reimbursements



SAKs at the MSP Crime Lab

The Crime Lab tracks the number of sexual assault kits that are analyzed each year. The Crime Lab Director reported that Maine typically does not have a notable backlog, according to the nationally accepted definition of backlog as processing time of more than 30 days. In October 2018, Maine's backlog was one SAK. The Crime Lab maintains this minimal backlog by obtaining federal funding for a dedicated chemist position, who spends 8-10 hours per SAK screening for semen and saliva as the most probative evidence.

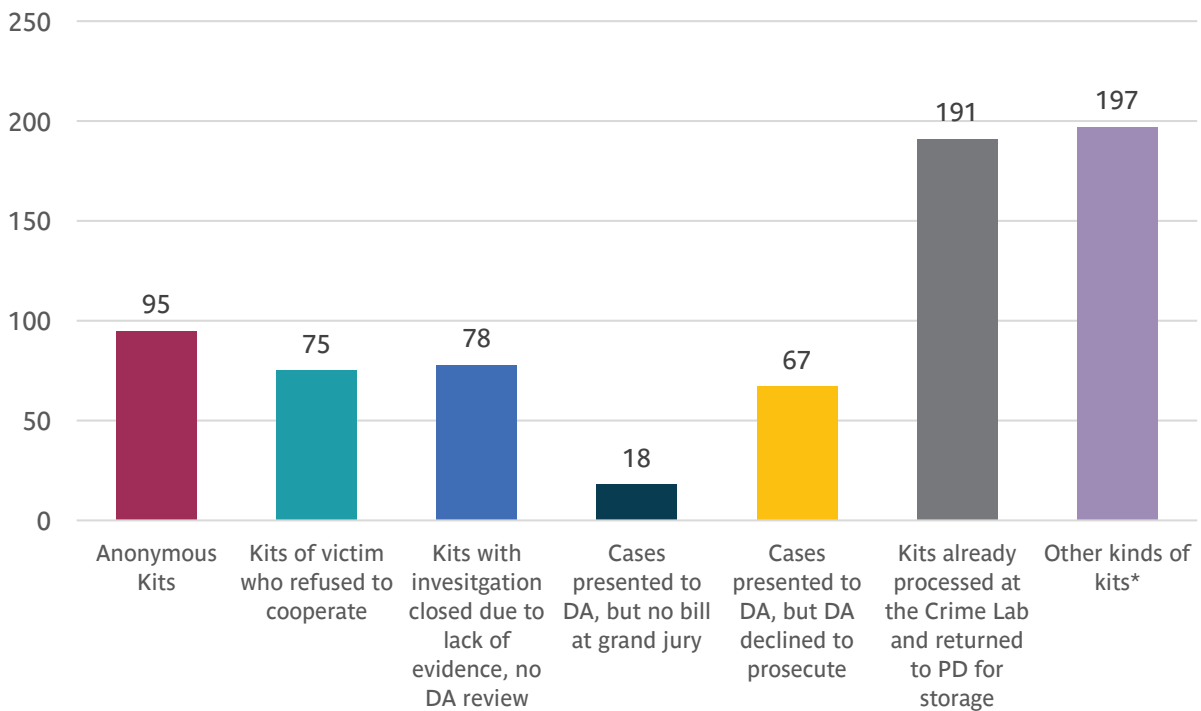
MSP Crime Lab SAKs Analyzed



Storage of SAKs at Law Enforcement Agencies

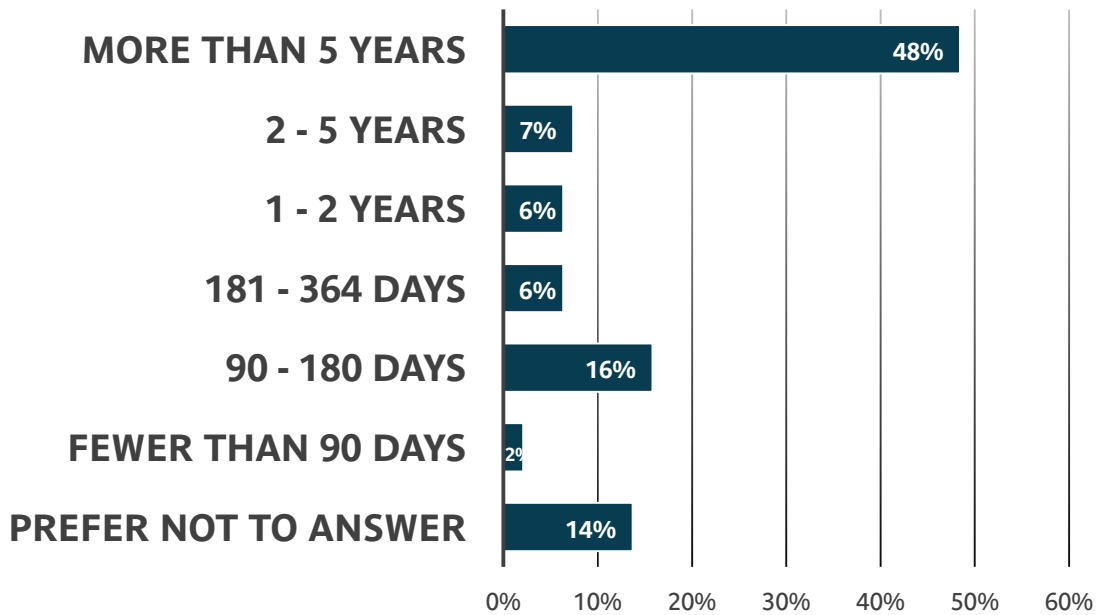
Law enforcement survey respondents indicated that as of July 2018, there were upwards of 721 SAKs currently stored at agencies across Maine. Storage times and practices varied across the state. Twenty-three percent of respondents reported their department had no SAKs in storage. Nearly half of respondents indicated that their agencies store both anonymous and identified SAKs for more than 5 years (48% and 50% respectively). Seventy-four percent of respondents indicated that their departments have evidence storage areas with separate freezing and refrigeration capabilities and 73% of respondents indicated that their department uses a tracking system of SAKs in evidence storage.

SAKs Currently Stored at Law Enforcement Agencies (n=90)



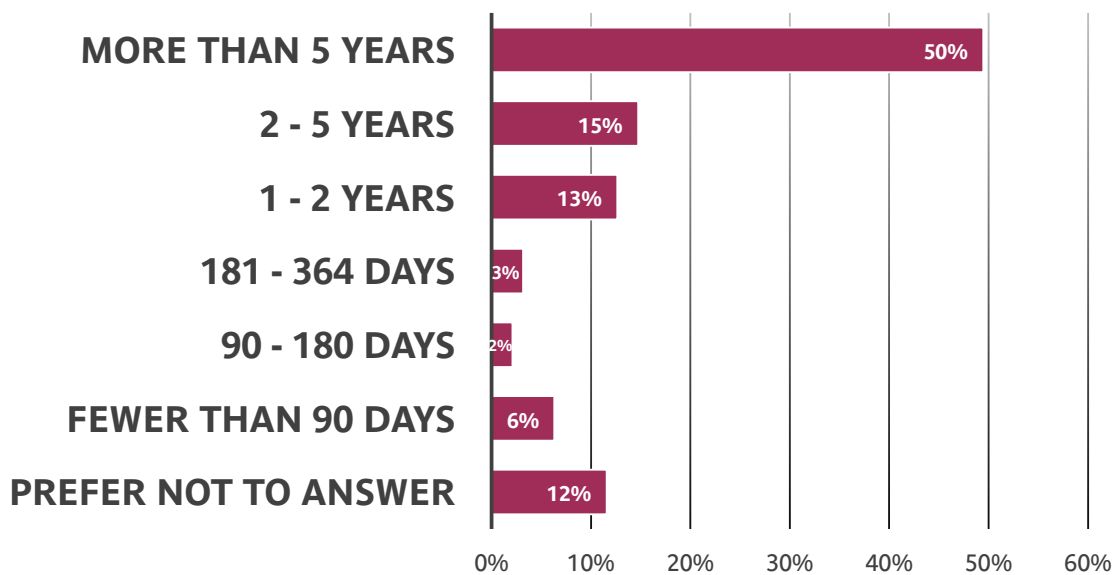
*Other responses included: Pending kit, juvenile arrest kit, no action kit, homicide investigation kit

Typical Storage Time for Anonymous SAKs as Reported by Law Enforcement (n=95)*



*Totals may not equal 100% due to rounding

Typical Storage Time for Reported SAKs as Reported by Law Enforcement (n=95)*

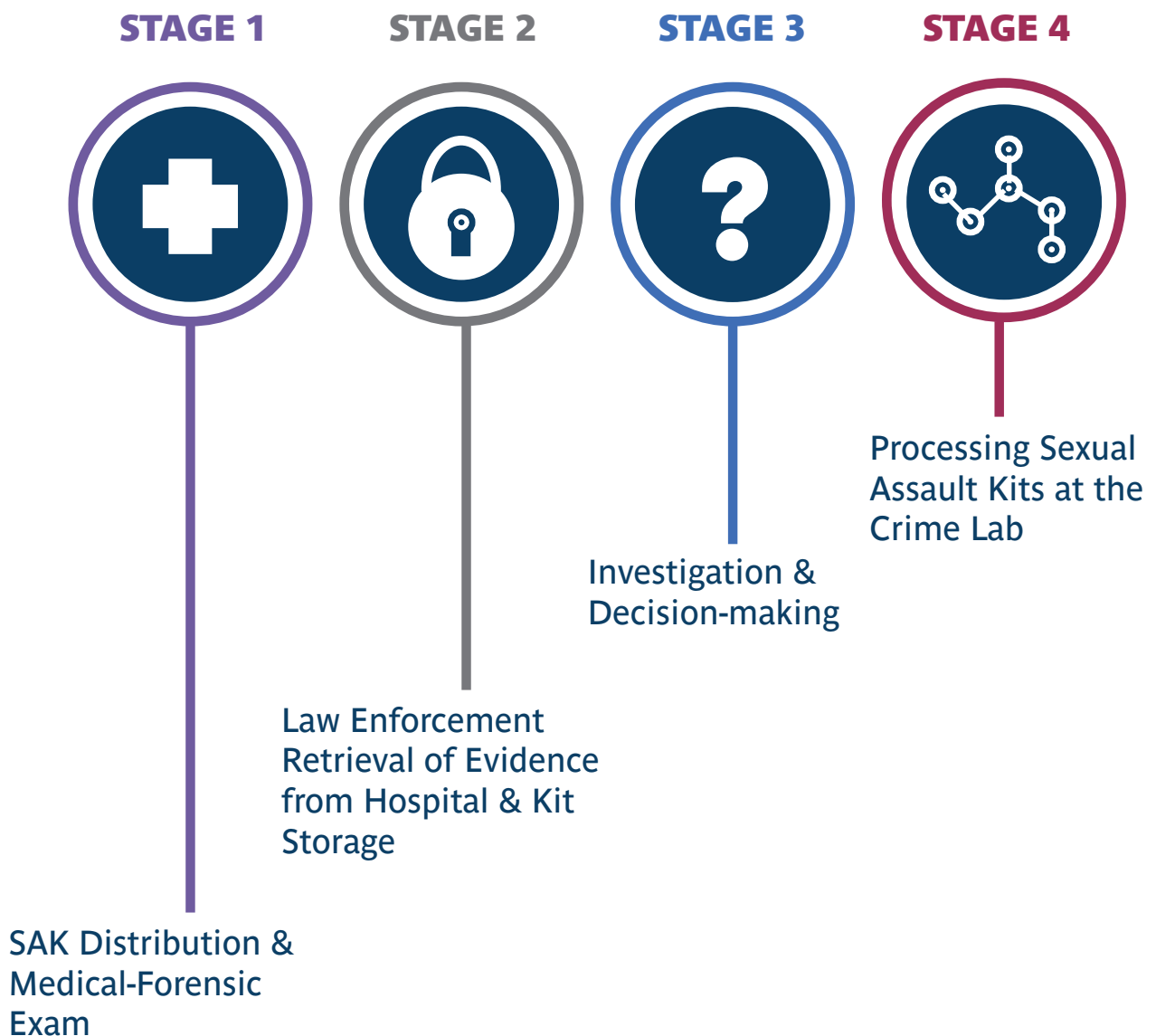


*Totals may not equal 100% due to rounding

Current Successes & Challenges

While there were successes related to the status of SAKs in Maine, results showed significant inconsistencies in how Maine agencies make decisions about the storage and analysis of SAKs and prosecutorial review of cases with SAKs. These successes and challenges are well highlighted by considering the four stages that the typical SAK goes through.

Maine Sexual Assault Kit Trajectory



Stage 1 – SAK Distribution & Medical-Forensic Exam

Overall, in Maine, the standardized SAK itself and its method of distribution is largely clear and well-implemented. There is clear guidance related to the distribution of SAKs to hospitals across the state and their initial use in medical-forensic exams, and this guidance seems to be well followed. In comparison with later stages, at this stage there are more consistent practices, a higher level of stakeholder awareness, and more effective communication. While these successes are notable, research showed some challenges and concerns regarding the collection of the SAK and SAFE staffing issues.

Crime Lab SAK Distribution

SUCCESS Crime Lab SAK Distribution

The Crime Lab Director and SAFE Director both reported that communication between the Crime Lab and hospitals is effective, and the Crime Lab consistently distributes SAKs to hospitals as requested in a timely fashion.

