

Annual Report to the  
Legislature and Governor

**Washington Sexual Assault  
Forensic Examination Best  
Practices Advisory Group**

December 2019



This document is the annual report to the Washington State Legislature and Governor as directed by Substitute House Bill 1166 (2019). For more information on the Sexual Assault Forensic Examination Best Practices Advisory Group's activities, please visit <https://www.atg.wa.gov/sexual-assault-kit-initiative>.



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# ADVISORY GROUP MEMBERS

**Rep. Tina Orwall, Co-Chair**

Washington House of Representatives

**Rep. Gina Mosbrucker, Co-Chair**

Washington House of Representatives

**Sen. Manka Dhingra**

Washington Senate

**Sen. Ann Rivers**

Washington Senate

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Representing Survivors of Sexual Assault

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Washington Association of Sheriffs and Police Chiefs

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Office of the Attorney General

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Washington Association of Prosecuting Attorneys

**Christie Hedman**

Washington Defender Association

**Capt. James Dermody**

Association of Washington Cities

**Jennifer Wallace**

Washington Association of County Officials

**Michelle Dixon-Wall**

Washington Coalition of Sexual Assault Programs

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Office of Crime Victims Advocacy

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Washington State Hospital Association

**Terri Stewart**

Sexual Assault Nurse Examiner



# STAFF

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# EXECUTIVE SUMMARY



## OBJECTIVES

In 2015, the Washington State Legislature instituted sexual assault kit reform, including coordinating multidisciplinary efforts to identify and resolve the systemic barriers contributing to a backlog of untested SAKs and establishing mandatory testing requirements for SAKs. In 2019, the Washington State Legislature established the Sexual Assault Forensic Examination Best Practices Advisory Group (the Advisory Group) within the Office of the Attorney General through Substitute House Bill 1166. The Advisory Group's mission is to reduce the number of untested sexual assault kits (SAK) in Washington and to review best practice models for managing all aspects of sexual assault investigations. The Advisory Group membership is undertaking its mission with a shared belief that Washington can improve the care of sexual assault survivors and reduce the number of untested SAKs.