STAGE 1

“Nothing but good things to say about [getting more kits from the Crime Lab]: hospitals send a fax, the kit goes out to the hospital; the process of the kits and getting it to law enforcement... Haven’t had a problem in ten years.”

SAFE Program Director

In comparison, other states have only more recently moved to a uniform SAK and have struggled to track the movement of their SAKs due to multiple distribution points.

CHALLENGE Crime Lab SAK Distribution

The actual use of kits and their outcomes are not tracked (e.g., kits may be used for training, discarded due to the expiration date on the kit, or disposed of for other unknown reasons rather than being used for medical/forensic exams).

STAGE 1

Maine Crime Victims’ Compensation Program

The direct billing from hospitals to the Victims’ Compensation Program protects victims from the undue burden of filing an application for reimbursement from the program, and allows the provider’s focus to remain on the victim’s access to medical care, as well as the immediate connection to advocates.

SUCCESS Maine Crime Victims’ Compensation Program

The billing process for medical-forensic exams to the Crime Victims’ Compensation Program runs smoothly.

STAGE 1

CHALLENGE

Maine Crime Victims' Compensation Program

Only 53% of SAFEs and 41% of NMs say their ED tracks billing to the Victims' Compensation Program.

STAGE 1

Hospital and SAFE Practices, Policies, & Protocols

All respondents indicated their hospitals have policies for contacting advocates, and nearly three-quarters (74%) of NMs indicated they have partnerships with sexual assault support center advocates regarding care. There was broad agreement in the SAFE and advocate focus groups that the medical-forensic exam represents an opportunity for victims to make choices and reclaim control over what happens to them and their bodies, regardless of any outcomes from the evidence collection. Both these groups expressed their dedication to centering the victims' needs and preferences regarding whether and how the exam is performed and whether a victim chooses to report the crime.

SUCCESS

Hospital and SAFE Practices, Policies, & Protocols

While multiple participants in the advocate, SAFE, and law enforcement focus groups expressed concern that victims were waiting long times to be seen, the surveys indicated differently with 59% of NMs and 74% of SAFEs reporting an hour or less wait time.

STAGE 1

The SAFE program is well-established in Maine; as of October 2018 there were about 140 SAFEs and SAFEs-in-training, though according to the SAFE Program Director, not all are active.

SAFE focus group participants indicated that non-SAFE trained medical staff demonstrate a fear of performing medical-forensic exams. Both SAFE focus group

Nearly three-fourths of NMs indicated their hospital did ten or fewer exams in the last calendar year.

“[P]art of our protocol is if you're calling a SAFE, you call an SA advocate. We work very closely; we have a fabulous group of SA advocates [who] cover six hospitals. We are fortunate that our advocates in our program all cover the same region, so we get really close.”

SAFE Focus Group participant

“I have seen a complete change in my patient because I tell them right up front what I'm going to be doing and that they are in charge the whole time we're doing it. And it empowers the patient. The patient comes in sad, dejected, not making eye contact, but by time we finish...we're interacting, I can get them to smile.”

SAFE Focus Group participant

“One of the unintended consequences of the SAFE program in the state of Maine that hasn't been so positive is that there's sometimes an assumption made that only trained SAFEs can collect evidence, and that's not true... so they don't have people provide kits when there's not a SAFE available... I think one of the issues behind that is that they're just not doing enough kits to feel confident and comfortable collecting the evidence. So if we had a more consolidated program to give people more exposure to this collection, and not have to do their other jobs...at the same time, it could speed up the process, it could diminish re-traumatization for the survivor, and alleviate some of these issues.”

Advocate Focus Group participant

“We have limited nurses who can do this, three of us. We are very overtaxed.”

SAFE Focus Group participant

SUCCESS **Hospital and SAFE Practices, Policies, & Protocols**

Ninety-three percent of Nurse Managers and 95% of SAFEs reported that their EDs have written policies for care, in addition to the statewide SAFE Guidelines which, according to the SAFE focus group, are working well and current.

STAGE 1

participants, as well as SAFE survey respondents flagged training needs for all ED staff on appropriate care for sexual assault patients. While the SAFE Program Director offers free four-hour trainings to hospitals statewide, there was discrepancy from respondents about how often and what type of training actually exists for all ED staff. Seventy percent of NMs responded that their hospital supports ongoing education and training while the response for SAFEs was only 42%.

All focus groups mentioned that hospitals in Maine face increasing pressures and cited hospital mergers, staff turnover, retention of SAFEs, as well as other non-SAFE staff. The work of providing trauma care is hard and burnout happens.

CHALLENGE **Hospital and SAFE Practices, Policies & Protocols**

78% of NM and 68% of SAFE respondents indicated that there are not enough trained SAFEs or other trained personnel in their EDs to effectively meet the medical-forensic needs of SA victims. Many NMs and SAFEs (86% & 80% respectively) indicated that the reason for not having enough SAFEs is that there is not enough interest from staff.

STAGE 1

“So as an example, I got a call yesterday saying there was no forensic nurse available, it was a case that really needed our expertise, and so I’m trying on the phone to help as much as I can and instead of listening to what I’m trying to give them, on the other end it’s ‘can’t you please just come in and take care of this, we don’t want to do it’... So I think there are some barriers with ER staff not really wanting to learn how to take care of these patients. Not all of them, but a fair amount of them, they’re... afraid they’re going to do something wrong... And even when ...we have made it so easy. There’s a book with every single possible thing filled out, every piece of paper, every step you should take, I mean you can’t make it any easier for them to follow.”

SAFE Focus Group participant

“[SAFES] unfortunately statistically across the country [have] a fairly decent dropout rate in the first two years, so keeping staff on board and having a team that’s full enough to cover all the hours of the day, every day of the week is not doable in my facility, right now or anytime in the near future”

SAFE Focus Group participant

“We have it in policy as well, basically following state guidelines, explaining to any untrained nurse how to do it, and how far they can go and then the physician takes over. Had one this week, the physician actually said to me when I came in ‘thank you for coming in, these are such a pain in the ass’...then he said, ‘okay I don’t mean that, we’re glad that you come in, we don’t feel like we’re doing these patients justice, and you know what you’re doing.’ So it’s very time-consuming, and everybody acknowledges that, and the nurses are afraid they’re doing something wrong, or not doing enough. They’re afraid of going to work and not knowing what to do or say.”

SAFE Focus Group participant

CHALLENGE **Hospital and SAFE Practices, Policies, & Protocols**

The quality of evidence collected can be impacted by a lack of experience and training. Participants of the law enforcement focus group observed that the packaging of evidence is sometimes problematic and they speculated that these issues may be due to a non-SAFE performing the exam or a training problem.

STAGE 1

Multidisciplinary Partnerships & Stakeholder Communication

Eighty-six percent of NM respondents and 81% of SAFE respondents indicated that multidisciplinary partnerships had improved the response to the crime of sexual assault in their region, particularly in the areas of improved victim care, better understanding of roles and responsibilities, and better communication. Notably fewer indicated that these partnerships improved training opportunities, increased case investigations, or improved prosecution rates.

Research showed that the composition of these partnerships may be somewhat uneven. More than half (53%) of SAFEs indicated that their hospital leadership had no partnership with the DA's office; 37% said there was no partnership with LE; and 32% indicated no partnership with advocates.

SUCCESS **Multidisciplinary Partnerships & Stakeholder Communication**

Existing multidisciplinary partnerships improve care of SA victims and communication between stakeholders.

STAGE 1

"I think [the SART] is definitely a good thing... because everybody has things that they do a little bit better. I mean, a lot of the follow-up and the... support that somebody from SARSSM might be able to provide, is certainly different than something that I can provide. And you know, the things that the nurses and the doctors do at the hospital is something that I'm not particularly good at. So I mean, it really made sense. And it was kind of a program that sold itself... We have a pretty good system. And it seems to work. I mean, it's not perfect. And we get mistakes. And sometimes we get kits that are a mess, because somebody didn't have experience or didn't have training and that happens. But for the most part, I think we have a pretty good system."

Law Enforcement Focus Group participant

"The communication when there's a team in place ... I think that's a beneficial thing for the investigation in total. Because a lot of the stuff that I heard the SAFE nurses complaining about, there was a reason for it... why we do stuff a certain way. But they had no idea of that. And it's kind of similar, I guess, back and forth in terms of the sharing of ideas and maybe understanding how everybody actively participates a little bit better... I think that the team situation could be... highly beneficial, in terms of a better understanding of who does what and why we do what we all do. So that we don't have to butt heads about... 'you did this this way and I don't like it...'"

Law Enforcement Focus Group participant

Stage 2 – Law Enforcement Retrieval of Evidence from Hospital & Kit Storage

Existing statutory guidance in Maine pertains to this stage of the SAK's trajectory. However, this guidance is limited to kit collection, transportation, custody, and anonymous kit storage minimum timeframe. Beyond these requirements, great variation exists across the state and between agencies.

Maine Statutory Guidance

Once the sexual assault forensic examination is complete, Maine law requires that the medical facility notify the appropriate law enforcement agency so that they can retrieve the SAK, and provides specific guidance on the handling of anonymous SAKs. The statute directs that the law enforcement agency in the jurisdiction of the medical facility where the exam was performed should obtain custody of the anonymous SAK (identified solely by a tracking number) and store it for 90 days, unless the crime is reported during that timeframe, at which point the investigating agency will gain custody of the SAK.

SUCCESS

Maine Statutory Guidance

Maine Statute requires that law enforcement in the jurisdiction where the crime occurred (in the case of reported kits) and where the medical-forensic exam was performed (in the case of anonymous SAKs) take custody of the SAK and store it in their evidence facilities.

STAGE 2

CHALLENGE

Maine Statutory Guidance

Maine statute provides no guidance to law enforcement for how long they should store reported SAKs. Law enforcement focus group participants cited this lack of guidance as a significant problem and 72% of prosecutors surveyed believe there should be statewide guidance on the retention of reported SAKs.

STAGE 2

In the absence of guidelines regarding reported SAK storage time, law enforcement agencies must follow their own internal protocols for evidence retention.

SUCCESS

Maine Statutory Guidance

Despite the absence of statutory guidance, law enforcement agencies in Maine generally retain SAKs for extended periods of time and 82% of law enforcement survey respondents indicated that when SAKs are destroyed, the decision is documented.

STAGE 2

Law enforcement focus group participants indicated that without specific guidance, their agencies keep SAKs in storage for extended periods of time, noting a lack of direction as to when to destroy kits, and lack of clarity regarding whose decision it is to destroy them. Law enforcement focus group participants expressed serious concern about evidence storage space in their agencies.

Given the presence of the Maine National Guard in the state, it is possible that some crimes of sexual assault occurring here would fall under the jurisdiction of the U.S. Department of Defense (D.O.D.). In contrast to the lack of statutory requirements in Maine, the federal D.O.D. guidelines are explicit regarding kit retention and require a minimum storage timeframe of five years for all kits.³⁵

CHALLENGE

Maine Statutory Guidance

Nearly half (46%) of prosecutors surveyed reported that they do not know who decides whether and when the destruction of the kit is allowable.

STAGE 2

There was a notable lack of clarity among law enforcement focus group participants about the timeframe required by the existing anonymous kit retention statute. As for the effectiveness of the existent legal guidance, 79% of prosecutors surveyed said “no” or “I don’t know” when asked whether 90 days is a long enough period to retain an anonymous kit (43% & 36% respectively).

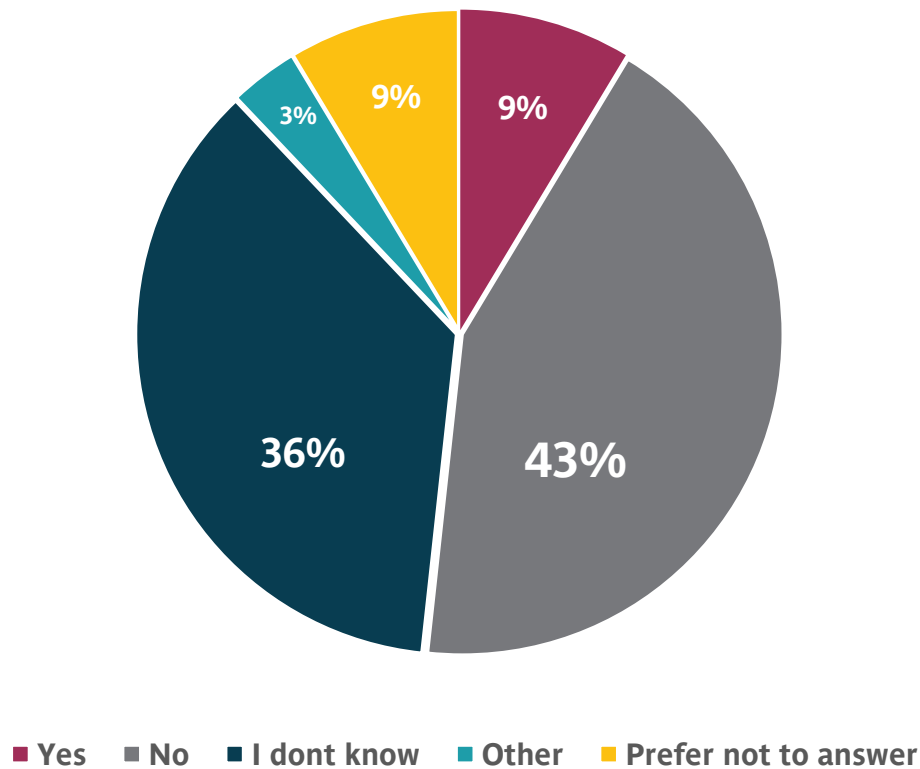
CHALLENGE

Maine Statutory Guidance

Only 9% of prosecutors surveyed said that 90 days was sufficient for the storage of anonymous SAKs.

STAGE 2

Prosecutor Views on Anonymous SAK Retention: Is the 90 day statute sufficient? (n=58)



Half of the prosecutors suggested that anonymous SAKs should be kept for the length of the statute of limitations for gross sexual assault, which is eight years.³⁶ In addition, some SAFE focus group participants indicated that law enforcement is not consistently aware of, or does not consistently heed the statutory requirements surrounding the handling of anonymous kits. For instance, an officer may transport a kit to the jurisdiction where the crime occurred, if they possess this knowledge, rather than to the law enforcement agency in the jurisdiction where the kit was performed. On the other hand, according to survey findings from the Nurse Managers and SAFEs, the kits are generally picked up in a timely fashion. The majority of NMs and SAFEs reported that this pickup happens in less than two hours (74% and 90% respectively).

While not emphasized as a major impediment, some participants in the law enforcement focus groups, as well as stakeholders at the Crime Lab, reported that periodically the kit is not packaged or labelled properly. This oversight may necessitate opening and repackaging the kit to ensure the contents are stored properly. Law enforcement and Crime Lab sources speculated that this could be due to a lack of training on the part of the SAFE or other medical provider who completed the kit, high turnover in hospital EDs, and/or issues stemming from hospital restructuring.

Stage 3 – Investigation and Decision-making (Regarding prosecutor review and Crime Lab analysis)

There is no statewide guidance pertaining to decision-making around whether a SAK is sent to the Crime Lab for analysis or whether a sexual assault case with a SAK is reviewed by a prosecutor. All of the focus groups (with law enforcement, advocates, and SAFEs) revealed a widespread lack of clarity and an absence of consistency in these realms. Stakeholders' understanding of their roles and lines of communication varied depending on region and agency.

Law Enforcement & Prosecutor Practices, Policies, & Protocols

CHALLENGE

Law Enforcement & Prosecutor Practices, Policies, & Protocols

About half of law enforcement agencies surveyed indicated that they do not have protocols or guidelines regarding which sexual assault kits are sent to the Crime Lab.

STAGE 3

While 83% of prosecutors surveyed reported that the decision to send kits to the Crime Lab is a collaborative decision between prosecution and law enforcement, in the absence of guidelines about which cases the prosecutors see, it must be assumed that there is a significant level of discretion at play before the prosecutor even hears of a case with a SAK.

CHALLENGE

Law Enforcement & Prosecutor Practices, Policies, & Protocols

Forty-one percent of agencies surveyed reported that their department has no protocols or guidelines for which cases are reviewed by a prosecutor.

STAGE 3

Some of the departments that reported the presence of prosecutor review protocols said that they were internal to their departments, while others indicated that they were prosecutors' office guidelines. Tellingly:

- 39% of law enforcement surveyed reported that during the last year, cases involving SAKs were rarely or never reviewed by a prosecutor (20% and 19% respectively);
- Another 39% indicated that cases with SAKs were always or often reviewed (26% and 13% respectively);

- 76% of prosecutors surveyed believe that law enforcement should always notify them when a SAK has been collected; and
- 51% reported that their department has an expectation that LE will send all SA cases to them for review when a SAK has been collected.
 - Of these prosecutors, only half (53%) said they have communicated this expectation to law enforcement.
- 68% of prosecutors believe they should always be involved in the decision to move investigations forward in cases involving SAKs.

Decision-making Factors

These data indicate a great deal of variation when it comes to decision-making regarding sending the SAK to the Crime Lab and presenting it to the district attorney for review. Focus groups with law enforcement uncovered some of the factors that impact law enforcement decision-making in the absence of protocols. Without statewide standard guidance, some investigators indicated that they send all SAKs for analysis at the Crime Lab; and some indicated that all cases with SAKs are reviewed by the prosecutor. Multiple participants referred to making decisions based on their perception of the evidentiary value of a kit within the larger fact pattern of a case. Participants emphasized this kind of decision-making in cases in which consent was disputed. In these cases, if the kit did not seem to have any probative value and would only function to confirm that sex had occurred, several officers indicated that there would be no reason to send the SAK for analysis. Similarly, some participants referred to a case's "winnability." In other words, they consider whether the SAK would be an important element in a strong case in regard to other forms of evidence, the particular fact pattern of the case, the presence of corroboration, and the perceived credibility of the victim. The evaluation of the credibility of the victim came up for multiple law enforcement focus group participants, as did the cooperation of the victim, as factors in determining how to proceed with the handling of a reported kit.

According to focus group findings, advocates and SAFEs have a general perception that kits are collected but not "processed." The terms many participants used to describe the handling of the kits pointed toward a generalized lack of clarity about what happens to the kits once they leave SAFE possession, and perhaps more significantly a lack of faith that anything meaningful

"[Decisions to send the kit to the Crime Lab] are mostly made based on the determination of what kind of value can be added to the investigation based on the sex kit. I think a lot of that's done internally, but then I think a lot of detectives do have a lot of interaction with the district attorney's office."

Law Enforcement Focus Group participant

"A lot of these cases start out one way, because the victim will go and there will be a kit done... But as you dig into it... the story starts to change a little bit. We start gathering a little more information. So then, it went from non-consensual, then it was consensual, and then it was my boyfriend, husband... it will change over the course of 24 hours, 12 hours, or what have you. So a lot of times, those decisions can be made early on whether or not that kit is going to be sent or not, just depending on what kind of information is gathered. So it doesn't necessarily need to go to the DA's office, because we can determine that on our own."

Law Enforcement Focus Group participant

"I'll give you a perfect example [of the case-specific nature of how they decide what gets sent to the lab]. We had a kit that I sent down. We were going forward with prosecution, and halfway into it, we caught the victim in a lie about something else. Prosecutor at that point said, 'I can't trust her on the stand. I can't trust any of it'... So that kit went even though it never went forward. So, complete DNA, everything was all done on it, but there's nothing that could be done from that point, because the prosecutor was not going to move case forward."

Law Enforcement Focus Group participant

will happen to the SAK once law enforcement takes possession of it. This lack of clarity and faith may impact the way advocates and SAFEs are able to communicate with victims.

The advocates' and SAFEs' sense that the SAK has limited utility for prosecution was at least partially confirmed by the data we collected from prosecutors. More than half of the prosecutors surveyed indicated that SAKs were only rarely or sometimes important in determining whether a case is accepted for prosecution, whereas 33% indicated that they were often or always important. Prosecutors were split as to the impact of SAK analysis results on case outcomes: 45% reported that SAK analysis results are often or always important to case outcome, while 48% said these results are sometimes important to case outcomes. That said, the prosecutors surveyed reported that they review and accept more cases than they decline. Data collected by Maine District Attorney Technical Services (MEDATS) confirms this finding. According to their data, in 2017 Maine prosecutors across all eight districts prosecuted 150 GSA cases and declined 108.³⁷ These findings and data must be considered in the context of the above results which show that there are multiple junctures at which decisions are made before prosecutors have an opportunity to review the details of a case. When surveyed, most (64%) district attorneys' offices reported that they have tracking systems of cases reviewed, declined, and accepted.

"I have been told in the past [by law enforcement] that kits will not be sent to the Crime Lab unless the investigation is moving forward and the DA's office decides to go forward with the case. So survivors have very little if any control over whether evidence collected from their body has just been brought to a facility to sit in a holding locker and then there's just no control over where it goes. I feel like survivors feel some ownership over that box because it is part of their body in that box, it's their experience and that's why they were there for seven hours... So I think the whole way it's set up is seen as just another system taking control over the experience, and we know that can be very re-traumatizing."

Advocate Focus Group participant

"... We have our District Attorney review all sexual assaults, typically... Well, there is the exception that it's just obviously fabricated on... the victim's part. But, generally, I would say the DA reviews them all."

Law Enforcement Focus Group participant

"We have no idea what happens to the kits after they leave our hands. No idea at all."

SAFE Focus Group participant

Stage 4 – Processing Sexual Assault Kits at the Crime Lab

SUCCESS

Processing Sexual Assault Kits at the Crime Lab

The Maine State Police Crime Lab is a nationally accredited laboratory which consistently adheres to the standards required for accreditation.

STAGE 4

As outlined earlier, Maine has one centralized crime laboratory where all sexual assault forensic evidence kits are analyzed.

The lab utilizes current tools for comprehensive forensic analysis and participates in the federal-level CODIS and state-level SDIS forensic databases. The current and former Crime Lab Directors indicated that as of October 2018, there was a backlog of one untested SAK at the Lab; however, if Maine were to adopt a policy that all stored SAKs were to be tested, a more significant backlog would ensue.

Discussion

Collection of the sexual assault kit is a success in Maine, a process that adheres closely to federal evidence-driven best practices. This is likely due to the strength of the statewide SAFE program and the robust presence of advocates from local sexual assault support centers who accompany victims who seek medical care after assaults. These stakeholders maintain focus on providing victim-centered care, choice, and control to victims in the aftermath of a traumatic experience, though some data did point to variation in the quality of both the response and the evidence collected, depending on the level of experience and training of the medical professional who conducted the exam. In addition, shortages of trained SAFEs, staff turnover and burnout, and hospital restructuring were named as challenges to the quality of care of sexual assault victims.

While Maine has implemented several successful practices related to sexual assault kits, it also lags behind many other states and falls short of federal best practices recommendations when it comes to transparency and accountability. In particular, Maine lacks a standard statewide method for tracking SAKs. Therefore, it is impossible to know with certainty how many SAKs have been collected, have been reviewed by prosecutors, are currently in storage, and were destroyed over the years. Maine's lack of a standardized tracking method compounds the impact of extremely low SA reporting and prosecution rates, which exist in Maine and across the nation.

Research, confirmed by other state practices, shows that clarity about how stakeholders make decisions about SAKs as they cycle through distribution, usage, analysis, and review is critical in identifying where impactful changes can be implemented in a statewide response to sexual assault. While a SAK is not the only important element in such a response, mismanagement of SAKs can present potential impediments to achieving justice for victims, particularly when discretion can allow for bias in decision-making and when there may be training and communication gaps in a necessarily multidisciplinary effort.

“In the prosecution of sexual violence, more than with most crimes, the process is as important as—arguably, more important than—the legal outcome in achieving a just result.”
Sexual Assault Justice Initiative Model Response to Sexual Violence for Prosecutors (RSVP)³⁸

In Maine, the standardized SAK and central SAK distribution point, the statewide SAFE guidelines, and existing statutes highlight key, albeit incomplete, existing statewide guidance for how SAKs should be used. While some individual agencies and service providers referred to existing guidelines, policies, and/or protocols within their agencies, gaps in statewide guidance seem to contribute to both variation and confusion across the stakeholder groups regarding the processing, testing, and storage of SAKs. In addition, in part due to the absence of statewide guidance, many discretionary decisions are necessarily made throughout the SAK's trajectory, particularly by law enforcement and prosecutors. For instance, an investigator may make decisions about whether or not to send a SAK to the Crime Lab for analysis based on conclusions s/he has drawn regarding the utility of the evidence contained within the SAK, without consulting a prosecutor.

While the [NIJ's SAFER Working Group](#) and the federal Office on Violence Against Women both recommend that all reported SAKs be sent to a crime lab for analysis, this study found that is not current practice in Maine. While the Crime Lab is functioning effectively and efficiently, it is processing far fewer SAKs than it would be if Maine were to take a more proactive approach to testing all SAKs. In the interest of achieving justice for victims, several advocates and SAFEs in the focus group expressed a desire for all collected SAKs to be analyzed. These stakeholders' views must be taken in the context of their concurrent acknowledgement that they do not fully understand how SAKs are handled once they enter law enforcement custody. The findings of this study and others point to questions around the overall impact of the SAK in achieving justice and safety for sexual assault victims within the larger context of how sexual assault is handled in the criminal justice and judicial systems. Arguably, one of the most important outcomes of the various efforts to improve the handling of SAKs around the country has been to reveal much larger shortcomings in the overall response to this crime.

Maine falls notably short of best practices recommendations when it comes to SAK retention, as existing statutory guidance is limited to a 90-day storage requirement for anonymous SAKs, and there are no guidelines regarding retention of reported SAKs. The NIJ SAFER Working Group recommendations direct that reported SAKs should be stored for the statute of limitations (SOL) for sexual assault or for 50 years, whichever is longer. Anonymous SAKs should be stored for the SOL or 20 years. In fact, the NIJ SAFER Working Group recommends that states that have not already done so should abolish the statute of limitations for sexual assault. Maine's SOL is currently eight years.³⁶

Federal best practices recommendations emphasize the importance of a multidisciplinary, collaborative approach to the care of the sexual assault victim. Maine sources reported that some multidisciplinary collaboration exists in Maine in the form of Sexual Assault Response Teams, Child Advocacy Centers, Human Trafficking Collaboratives, and the Maine Commission on Domestic and Sexual Abuse. However, survey, interview, and focus group data indicated some notable gaps in communication, training, and awareness of other stakeholders' roles.

Federal and state-based research and policy efforts have placed great emphasis on the need for training at all levels about the neurobiology of trauma and victim-centered responses, particularly for law enforcement involved in sexual assault investigations.^{39,40} The NIJ's final recommendation directs that "[m]andatory training for those responding to sexual assault should be incorporated into every agency's strategic plan." While Maine has made some significant strides in its response to the highly prevalent and deeply damaging crime of sexual assault, support for further training and multidisciplinary collaboration could only bring the state closer in line with the best practices in the field.

Limitations

This study was limited due to scope, time, and funds. While the surveys for law enforcement, Nurse Managers, and prosecutors were distributed statewide and had high response rates, the relatively small sample sizes limited the depth of analysis. In addition, the non-random self-selection of SAFEs for the online survey may not be representative of all SAFEs statewide. There was no survey of non-SAFE ED nurses, so their viewpoint is not represented in these findings and would be important to include in future studies.

The focus groups were convened to probe farther and gather more insights into the perspectives of advocates, SAFEs, and law enforcement on guidelines, decision-making, and recommendations for improvements. However, participants were not randomly selected and not all of Maine's large and significantly rural regions of the state were represented in these focus groups.

A notable limitation is the lack of direct representation of victims' experiences and perspectives as they relate to the reporting of the crime and the deeply personal process of collecting sexual assault evidence. Advocate perspectives, as they related to victims, were included in the study via a focus group and via overall direction from MECASA; however, more inquiry into victims' experiences is an important area for future study. The experiences of particularly vulnerable victims who face additional barriers due to disabilities, age, gender, sexuality, language, cultural considerations, and race, including the Native American Tribes of Maine, are worthy of further exploration. While Cutler researchers queried focus group participants for insights into these challenges, the limited scope of this study prevented a meaningful examination of these critical nuances. Future research must center the experiences of underserved and marginalized populations.

Recommendations

This research confirms that Maine has achieved key successes in the management of sexual assault SAKs, specifically, the provision of victim-centered, trauma-informed care in addition to standardized, accredited practices, and dedicated resources at the Crime Lab. However, Maine also lacks a consistent, cohesive multidisciplinary management plan for SAKs, once they are collected. This study shows that decision-making to send SAKs for processing at the Crime Lab and/or present cases to prosecutors for review varies widely statewide, and local law enforcement agencies and prosecutors are often relying on their own intuition and previous case experience for guidance. As a result, a victim of sexual assault in one area of the state may experience a different response than a victim in another region of the state, and responses to victims may vary depending on staffing. There is a lack of clarity, communication, and understanding of decision-making involving SAKs being sent to the Crime Lab for analysis, in addition to a lack of guidance in retention, storage, and decision-making for disposal of SAKs.

Based on these findings, the following recommendations are offered:

- 1. Invest state funding in the Maine State Police Crime Lab for dedicated staffing to provide ongoing analysis of sexual assault kits as needed to maintain minimal backlog.** The absence of a backlog at the crime lab and the prioritization of SAKs is only possible because of federal funds obtained as a result of the Crime Lab's continuous grant-proposals to secure a dedicated chemist position. Additional financial resources would ensure the continued prioritization of SAK processing, free up staff time that is lost due to turnover and the pursuit of grants, as well as mitigate serious repercussions if federal funding is ever eliminated.
- 2. Implement staffing incentives for recruitment of and retention of SAFEs.** The SAFE program is well established and provides the highest standards of trauma-informed patient care and expertise in collection of evidence. This work should be incentivized by hospitals in order to increase SAFE retention, supports, and specialized care of patients. Hospitals might consider incentives, such as paid time to attend training and compensation for on-call time.
- 3. Develop statewide standards for training of non-SAFE emergency department (ED) staff to provide medical-forensic exams.** While hospitals should invest in the leadership development and support of SAFEs, they can also diversify and strengthen the care their overall ED staff provides to victims of sexual assault. ED staff should be evaluated to better understand their current knowledge, behavior, and attitudes regarding the care of sexual assault patients. Hospitals and healthcare consortiums should use this information to ensure all ED staff is trained regularly on trauma-informed patient care and the collection of evidence, so that non-SAFE staff are better equipped to respond when a SAFE is not immediately available. State decision-makers and stakeholders should put effort into identifying support and training needs on this front and provide resources where they are needed, to align with national best practices.
- 4. Implement curriculum on sexual assault forensic evidence collection and provide it to all cadets as part of the Maine Criminal Justice Academy. Ensure ongoing training of law enforcement to include sexual assault response and handling of the SAK.** Curriculum should include training on neurobiology of trauma and how it may affect victims and their reactions and responses, as well as the procedures for securing evidence chain of custody and transport from hospitals to law enforcement. There should be an emphasis on the handling of anonymous SAKs as that was an area where this study found demonstrated uncertainty and reports of lack of adherence to statute.

- 5. Develop legislative requirements for the retention of all sexual assault kits (reported and anonymous) by law enforcement for a minimum of the statute of limitations for gross sexual assault OR after all post conviction options have been resolved, whichever is longer.** Law enforcement and prosecutors indicated a lack of direction and clarity statewide regarding timeframes and criteria for when a SAK can be destroyed. While some departments rely on their own department policy for evidence, sexual assault kits should be treated uniformly statewide, and a model policy for when and how SAKs can be destroyed should be developed. A new statute would bring Maine law in line with federal Department of Defense reporting requirements and guidelines so victims of Military Sexual Trauma are not denied an additional path to justice in applicable cases.
- 6. Develop and implement a statewide model policy for prosecutorial review of all sex crimes cases with SAKs.** Prosecutorial review of every case ensures consistency across jurisdictions and addresses a concern raised in the national research, state comparison interviews, and by some focus group participants regarding areas of law enforcement decision-making which could be influenced by investigator bias. The policy should include a rubric for which cases may be exempt from such review and how that will be documented.
- 7. Develop, implement, and invest funding in a tracking system of SAKs.** Tracking provides a standardized method for knowing how many SAKs are collected, which ones are reviewed, and when SAKs are destroyed. While national best practices are clear that all reported SAKs should be analyzed and applicable DNA should be uploaded into the national law enforcement database system (CODIS), Maine stakeholders are not in agreement about the need to analyze all SAKs. Tracking in conjunction with documentation of prosecutorial review of cases (or reason for exemption from review) would allow stakeholders to track every SAK from initial distribution to final outcome. This tracking and documentation would also provide statewide real-time, data-driven analysis of decision-making and regional trends in response to crimes of sexual assault involving SAKs.
- 8. Conduct an audit of all SAKs currently in storage at law enforcement statewide.** Use this audit to determine what reported but unsubmitted cases should be presented to prosecutors, as well as which SAKs should be destroyed (with documentation of review/no review by prosecutor in the case file). This audit can support the development of clear model policies about which SAKs should be destroyed, and how. Law enforcement statewide were clear about the dilemma departments face in that many have limited space but are also reluctant to dispose of the SAKs without clear guidance, given their concern that a SAK could be of use in a victim's future case. National best practices and other states have demonstrated that technology can be useful in the analysis of SAKs that were stored years ago, and may merit a second review by investigators and prosecutors before destruction.

- 9. Review current victim notification procedures for all cases when a SAK has been collected, regardless of prosecution of the case.** Convene a workgroup with representatives from sexual assault support center advocates, victim witness advocates, and victims/survivors to examine current notification procedures, and how these might be improved. Participants should include all voices, including the Wabanaki Women's Coalition and Immigrant Resource Center of Maine, and in particular vulnerable victims who face additional barriers due to disabilities, age, gender, sexuality, language, cultural considerations, and race, in order to include their perspectives of justice. Notification procedures should be victim-centered and trauma-informed, and prioritize victim privacy and safety, with the ultimate goal that victims are provided as much opportunity as possible to make informed decisions about their cases. Detroit and Iowa provide protocols that could be resources.

- 10. Explore the status of regional Sexual Assault Response Teams and/or other multidisciplinary teams and increase use of case review.** Multidisciplinary cooperation and communication were highly regarded across all surveys, focus groups, and interviews. These opportunities to promote cross training collaboration improve regional cohesiveness, support for victims, and efforts to hold offenders accountable. The National Sexual Violence Resource Center provides toolkits for SARTS and examples of case review to help identify gaps in the multidisciplinary response, as well as review the effectiveness of existing protocols and guidelines.

References

- ¹ Smith, S.G., Chen, J., Basile, K.C., Gilbert, L.K., Merrick, M.T., Patel, N., Walling, M., & Jain, A. (2017). *The National Intimate Partner and Sexual Violence Survey (NISVS): 2010-2012 State Report*. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention. Retrieved from <https://www.cdc.gov/violenceprevention/pdf/NISVS-StateReportBook.pdf>
- ² Dumont, R. & Shaler, G. (2015). 2015 Maine Crime Victimization Survey: Informing Public Policy for Safer Communities. Muskie School of Public Service, University of Southern Maine. Retrieved from http://muskie.usm.maine.edu/justiceresearch/Publications/Adult/2015_Maine_Crime_Victimization_Survey.pdf
- ³ Jordan, C.E., Combs, J.L., & Smith, G.T. (2014). An exploration of sexual victimization and academic performance among college women. *Trauma, Violence, & Abuse*, 15(3), 191–200. <http://doi.org/10.1177/1524838014520637>
- ⁴ Probst, D.R., Turchik, J.A., Zimak, E.H., & Huckins, J L. (2011). Assessment of Sexual Assault in Clinical Practice: Available Screening Tools for Use with Different Adult Populations. *Journal of Aggression, Maltreatment & Trauma*, 20(2), 199–226. <http://doi.org/10.1080/10926771.2011.546754>
- ⁵ Linden, J.A. (2011). Care of the Adult Patient After Sexual Assault. *New England Journal of Medicine*, 365(9), 834–841. <http://doi.org/10.1056/NEJMcp1102869>
- ⁶ Truman, J.L. & Langton, L. (2015). *Criminal Victimization, 2014* (NCJ 248973). Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. Retrieved from <http://www.bjs.gov/content/pub/pdf/cv14.pdf>
- ⁷ Maine Department of Public Safety. (2018). *Crime in Maine 2017*. Retrieved from https://www.maine.gov/dps/cim/crime_in_maine/2017pdf/030%20Violent.pdf
- ⁸ Spohn, C., & Tellis, K. M. (2014). *Policing and Prosecuting Sexual Assault: Inside the Criminal Justice System*. Boulder, CO: Lynne Rienner. Retrieved from <https://www.rienner.com/uploads/526055ba401ff.pdf>
- ⁹ Campbell, R., Bybee, D., Townsend, S. M., Shaw, J., Karim, N., & Markowitz, J. (May 2014). The Impact of Sexual Assault Nurse Examiner Programs on Criminal Justice Case Outcomes: A Multisite Replication Study. *Violence Against Women*. 20(5), 607-625. Retrieved from <http://journals.sagepub.com/doi/abs/10.1177/1077801214536286>
- ¹⁰ Brooks, O., & Burman, M. (2017). Reporting rape: Victim perspectives on advocacy support in the criminal justice process. *Criminology & Criminal Justice*, 17(2), 209–225. <https://doi.org/10.1177/1748895816667996>
- ¹¹ Campbell, R. (2006). Rape survivors' experiences with the legal and medical systems: Do rape victim advocates make a difference? *Violence Against Women*, 12(1), 30–45. <http://doi.org/10.1177/1077801205277539>
- ¹² Patterson, D. & Tringali, B. (2015). Understanding How Advocates Can Affect Sexual Assault Victim Engagement in the Criminal Justice Process. *Journal of Interpersonal Violence*, 30, 1987-1997. <http://doi.org/10.1177/0886260514552273>

- ¹³ Schmitt, T., Cross, T. P., & Alderden, M. (2017). Qualitative Analysis of Prosecutors' Perspectives on Sexual Assault Nurse Examiners and the Criminal Justice Response to Sexual Assault. *Journal of Forensic Nursing*, 13(2), 62-68. DOI: 10.1097/JFN.0000000000000151
- ¹⁴ Campbell, R. et al. (2017). Forgotten evidence: A mixed methods study of why sexual assault kits (SAKs) are not submitted for DNA forensic testing. *Law and Human Behavior*, 41(5), 454-467. Retrieved from <http://dx.doi.org/10.1037/lhb0000252>
- ¹⁵ Patterson, D., & Campbell, R. (2012). The Problem of Untested Sexual Assault Kits: Why Are Some Kits Never Submitted to a Crime Laboratory? *Journal of Interpersonal Violence*, 27(11), 2259-2275. Retrieved from <https://journals.sagepub.com/doi/pdf/10.1177/0886260511432155>
- ¹⁶ Peterson, J. et al. (2012). *Sexual Assault Kit Backlog Study*. Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/grants/238500.pdf>
- ¹⁷ Campbell, R. et al. (2015). *The Detroit Sexual Assault Kit (SAK) Action Research Project (ARP), Final Report*. Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/grants/248680.pdf>
- ¹⁸ Wells, W., Campbell, B. & Franklin, C. (2016). *Unsubmitted Sexual Assault Kits in Houston, TX: Case Characteristics, Forensic Testing Results, and the Investigation of CODIS Hits, Final Report*. Retrieved from <https://www.ncjrs.gov/pdffiles1/nij/grants/249812.pdf>
- ¹⁹ Campbell, R. et al. (2017b). The National Problem of Untested Sexual Assault Kits (SAKs): Scope, Causes, and Future Directions for Research, Policy, and Practice. *Trauma, Violence, & Abuse*, 18(4), 363-376. DOI: 10.1177/1524838015622436
- ²⁰ U.S. Department of Justice, Office of Violence Against Women. (2017). *Sexual Assault Kit Testing Initiatives and Non-investigative Kits: White Paper*. Retrieved from <https://www.justice.gov/ovw/page/file/931391/download>
- ²¹ Valentine, J. et al. (2016). Justice Denied: Low Sexual Assault Kit Submission Rates in Utah and Their Predicting Variables. *Journal of Interpersonal Violence*, 1-27. DOI: 10.1177/0886260516681881
- ²² Lovrich, N. P., et al. (2004). National Forensic DNA Study Report, Final Report. Washington, DC: US Department of Justice. Retrieved from <http://www.ncjrs.gov/App/publications/abstract.aspx?ID=203970>
- ²³ Strom, K. J., & Hickman, M. J. (2010). Unanalyzed evidence in law-enforcement agencies. *Criminology & Public Policy*, 9(2), 381-404. <https://doi.org/10.1111/j.1745-9133.2010.00635.x>
- ²⁴ Fallik, S., & Wells, W. (2015). Testing Previously Unsubmitted Sexual Assault Kits: What Are the Investigative Results? *Criminal Justice Policy Review*, 26(6), 598-619. DOI: 10.1177/0887403414528001
- ²⁵ Spohn, C. & Tellis, K. (2018). Sexual Assault Case Outcomes: Disentangling the Overlapping Decisions of Police and Prosecutors. *Justice Quarterly*, DOI: 10.1080/07418825.2018.1429645

- ²⁶ Sexual Assault Forensic Evidence Reporting Act of 2013 (SAFER Act) P.L. 113-4 (2013). Retrieved from <https://www.gpo.gov/fdsys/pkg/BILLS-112s3250es/pdf/BILLS-112s3250es.pdf>
- ²⁷ National Institute of Justice. (2017). *National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach*. Retrieved from <https://nij.gov/topics/law-enforcement/investigations/sexual-assault/Pages/national-best-practices-for-sexual-assault-kits.aspx>
- ²⁸ Maine Revised Statutes, Title 24, §2986 (1999). Retrieved from <http://legislature.maine.gov/statutes/24/title24sec2986.html>
- ²⁹ An Act to Implement the Recommendations of the Commission to Propose an Alternative Process for Forensic Examinations for Sexual Assault Victims, Maine Revised Statutes, Chapter 719, §2986 (1999). Retrieved from <https://www.mainelegislature.org/ros/LOM/LOM119th/5Pub701-750/5Pub701-750-18.htm>
- ³⁰ Maine Revised Statutes, Title 5, § 3360-N. Retrieved from <http://legislature.maine.gov/statutes/5/title5sec3360-N.html>
- ³¹ Maine Sexual Assault Forensic Examiner Program. (2011). *Guidelines for the Care of the Sexual Assault Patient*. Retrieved from https://www.maine.gov/ag/crime/victims_compensation/Guidelines%20for%20the%20Care%20of%20the%20Sexual%20Assault%20Patient.pdf
- ³² The Violence Against Women and Department of Justice Reauthorization Act of 2005, P.L. 109-162. Retrieved from <https://www.gpo.gov/fdsys/pkg/PLAW-109publ162/pdf/PLAW-109publ162.pdf>
- ³³ Maine Revised Statutes, Title 25, §3821. Retrieved from <http://legislature.maine.gov/legis/statutes/25/title25sec3821.html>
- ³⁴ Maine Revised Statutes, Title 19-A, §4013. Retrieved from <http://legislature.maine.gov/statutes/19-A/title19-Asec4013.html>
- ³⁵ DOD Instruction 5505.18. (2018). Retrieved from <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/550518p.pdf>
- ³⁶ Maine Revised Statutes, Title 17-A, §8. Retrieved from: <http://legislature.maine.gov/statutes/17-A/title17-Asec8.html>
- ³⁷ Maranda, J. Maine District Attorney Technical Services. (December 3, 2018). Personal communication.
- ³⁸ Aequitas. (2017). *Model Response to Sexual Violence for Prosecutors (RSVP)*. Retrieved from <https://box.sve.mybluehost.me/wp-content/uploads/2018/09/Model-Response-to-Sexual-Violence-for-Prosecutors-RSVP-An-Invitation-to-Lead.pdf>
- ³⁹ International Association of Chiefs of Police. (2018). *Trauma Informed Sexual Assault Investigation Training*. Retrieved from <https://www.theiacp.org/projects/trauma-informed-sexual-assault-investigation-training>
- ⁴⁰ Office for Victims of Crime. *Neurobiology of Trauma and Sexual Assault Training Module*. Retrieved from <https://www.ovcttac.gov/saact/module4.cfm>

APPENDIX A: SAFER Working Group Best Practices Recommendations

National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach (2017)

National Institute of Justice/SAFER Working Group Summary of Recommendations

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

The SAFER Working Group developed 35 recommendations through a consensus process. Although the working group acknowledges that every jurisdiction is different, the intent of the following recommendations is to positively impact sexual assault responses and the experiences of victims and to ultimately result in safer communities.

Chapter 1: Multidisciplinary Approach

1. A collaborative multidisciplinary approach should be implemented for sexual assault cases.
2. Sexual assault responders should use a victim-centered and trauma-informed approach when engaging with victims of sexual assault.
3. Agencies should collaborate and involve victim advocates early in the process to create a more victim-centered approach to the criminal justice process.
4. The multidisciplinary approach should seek out and include voices from underserved or vulnerable populations in the community's response to sexual assault cases.

Chapter 2: The Medical-Forensic Exam and Sexual Assault Evidence Collection

5. Establish minimum standards for a national sexual assault kit (SAK); until that time, states and territories should create a standardized SAK for sexual assault cases that addresses the minimum criteria in the National Adults/ Adolescents Protocol.¹
6. The medical-forensic exam should be performed by a health care professional specifically trained in the collection of evidence relating to sexual assault cases such as a sexual assault nurse examiner or other appropriately trained medical professional.
7. Guided by the victim history, sexual assault samples should be collected from any victim seeking care as soon as possible and up to five (5) days or longer post-assault. Regardless of the time frame, reimbursement should be provided for the medical-forensic exam.
8. Examiners should concentrate the collection of evidentiary samples by using no more than two swabs per collection area so as not to dilute the biological sample.
9. Sample collection should be an option for all sexual assault victims who present for a medical-forensic exam, including those who choose not to report (unreported) or report anonymously.
10. Suspect sample collection should ideally be completed by a medical-forensic examiner or appropriately trained individual.
11. Due to increased sensitivity in DNA technologies, masks and gloves should be used by all medical-forensic care providers and others in the collection and packaging of evidence, especially during the collection of intimate samples.
12. Policies for medical-forensic record retention should be created in accordance with statutes of limitations and other criminal justice needs rather than with traditional parameters for medical record keeping, storage, retention, and destruction.

¹ Campbell, R. et al. (2017b). The National Problem of Untested Sexual Assault Kits (SAKs): Scope, Causes, and Future Directions for research, Policy, and Practice. *Trauma, Violence, & Abuse*, 18(4), 363-376. DOI: 10.1177/1524838015622436

Chapter 3: Transparency and Accountability of Law Enforcement for SAKs

13. Law enforcement agencies and laboratories should partner to use one evidence tracking system.
14. The federal government should develop an Electronic Evidence Exchange Standard for the data standards associated with physical forensic evidence.
15. SAKs should be received by the local law enforcement agency from the hospital or clinic as soon as possible, ideally, no later than three (3) business days from the collection of the kit, or as specified by statute.
16. Law enforcement agencies should submit the SAK to the laboratory for analysis as soon as possible, ideally, no later than seven (7) business days from the collection of the SAK, or as specified by statute.
17. Law enforcement or laboratories should be responsible for the long-term storage of all SAKs, unless applicable law provides otherwise.
18. A comprehensive inventory should be conducted to determine the number, status, location, and individual descriptive information (e.g., unique kit identifier, date collected) for all SAKs.
19. Law enforcement agencies should perform an annual audit verifying that all SAKs in the property room are present and in their specified location.

Chapter 4: Investigative Considerations

20. All SAKs that the victim has consented to reporting to law enforcement should be submitted to the laboratory for DNA analysis.
21. Law enforcement agencies should establish a system of accountability to ensure the timely follow-up on CODIS hits.
22. All law enforcement personnel involved in sexual assault investigations should receive training in the neurobiology of trauma and specialized skills for interviewing sexual assault victims.
23. Law enforcement agencies should implement electronic records management systems that incorporate investigative workflows to improve case investigations and communication.

Chapter 5: Processing Sexual Assault Kits in the Laboratory

24. With the goal of generating a CODIS-eligible DNA profile, if a laboratory is unable to obtain an autosomal CODIS-eligible DNA profile, the laboratory should evaluate the case to determine if any other DNA-typing results could be used for investigative purposes.
25. Forensic laboratories should have an evidence submission policy/protocol that includes prioritization of evidentiary items.
26. Laboratories should consider the volume of sexual assault cases and use business process improvement tools to review their input/output, identify where bottlenecks occur, and determine if a high-throughput approach to processing will achieve efficiencies.
27. Laboratories should consider changing the order of processing the evidence by going to *Direct to DNA* and then, only if needed, proceed to serology.
28. Laboratories should consider incorporating robotics and/or automation at each step of the DNA process for the most efficient high-throughput approach.
29. Laboratories should consider the use of standardized reporting templates, a paperless system, and specialized software to assist in the interpretation of DNA mixtures, to streamline interpretation and reporting of DNA results.

Chapter 6: Post-Analysis Communication and Policy Considerations

30. Jurisdictions should have a victim notification protocol for informing victims of the status of their sexual assault cases, including cases where SAKs are analyzed after many years.
31. Jurisdictions that do not have evidence retention laws should adopt biological evidence retention policies/protocols that are victim-centered and preserve evidence from uncharged or unsolved reported cases for 50 years or the length of the statute of limitations, whichever is greater.
32. Unreported SAKs should be retained for at least the statute of limitations or a maximum of 20 years.
33. States that have not already done so should consider eliminating the statute of limitations for sexual assaults.
34. Jurisdictions should develop a communication strategy to increase transparency and accountability to stakeholders within their communities regarding the response to sexual violence.
35. Mandatory training for those responding to sexual assault should be incorporated into every agency's strategic plan.

APPENDIX B: Guidelines for Adult & Adolescent Sexual Assault

STEP ONE: Attend To The Victim

- Explain you are there to help.
- Apply first aid as needed.
- Inform the victim of advocacy services; for an advocate call: 1-800-871-7741 or TTY: 1-888-458-5599.
- Avoid conveying judgment or blame; reassure the victim that it is not her/his fault.
- Consider the physical & psychological trauma that has been endured; victims may have varying emotional or behavioral responses.
- To preserve evidence, request that the victim not smoke, drink, eat, brush teeth, bathe, shower, douche, urinate or defecate; have victim bring clothing worn and a change of clothing.
- Encourage medical treatment for injury, STDs, pregnancy, etc., regardless of how much time has passed since the assault; explain that forensic evidence can be collected at the hospital if the victim chooses.
- Call the health care facility in advance and note if the victim has special needs (interpreter, etc.).
- If ambulance is required, notify EMS personnel of need to preserve as much evidence as possible without hindering treatment.
- If suspect needs medical treatment, take to a different hospital than the victim (if available); if taken to the same facility, inform hospital and keep separate.

A sexual assault advocate can be reached by calling 1-800-871-7741 or TTY 1-888-458-5599. Your call will be routed to the nearest sexual assault support center. For more information, visit mecasa.org.

- Inform the victim that if evidence is collected using a sex crimes kit, the sexual assault medical forensic exam is free.
- Drugs used to facilitate sexual assault are excreted quickly from the body; specimens should be collected at the hospital ASAP.

STEP TWO: Notify Supervisor & D.A.'s Office (as appropriate)

STEP THREE: Secure The Crime Scene

- Secure all crime scenes for further processing (assault scene, clothing, bedding, etc.). Remember that the bodies of the victim and suspect are crime scenes.
- Additional officers may be needed for responding to multiple crime scenes.

STEP FOUR: Gather Information

- Afford the victim whatever privacy is available.
- Limit traffic over police radio that could identify the victim.
- If possible, have the same officer stay with the victim until the case is transferred to an investigator (if appropriate).

- Record observations: Victim's physical appearance, emotional demeanor, injuries, damage to clothing, etc.
- Describe the scene in detail. Remember: who, what, where, when & how.
- Avoid questioning by multiple officers; in depth questioning should be conducted by the primary investigator unless the same officer will be conducting the entire investigation. Limit questions to pertinent information.
- Obtain suspect information (physical description, clothing, vehicle, direction of flight, weapon, etc.). Transmit a radio alert when appropriate.
- Identify witnesses: Contact information; statements (if appropriate).
- Police reports should focus on observations rather than conclusions.

STEP FIVE: At the Hospital

If you suspect drug facilitated sexual assault, inform the hospital personnel upon arrival.

FOR INVESTIGATING OFFICER:

- Police interview should be conducted without medical personnel present.
- The presence of a sexual assault advocate is advisable; they will provide their name and agency information.
- Note if there is anyone else in room (friend, parent, etc.).
- Obtain voluntary written consent for release of medical records from victim.
- Provide contact information to the hospital to facilitate sex crimes kit pickup and submit to the Crime Laboratory even if the suspect is unknown.

STEP SIX: Evidence Collection

- Prevent cross-contamination by using standard up-to-date practices (i.e. change gloves after collecting each article of evidence).
- Photographs of all injuries including anogenital injuries and injuries to the breast(s) should be taken by a health care provider, preferably a Sexual Assault Forensic Examiner (SAFE).
- Bruising may not immediately appear; encourage victim to obtain follow-up photographs, most of which may be taken by an officer; photographs of anogenital or breast area bruising should be taken by a health care provider, preferably a SAFE, and if possible the provider who took the initial photographs.
- Collect clothing worn at the time of the assault as well as the first change of clothes (especially undergarments) if not collected by medical personnel; keep in mind the victim may have changed between the time of the assault and reporting.

FOR INVESTIGATING OFFICER:

- The suspect is also a crime scene; collect forensic evidence and suspect clothing as necessary with consent or search warrant; use suspect kit.
- Suspect kit available at Maine State Police Crime Lab.

STEP SEVEN: Evidence Storage

FOR INVESTIGATING OFFICER:

- Air-dry wet items prior to packaging.
- Use separate paper bags when packaging evidence; do not use plastic bags.
- Seal bags with tape, not staples.
- Transport sex crimes kit & all other evidence to MSP Crime Lab.
- Transport urine, blood & vomit to the Health and Environmental Testing Lab ASAP.
- Anonymous sex crimes kits and all other evidence must be kept at least 90 days at the law enforcement agency in the town/city where the hospital is located.
- The sex crimes kit does not require refrigeration or freezing.
- Urine and vomit should be frozen if possible, otherwise refrigerate.
- Blood vials should be refrigerated (will explode if frozen).
- Store in a secure area.
- If the victim is unconscious, notify the D.A. that an anonymous sex crimes kit is being held.

These are guidelines. Every case is different. These guidelines are to be considered minimum standards. Individual District Attorneys may distribute more comprehensive instructions.

ADDITIONAL CONSIDERATIONS

- Male victims may have difficulty speaking about the assault.
- Older adult victims may also have difficulty speaking about the assault; risk of assault-related injury is greater among elderly victims.
- Assault by the same sex or same gender may not be connected to sexual orientation of either the victim or the perpetrator.
- Individuals with developmental disabilities or mental illness are at high risk; speak slowly and calmly using clear and easy to understand language; do not assume they are not credible.
- Whenever possible, use professional interpretation services.
- People with a physical challenge (speech, hearing, etc.) may not have a developmental disability.
- Consider cultural background.
- Minors can consent to a medical forensic examination without parental notification.
- Comply with mandatory reporting requirements to Child Protective Services, Adult Protective Services and your DA.

STATEWIDE SEXUAL VIOLENCE RESOURCES

Sexual Assault Crisis & Support Line
1-800-871-7741 • TTY: 1-888-458-5599

Aroostook Band of Micmacs, Domestic & Sexual Violence Advocacy Center
207-551-3639

Houlton Band of Maliseets, Domestic & Sexual Violence Advocacy Center
207-532-6401

Passamaquoddy Peaceful Relations
877-853-2613

Penobscot Indian Nation, Domestic & Sexual Violence Advocacy Center
207-631-4886

ADDITIONAL RESOURCES

2-1-1 Maine, Resource Referrals
2-1-1

Adult Protective Services
800-624-8404 • Maine Relay 7-1-1

Child Protective Services
800-452-1999 • Maine Relay 7-1-1

Domestic Violence Hotline
866-834-4357

Health & Environmental Testing Lab
207-287-2727

Maine State Police Crime Lab
207-624-7100

Mental Health Crisis
888-568-1112 • Maine Relay 7-1-1

Guidelines For Adult & Adolescent Sexual Assault

LAW ENFORCEMENT FIRST RESPONSE

PRODUCED BY THE STATEWIDE
SART GUIDELINES COMMITTEE

Endorsed by the Maine Chiefs of Police Association,
the Maine Coalition Against Sexual Assault, the
Maine Prosecutors' Association, the Maine Sheriffs'
Association, and the Maine State Police

mecasa
MAINE COALITION AGAINST
SEXUAL ASSAULT

24-Hour Confidential Statewide Sexual Assault Crisis & Support Line:

1-800-871-7741 (TTY: 1-888-458-5599)

APPENDIX C:

Maine Law Enforcement Sexual Assault Kit Survey

Maine Law Enforcement Sexual Assault Kit Survey

Thank you for agreeing to take part in this important survey which seeks to gauge the current state of rape kits in Maine and identify challenges and successes related to processing and storing them.

This survey contains questions about the current number of kits stored at law enforcement agencies; how they are stored; and how decisions are made about them. Please answer the questions based on your department's experiences. Please complete the survey by Tuesday, June 19, 2018.

The Muskie School at the University of Southern Maine will be gathering and analyzing the data to create a summary report so the Maine Coalition Against Sexual Assault and their advisory group can make recommendations for system improvements.

This survey should take about 15 minutes to complete. Be assured that all answers you provide will be kept in the strictest confidence. If there's a question you don't want to answer or don't know the answer, just check "Prefer not to answer" and go to the next one.

If you have any questions, please contact Alison Grey at (207) 228-8485 or alison.grey@maine.edu. If you have any questions or concerns about your rights as a research subject, you may call the USM Research Compliance Administrator at (207) 228-8434 and/or email usmorio@maine.edu.

Q1 Describe your jurisdiction:

Town/city

County

State police

Prefer not to answer

Q2 In what county is your jurisdiction?

Androscoggin

Aroostook

Cumberland

Franklin
Hancock
Kennebec
Knox
Lincoln
Oxford
Penobscot
Piscataquis
Sagadahoc
Somerset
Waldo
Washington
York
Prefer not to answer

Q3 About how many officers work in your department?

Fewer than 10
10 - 25
More than 25
Prefer not to answer

Q4 Does your department have an evidence storage area with separate freezing and refrigeration capability?

Yes
No
Other
Prefer not to answer

Q5 Is the storage of anonymous kits handled differently than kits from victims who have chosen to report their sexual assault to law enforcement?

Yes
No
Other
Prefer not to answer

- Q6 How long does your department typically store anonymous, or non-investigative kits?
- Fewer than 90 days
 - 90 - 180 days
 - 181 - 364 days
 - 1 - 2 years
 - 2 - 5 years
 - More than 5 years
 - Prefer not to answer
- Q7 How long does your department typically store identified kits (i.e., cases in which the victim has reported the crime)?
- Fewer than 90 days
 - 90 - 180 days
 - 181 - 364 days
 - 1 - 2 years
 - 2 - 5 years
 - More than 5 years
 - Prefer not to answer
- Q8 What factors influence the decision to dispose of kits? Please check all that apply.
- The time frame of how long the kit has been held in evidence
 - When the case is closed
 - When the decision is made not to prosecute by the prosecutor
 - When we run out of space
 - Other
 - Prefer not to answer
- Q9 Does your department have an identified protocol for destroying kits?
- Yes
 - No
 - Other
 - Prefer not to answer

- Q10 Who has the authority to make a decision to destroy a kit? Please check all that apply.
- Investigator
 - Sergeant/Supervisor
 - Chief
 - Evidence technicians
 - My department never destroys kits
 - Other
 - Prefer not to answer
- Q11 What happens to the patient medical record contained in the envelope attached to the kit?
- The patient record is destroyed with the kit
 - The patient medical record is moved to the law enforcement case file
 - Other
 - Prefer not to answer
- Q12 Is the decision to destroy the kit documented? (Skip pattern: if Yes, go to Q13 & Q14, if No or Prefer not to answer, go to Q15)
- Yes
 - No
 - Prefer not to answer
- Q13 How do you document the decision to destroy the kit?
- Q14 Where do you document the decision to destroy the kit?
- Q15 During the last year, how often were cases involving a forensic kit reviewed by prosecutors?
- Never
 - Rarely
 - Sometimes
 - Often
 - Always
 - Prefer not to answer

- Q16 Does your department have a protocol/guidelines for which sexual assault cases are reviewed by a prosecutor? (Skip pattern: if Yes, go to Q17, if No or Prefer not to answer, go to Q18)
- Yes
 - No
 - Prefer not to answer
- Q17 Is it a department policy or prosecutor's office policy/decision?
- Department policy
 - Prosecutor's office policy
 - Prefer not to answer
- Q18 Who in your department decides if a sexual assault case with a kit is presented to the prosecutor's office? Please check all that apply.
- First responder
 - Investigating detective
 - Sergeant/supervisor
 - Chief
 - Other
 - Prefer not to answer
- Q19 Does your department have a protocol/guidelines for notifying victims of the status of their kits (i.e., sent to the lab, analyzed, results)?
- Yes
 - No
 - Prefer not to answer
- Q20 Who notifies victims of the status of their kits? Please check all that apply.
- Law enforcement agency
 - Victim witness advocate from the prosecutor's office
 - Advocate from the local sexual abuse support center
 - Other
 - Prefer not to answer

- Q21 Does your department have a protocol/guidelines for which sexual assault cases are sent to the Crime Lab? (Skip pattern: if Yes, go to Q22, if No or Prefer not to answer, go to Q23)
- Yes
 - No
 - Prefer not to answer
- Q22 Is it a department policy or prosecutor's office policy?
- Department policy
 - Prosecutor's office policy
 - Prefer not to answer
- Q23 Who decides if a kit is sent to the Crime Lab? Please check all that apply.
- First responder
 - Investigating detective
 - Sergeant/supervisor
 - Chief
 - Prosecutor
 - Other
 - Prefer not to answer
- Q24 Does your department utilize a tracking system of kits in evidence storage?
- Yes
 - No
 - I don't know
 - Other
 - Prefer not to answer
- Q25 Do you currently have any kits stored at your department? (Skip pattern: if Yes, go to Q26, if No or Prefer not to answer, go to Q27)
- Yes
 - No
 - Prefer not to answer

Q26 Please provide additional details about the number of kits currently stored at your department. Please enter 0 if none:

of Anonymous kits

of kits of victim who refused to cooperate

of kits with investigation closed due to lack of evidence, no DA review

of cases presented to DA, but no bill at grand jury

of cases presented to DA, but DA declined to prosecute

of kits already processed at the Crime Lab and returned to PD for storage

of other kinds of kits/cases

Q27 Describe your role in your department: Please check all that apply.

First responder

Investigator

Sergeant/Supervisor

Evidence technician

Chief

Other

Prefer not to answer

APPENDIX D:

Nurse Managers Sexual Assault Forensic Kit Survey

Nurse Managers Sexual Assault Forensic Kit Survey

Thank you for agreeing to take part in this survey. The purpose of this survey is to learn the current status of sexual assault forensic kits in Maine as well as current practices for processing and storage. The Muskie School at the University of Southern Maine will be gathering and analyzing the data to create a summary report so the Maine Coalition Against Sexual Assault (MECASA) and their advisory group can make recommendations for system improvements.

This survey contains questions about the current practices regarding:

- your hospital's guidelines, protocols, and training of staff;
- interacting with victims of sexual assault; and
- handling/transfer of kits to law enforcement.

Please answer the questions based on your hospital's current practices. Participating in this research is voluntary. The survey will only take approximately 15 minutes to complete. Please complete the survey by Tuesday, September 11, 2018.

If you have any questions, please contact Alison Grey at (207) 228-8485 or alison.grey@maine.edu. If you have any questions or concerns about your rights as a research subject, you may call the USM Research Compliance Administrator at (207) 228-8434 and/or email usmorio@maine.edu.

Be assured that all answers you provide will be kept in the strictest confidentiality. NOTE: if you do the survey on a phone, turn it horizontally for best view.

Q1 What is the name of your hospital?

Blue Hill Memorial Hospital

Bridgton Hospital

Calais Regional Hospital

Cary Medical Center

Central Maine Medical Center

Charles A. Dean Memorial Hospital

Down East Community Hospital

Eastern Maine Medical Center
Franklin Memorial Hospital
Houlton Regional Hospital
Inland Hospital
Lincoln Health
Maine Coast Memorial Hospital
Maine Medical Center
MaineGeneral Medical Center - Augusta
MaineGeneral Medical Center - Waterville
Mayo Regional Hospital
Mercy Hospital
Mid Coast Hospital
Millinocket Regional Hospital
Mount Desert Island Hospital
Northern Maine Medical Center
Pen Bay Medical Center
Penobscot Valley Hospital
Redington-Fairview General Hospital
Rumford Hospital
Sebasticook Valley Health
Southern Maine Health Care
St. Joseph Hospital
St. Mary's Regional Medical Center
Stephens Memorial Hospital
The Aroostook Medical Center
Waldo County General Hospital
York Hospital
Prefer not to answer

Q2 In what county is your hospital located?

Androscoggin
Aroostook

Cumberland
Franklin
Hancock
Kennebec
Knox
Lincoln
Oxford
Penobscot
Piscataquis
Sagadahoc
Somerset
Waldo
Washington
York
Prefer not to answer

Q3 Approximately how many SAFEs are currently practicing at your hospital? Please include SAFEs and SAFEs-in-Training.

0, 1, ... 25
I don't know
Prefer not to answer

Q4 How many total staff does your hospital employ?

Fewer than 250
251 - 500
501 - 1000
1001 - 2000
More than 2000
Prefer not to answer

Q5 Does your Emergency Department track the collection of forensic kits and/or how many sexual assault medical exams are provided (i.e. are you keeping a tally of how many kits are collected)? (Skip pattern: if Yes, go to Q6 – Q9, if No or Prefer not to answer, go to Q10)

Yes

No

Don't know

Other

Prefer not to answer

Q6 Were any medical forensic examinations done in your Emergency Department in the last year (August 1, 2017 – July 31, 2018)?

Yes

No

Don't know

Prefer not to answer

Q7 Approximately how many medical forensic examinations were done in your Emergency Department in the last year (August 1, 2017 – July 31, 2018)?

1, 2, ...250

I don't know

Prefer not to answer

Q8 How many were collected by SAFEs?

0, 1, ...100

I don't know

Prefer not to answer

Q9 How many were collected by other non-specialized staff?

0, 1, ...100

I don't know

Prefer not to answer

Q10 Does your Emergency Department have written policies, protocols, and/or guidelines (in addition to the State of Maine SAFE Program Guidelines for the Care of the Sexual Assault Patient) as to who should provide the medical forensic care of patients who have experienced sexual assault, e.g. SAFEs, SAFEs-in-Training, or other personnel? (Skip pattern: if Yes, go to Q11, if No ... Prefer not to answer, go to Q12)

Yes

- No
- I don't know
- Other
- Prefer not to answer

Q11 How can staff access these policies and/or protocols? Please check all that apply.

- Hard copy in the training binder
- Digital copy that can be accessed online
- I don't know
- Other
- Prefer not to answer

Q12 Does your Emergency Department have policies and/or protocols for contacting a sexual assault support center advocate to be present for sexual assault medical forensic exams? (Skip pattern: if Yes, go to Q13, if No ... Prefer not to answer, go to Q14)

- Yes
- No
- I don't know
- Other
- Prefer not to answer

Q13 How can staff access these policies and/or protocols? Please check all that apply.

- Hard copy in the training binder
- Digital copy that can be accessed online
- I don't know
- Other
- Prefer not to answer

Q14 Does the Emergency Department support professional training of SAFEs? (Skip pattern: if Yes, go to Q15, if No ... Prefer not to answer, go to Q16)

- Yes
- No
- I don't know

Other

Prefer not to answer

Q15 How is training supported by the hospital? Please check all that apply.

The hospital is paying for training

The hospital is offering paid leave to attend training

The hospital is paying for training and paid leave to attend the training

Other

I don't know

Prefer not to answer

Q16 Does your Emergency Department offer ongoing education and professional training for all Emergency Department staff related to response to victims/survivors of sexual assault? (Skip pattern: if Yes, go to Q17, if No ... Prefer not to answer, go to Q18)

Yes

No

I don't know

Other

Prefer not to answer

Q17 How often are these trainings offered?

When new staff is hired

Every month

Every three months

Twice a year

Annually

As needed

I don't know

Other

Prefer not to answer

Q18 Does your Emergency Department track the number of forensic exams that are billed to Maine Crime Victims' Compensation fund?

Yes

No

I don't know

Other

Prefer not to answer

Q19 How often do victims/survivors of sexual assault leave your Emergency Department without receiving medical/forensic care? (Skip pattern: if Rarely, Sometimes, Often, Always, go to Q20, if Never, I don't know, Prefer not to answer, go to Q21)

Never

Rarely

Sometimes

Often

Always

I don't know

Prefer not to answer

Q20 Why do victims/survivors of sexual assault leave your hospital without receiving medical/forensic care? Please check all that apply.

SAFE is not immediately available

Waiting time

Jurisdictional issue (e.g. crime took place in another state)

Victim/survivor changed their mind

I don't know

Other

Prefer not to answer

Q21 In your experience, have there been cases when victims of sexual assault decline the collection of forensic evidence? (Skip pattern: if Yes, go to Q22, if No ... Prefer not to answer, go to Q23)

Yes

No

I don't know

Prefer not to answer

- Q22 Why did victims decline the collection of forensic evidence? Please check all that apply.
- Not reporting the crime
 - Discouraged by the time frame to complete the kit
 - Lack of belief in the effectiveness of process
 - Other
 - Prefer not to answer
- Q23 In your opinion, what is the approximate wait time for a victim to receive a medical forensic exam at your hospital?
- Less than half an hour
 - From half an hour to about an hour
 - 1-2 hours
 - More than 2 hours
 - Prefer not to answer
- Q24 In your opinion, are there enough SAFEs and/or other trained personnel in your Emergency Department to effectively meet the medical/forensic needs of sexual assault patients? (Skip pattern: if Yes, go to Q26, if No ... Prefer not to answer, go to Q25)
- Yes
 - No
 - I don't know
 - Other
 - Prefer not to answer
- Q25 What do you think is the reason for not having enough SAFEs in the Emergency Department? Please check all that apply.
- Cost concern (lack of funding for staff time, training, etc.)
 - No leadership buy-in
 - Not enough interest from our staff
 - I don't know
 - Other
 - Prefer not to answer

Q26 Where do victims of sexual assault typically wait for services in your Department?

In the waiting room

In an examination room

Victims typically go home and wait for the call from the nurse

I don't know

Other

Prefer not to answer

Q27 At your hospital, what is the typical response time of local law enforcement to pick up forensic evidence kits?

Less than an hour

1-2 hours

2-8 hours

8 - 24 hours

1 - 3 days

More than 3 days

I don't know

Other

Prefer not to answer

Q28 Does your Emergency Department track when each kit was picked up by law enforcement?

Yes

No

I don't know

Other

Prefer not to answer

Q29 What do you see as your Emergency Department's biggest challenges in providing quality care to victims/survivors of sexual assault? Please check all that apply.

Lack of trained nurses

Lack of funds to pay for staff training

Lack of funds to pay for paid overtime

Lack of interest in SAFE program

I don't know

Other

Prefer not to answer

Q30 Does your Emergency Department leadership have an existing partnership regarding sexual assault medical/forensic care with any of the following? Please check all that apply.

District Attorney's office

Law enforcement

Sexual Assault Support Center Advocates

I don't know

Other

We do not have any existing partnerships regarding sexual assault medical/forensic care

Prefer not to answer

Q31 In your opinion, has this partnership improved the multidisciplinary response to sexual assault in your region? (Skip pattern: if Yes, go to Q32, if No ... Prefer not to answer, go to END SURVEY)

Yes

No

I don't know

Prefer not to answer

Q32 In what specific areas have you experienced these improvements? Please check all that apply.

Better care for victims

Better understanding of roles and responsibilities

Better communication

More ongoing training opportunities

More cases investigated

Improved prosecution rates

Other

Prefer not to answer

APPENDIX E:

Sexual Assault Forensic Examiners Survey

Sexual Assault Forensic Examiners Survey

Thank you for agreeing to take part in this survey. The purpose of this survey is to learn the current status of sexual assault forensic kits in Maine as well as current practices for processing and storage. The Muskie School at the University of Southern Maine will be gathering and analyzing the data to create a summary report so the Maine Coalition Against Sexual Assault (MECASA) and their advisory group can make recommendations for system improvements.

This survey contains questions about the current practices regarding:

- your hospital's guidelines, protocols, and training of staff;
- interacting with victims of sexual assault; and
- handling/transfer of kits to law enforcement.

Please answer the questions based on your hospital's current practices. Participating in this research is voluntary. The survey will only take approximately 15 minutes to complete. Please complete the survey by Friday, August 31, 2018.

If you have any questions, please contact Alison Grey at (207) 228-8485 or alison.grey@maine.edu. If you have any questions or concerns about your rights as a research subject, you may call the USM Research Compliance Administrator at (207) 228-8434 and/or email usmorio@maine.edu.

Be assured that all answers you provide will be kept in the strictest confidentiality.

Q1 What is the name of your primary hospital?

Blue Hill Memorial Hospital

Bridgton Hospital

Calais Regional Hospital

Cary Medical Center

Central Maine Medical Center

Charles A. Dean Memorial Hospital

Down East Community Hospital

Eastern Maine Medical Center

Franklin Memorial Hospital
Houlton Regional Hospital
Inland Hospital
Lincoln Health
Maine Coast Memorial Hospital
Maine Medical Center
MaineGeneral Medical Center - Augusta
MaineGeneral Medical Center - Waterville
Mayo Regional Hospital
Mercy Hospital
Mid Coast Hospital
Millinocket Regional Hospital
Mount Desert Island Hospital
Northern Maine Medical Center
Pen Bay Medical Center
Penobscot Valley Hospital
Redington-Fairview General Hospital
Rumford Hospital
Sebasticook Valley Health
Southern Maine Health Care
St. Joseph Hospital
St. Mary's Regional Medical Center
Stephens Memorial Hospital
The Aroostook Medical Center
Waldo County General Hospital
York Hospital

Q2 In what county is your primary hospital located

Androscoggin
Aroostook
Cumberland
Franklin

Hancock
Kennebec
Knox
Lincoln
Oxford
Penobscot
Piscataquis
Sagadahoc
Somerset
Waldo
Washington
York

- Q3 Approximately how many SAFEs are currently practicing at your primary hospital, including yourself?
Please include SAFEs and SAFEs in Training.
- 0, 1, ... 25
 - I don't know
 - Prefer not to answer
- Q4 How many total staff does your hospital employ?
- Fewer than 250
 - 251 - 500
 - 501 - 1000
 - 1001 - 2000
 - More than 2000
 - Prefer not to answer
- Q5 Does the Emergency Department in your primary hospital track the collection of forensic kits and/or how many sexual assault medical exams are provided (i.e. are you keeping a tally of how many kits are collected)? (Skip pattern: if Yes, go to Q6 – Q10, if No or Prefer not to answer, go to Q11)
- Yes
 - No
 - I don't know

Other

Prefer not to answer

Q6 Were any medical forensic examinations done in the Emergency Department of your primary hospital in the last year (January 1 – December 31, 2017)?

Yes

No

I don't know

Q7 Approximately how many medical forensic examinations were done in the Emergency Department of your primary hospital in the last year (January 1 – December 31, 2017)?

1, 2, ... 250

I don't know

Prefer not to answer

Q8 How many were collected by you?

0, 1, ... 100

I don't know

Prefer not to answer

Q9 How many were collected by other SAFEs/SANEs in Training?

0, 1, ... 100

I don't know

Prefer not to answer

Q10 How many were collected by other non-specialized staff?

0, 1, ... 100

I don't know

Prefer not to answer

Q11 Does your Emergency Department have written policies, protocols, and/or guidelines (in addition to the State of Maine SAFE Program Guidelines for the Care of the Sexual Assault Patient) as to who should provide the medical forensic care of patients who have experienced sexual assault, e.g. SAFEs, SAFEs-in-Training, or other personnel? (Skip pattern: if Yes, go to Q12, if No ... Prefer not to answer, go

to Q13)

Yes

No

I don't know

Other

Prefer not to answer

Q12 How can staff access these policies and/or protocols? Please check all that apply.

Hard copy in the training binder

Digital copy that can be accessed online

I don't know

Other

Prefer not to answer

Q13 Does the Emergency Department in your primary hospital have policies and/or protocols for contacting a sexual assault support center advocate to be present for sexual assault medical forensic exams? (Skip pattern: if Yes, go to Q14, if No ... Prefer not to answer, go to Q15)

Yes

No

I don't know

Other

Prefer not to answer

Q14 How can staff access these policies and/or protocols? Please check all that apply.

Hard copy in the training binder

Digital copy that can be accessed online

I don't know

Other

Prefer not to answer

Q15 Does the Emergency Department in your primary hospital support professional training of SAFEs? (Skip pattern: if Yes, go to Q16, if No ... Prefer not to answer, go to Q17)

Yes

- No
- I don't know
- Other
- Prefer not to answer

Q16 How is training supported by the hospital? Please check all that apply

- The hospital is paying for training
- The hospital is offering paid leave to attend training
- The hospital is paying for training and paid leave to attend the training
- Other
- Prefer not to answer

Q17 Does the Emergency Department in your primary hospital offer ongoing education and professional training for all Emergency Department staff related to response to victims/survivors of sexual assault? (Skip pattern: if Yes, go to Q18, if No ... Prefer not to answer, go to Q19)

- Yes
- No
- I don't know
- Other
- Prefer not to answer

Q18 How often are these trainings offered?

- When new staff is hired
- Every month
- Every three months
- Twice a year
- Annually
- As needed
- I don't know
- Other
- Prefer not to answer

Q19 Does the Emergency Department in your primary hospital track the number of forensic exams that

are billed to Maine Crime Victims' Compensation fund?

Yes

No

I don't know

Other

Prefer not to answer

Q20 How often do victims/survivors of sexual assault leave your Emergency Department without receiving medical/forensic care? (Skip pattern: if Rarely, Sometimes, Often, Always, go to Q21, if Never, I don't know, Prefer not to answer, go to Q22)

Never

Rarely

Sometimes

Often

Always

I don't know

Prefer not to answer

Q21 Why do victims/survivors of sexual assault leave your hospital without receiving medical/forensic care? Please check all that apply.

SAFE is not immediately available

Waiting time

Jurisdictional issue (e.g. crime took place in another state)

Victim/survivor changed their mind

I don't know

Other

Prefer not to answer

Q22 In your experience, have there been cases when victims of sexual assault decline the collection of forensic evidence? (Skip pattern: if Yes, go to Q23, if No ... Prefer not to answer, go to Q24)

Yes

No

I don't know

Prefer not to answer

- Q23 Why did victims decline the collection of forensic evidence? Please check all that apply.
- Not reporting the crime
 - Discouraged by the time frame to complete the kit
 - Lack of belief in the effectiveness of process
 - Other
 - Prefer not to answer
- Q24 In your opinion, what is the approximate wait time for a victim to receive a medical forensic exam at the Emergency Department in your primary hospital?
- Less than half an hour
 - From half an hour to about an hour
 - 1-2 hours
 - More than 2 hours
 - Prefer not to answer
- Q25 In your opinion, are there enough SAFEs and/or other trained personnel in your Emergency Department to effectively meet the medical/forensic needs of sexual assault patients? (Skip pattern: if Yes, go to Q27, if No ... Prefer not to answer, go to Q26)
- Yes
 - No
 - I don't know
 - Other
 - Prefer not to answer
- Q26 What do you think is the reason for not having enough SAFEs in the Emergency Department? Please check all that apply.
- Cost concern (lack of funding for staff time, training, etc.)
 - No leadership buy-in
 - Not enough interest from our staff
 - I don't know
 - Other
 - Prefer not to answer

- Q27 Where do victims of sexual assault typically wait for services in your primary hospital?
- In the waiting room
 - In an examination room
 - Victims typically go home and wait for the call from the nurse
 - I don't know
 - Other
 - Prefer not to answer
- Q28 At your primary hospital, what is the typical response time of local law enforcement to pick up forensic evidence kits?
- Less than an hour
 - 1-2 hours
 - 2-8 hours
 - 8 - 24 hours
 - 1 - 3 days
 - More than 3 days
 - I don't know
 - Other
 - Prefer not to answer
- Q29 Does your Emergency Department in your primary hospital track when each kit was picked up by law enforcement?
- Yes
 - No
 - I don't know
 - Other
 - Prefer not to answer
- Q30 What do you see as the Emergency Department in your primary hospital's biggest challenges in providing quality care to victims/survivors of sexual assault? Please check all that apply.
- Lack of trained nurses
 - Lack of funds to pay for staff training
 - Lack of funds to pay for paid overtime

Lack of interest in SAFE program

I don't know

Other

Prefer not to answer

Q31 Does your Emergency Department leadership have an existing partnership regarding sexual assault medical/forensic care with any of the following? Please check all that apply.

District Attorney's office

Law enforcement

Sexual Assault Support Center Advocates

I don't know

Other

We do not have any existing partnerships regarding sexual assault medical/forensic care.

Prefer not to answer

Q32 In your opinion, has this partnership improved the multidisciplinary response to sexual assault in your region? (Skip pattern: if Yes, go to Q33, if No ... Prefer not to answer, go to END SURVEY)

Yes

No

I don't know

Prefer not to answer

Q33 In what specific areas have you experienced these improvements: Please check all that apply.

Better care for victims

Better understanding of roles and responsibilities

Better communication

More ongoing training opportunities

More cases investigated

Improved prosecution rates

Other

Prefer not to answer

APPENDIX F:

Maine Prosecutors Sexual Assault Kit Survey

Maine Prosecutors Sexual Assault Kit Survey

The purpose of this survey is to learn about the current status of sexual assault forensic kits in Maine as well as prosecutorial practices involving the kits. The Muskie School at the University of Southern Maine has been asked to conduct this study by the Maine Coalition Against Sexual Assault and their advisory group. The Muskie School will analyze responses and create a summary report so the advisory group can make recommendations. This survey asks questions like:

- Whose decision should it be to send a kit to the crime lab for analysis?
- What should be the recommendation to law enforcement for retention of kits?
- What are the barriers to the successful prosecution of sex crimes in Maine?

Participating in this research is voluntary. The survey will only take approximately 15 minutes to complete. Please complete the survey by Wednesday, October 17. If you have questions, please contact Alison Grey at (207) 228-8485 or alison.grey@maine.edu. If you have any questions or concerns about your rights as a research subject, you may call the USM Research Compliance Administrator at (207)228-8434 and/or email usmorio@maine.edu.

Many 'sex crimes' don't warrant a kit, i.e. sex trafficking, sexually explicit photos of minors, etc. Please note the scope of this survey is cases in which a Maine state sex crimes evidence collection kit would be relevant.

Q1 What is your prosecutorial district?

1

2

3

4

5

6

7

8

Prefer not to answer

- Q2 How many prosecutors total are in your district's office?
- 1, 2, ...50
 - Don't know
 - Prefer not to answer
- Q3 How many prosecutors in your office handle sex crimes cases?
- 1, 2, ...50
 - Don't know
 - Prefer not to answer
- Q4 Do you make decisions around cases involving sex crimes for your prosecutorial district? (Skip pattern: if Yes, go to Q5, if No ... Prefer not to answer, go to END OF SURVEY)
- Yes
 - No
 - Prefer not to answer
- Q5 Who decides if a kit should be sent to the Maine State Police Crime Lab for analysis?
- Solely law enforcement
 - Solely prosecutor
 - Collaborative decision with law enforcement and prosecutor
 - Other
 - Prefer not to answer
- Q6 In your opinion, how often should law enforcement notify the DA's office that a kit has been collected from a victim in a sex crimes case?
- Never
 - Rarely
 - Sometimes (depends on what kind of case it is)
 - Often
 - Always
 - Prefer not to answer

- Q7 How often should prosecutors be involved in the decision to move an investigation forward when a kit has been collected from a victim in a sex crimes case?
- Never
 - Rarely
 - Sometimes (depends on what kind of case it is)
 - Often
 - Always
 - Prefer not to answer
- Q8 Does your prosecutorial district have an expectation that law enforcement submit all sex crimes cases for review by your DA's office when a kit has been collected?
- Yes
 - No
 - Prefer not to answer
- Q9 Has your DA's office communicated to law enforcement this expectation to submit all sexual assault cases for review by your DA's office?
- Yes
 - No
 - I don't know
 - Other
 - Prefer not to answer
- Q10 Does your office maintain a tracking system of cases reviewed, declined, accepted, etc.?
- Yes
 - No
 - I don't know
 - Other
 - Prefer not to answer
- Q11 Has your district prosecuted any sex crimes cases between October 1, 2017 and September 30, 2018? (Skip pattern: if Yes, go to Q12, if No ... Prefer not to answer, go to Q13)
- Yes

- No
- I don't know
- Other
- Prefer not to answer

Q12 How many sex crime cases have you personally prosecuted between October 1, 2017 and September 30, 2018?

- 0, 1, ...150
- Don't know
- Prefer not to answer

Q13 During this same time frame (October 1, 2017 – September 30, 2018), did you review and decline any sex crimes cases? (Skip pattern: if Yes, go to Q14, if No ... Prefer not to answer, go to Q16)

- Yes
- No
- I don't know
- Other
- Prefer not to answer

Q14 How many sex crime cases, if any, were declined by you personally between October 1, 2017 and September 30, 2018?

- None
- 1, 2, ... 150
- Don't know
- Prefer not to answer

Q15 What reasons contributed to cases being declined? Please check all that apply.

- Victim chose not to go forward
- Insufficient evidence
- Victim not credible
- Compromised evidence
- Lack of resources
- I don't know

Other

Prefer not to answer

Q16 How does your office typically communicate the decision to victims when a decision is made not to prosecute sexual assault cases when a forensic kit exists? Please check all that apply.

Notified by prosecutors' office

Notified by law enforcement

Notified by local sexual assault support center

It is up to victim to call and ask

I don't know

Other

Prefer not to answer

Q17 How important is the existence of a kit in whether a case is accepted for prosecution?

Never important

Rarely important

Sometimes important

Often important

Always important

Other

Prefer not to answer

Q18 How important is the crime lab's forensic analysis of a kit in the final outcome of a case that goes to trial?

Never important

Rarely important

Sometimes important

Often important

Always important

Prefer not to answer

Q19 In your opinion, is the 90 day statute sufficient to hold anonymous kits? (Skip pattern: if Yes, go to Q21, if No ... Prefer not to answer, go to Q20)

Yes

No

I don't know

Other

Prefer not to answer

Q20 What should be the recommendation to law enforcement for retention of anonymous kits?

90 days

Case has final disposition

After all post conviction options are resolved

In accordance with the Maine Statute of Limitations for Gross Sexual Assault

50 years

Forever

I don't know

Other

Prefer not to answer

Q21 There is no statewide recommendation for how long law enforcement must retain reported kits. In your opinion, should there be statewide guidelines? (Skip pattern: if Yes, go to Q22, if No ... Prefer not to answer, go to Q23)

Yes

No

I don't know

Other

Prefer not to answer

Q22 What should be the recommendation to law enforcement for retention of reported kits?

90 days

Case has final disposition

After all post conviction options are resolved

In accordance with the Maine Statute of Limitations for Gross Sexual Assault

50 years

- Forever
- I don't know
- Other
- Prefer not to answer

Q23 Who decides when the destruction of the forensic kit is allowable?

- Law enforcement discretion
- Prosecutor discretion
- Crime Lab discretion
- Office of the Attorney General discretion
- I don't know
- Other
- Prefer not to answer

Q24 Do you participate in sexual assault case reviews at local multi-disciplinary and/or Sexual Assault Response Team meetings in your region?

- Yes
- No
- Other
- Prefer not to answer

Q25 What types of specialized training have you received on prosecuting sexual assault forensic investigations? Please check all that apply.

- Sexual Assault Forensic Examiner training
- Maine Prosecutors conference training
- Training offered by your local sexual assault support center
- Other
- Prefer not to answer

Q26 Are there barriers to successful prosecution of sex crimes in Maine? (Skip pattern: if Yes, go to Q27, if No ... Prefer not to answer, go to Q28)

- Yes
- No

I don't know

Other

Prefer not to answer

Q27 What are the key barriers to successful prosecution of sex crimes in Maine? Please check all that apply.

Limited funding

Limited capacity to address complex cases

Limited experience/ skill on team

Fear of high levels of jury acquittal/ failure

Difficulty of the process for victims

Other

Prefer not to answer

Q28 What types of statewide legislation, policy, or protocol changes would you like to see enacted to improve any challenges related to processing and storing sex crimes evidence collection kits in Maine? Please check all that apply.

None

Extend the current 90 days retention for anonymous kits to match Maine's statute of limitations for gross sexual assault

Require retention of reported kit to match statute of limitations for Gross Sexual Assault

Require retention of reported kit for 50 years (national best practices)

Require retention of reported kits forever

All kits, except for anonymous kits, should be stored at the Maine State Police Crime Lab

All kits, except for anonymous kits, should be sent for processing by the Maine State Police Crime Lab

All kits, except for anonymous kits, should be processed for DNA to upload to CODIS

All kits should be stored at the Maine State Police Crime Lab

All kits should be sent for processing by the Maine State Police Crime Lab

All kits should be processed for DNA to upload to CODIS

Maine's Statute of Limitations for Gross Sexual Assault should be extended

Other

Prefer not to answer

APPENDIX G: Focus Group Questions

Maine Sex Crimes Forensic Evidence Kit Study

Semi-Structured Focus Group Questions

1. How long have you been involved in this work?
 - What is your role at your organization?
 - In what prosecutorial region do you work?

2. What have you observed as the biggest issue that should be addressed by researchers when examining the status of sexual assault forensic kits in Maine, i.e. current practices for processing, storage, and analysis?
 - What are the current protocols and/or guidelines in your region?
 - How are these protocols and/or guidelines communicated to those who follow them?
 - Are there issues related to anonymous kits as compared to kits where the victim has chosen to report?

3. Can you share any observations you have about the number of kits that are sent for processing at the Maine State Crime Lab?

4. If you could give one piece of advice to the advisory committee about a recommendation that would improve the process around the use of kits in Maine, what would it be?

5. In your opinion, what is the process of forensic kits like as it relates to victims of sexual violence? These can be positive experiences or negative experiences.

6. What types of communication happens with victims on the status of their kits?
 - How specifically is this information communicated?
 - Are there any considerations you would like to note for victims who may have additional barriers due to language, disabilities, age, race, etc.?

7. Is there an example of a case involving a sexual assault forensic kit that worked really well?

8. In your opinion, how would a statewide protocol for the storage and collection of kits be helpful or not helpful to you and your colleagues in your particular multidisciplinary field?

About Us

Muskie School of Public Service

The Muskie School of Public Service is Maine's distinguished public policy school, combining an extensive applied research and technical assistance portfolio with rigorous undergraduate and graduate degree programs in geography-anthropology; policy, planning, and management (MPPM); and public health (MPH). The school is nationally recognized for applying innovative knowledge to critical issues in the fields of sustainable development and health and human service policy management, and is home to the Cutler Institute for Health and Social Policy.

Cutler Institute for Health and Social Policy

The Cutler Institute for Health and Social Policy at the Muskie School of Public Service is dedicated to developing innovative, evidence-informed, and practical approaches to pressing health and social challenges faced by individuals, families, and communities.

Maine Statistical Analysis Center

The Maine Statistical Analysis Center (SAC) informs policy development and improvement of practice in Maine's criminal and juvenile justice systems. A partnership between the University of Southern Maine Muskie School of Public Service and the Maine Department of Corrections, SAC collaborates with numerous community-based and governmental agencies. SAC conducts applied research, evaluates programs and new initiatives, and provides technical assistance, consultation and organizational development services. The Maine Statistical Analysis Center is funded by the Bureau of Justice Statistics and supported by the Justice Research Statistics Association.

This report is available on the Maine Statistical Analysis Center's website at:

<http://justiceresearch.usm.maine.edu/>

This project was supported by Grant No. 2015-WF-AX-0054 awarded by the Maine Dept. of Public Safety. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily represent the official views, position or policies of the Maine Department of Public Safety.

MUSKIE SCHOOL OF PUBLIC SERVICE

University of Southern Maine
PO Box 9300
Portland, Maine 04014-9300
www.usm.maine.edu/muskie



**UNIVERSITY OF
SOUTHERN MAINE**

Muskie School of Public Service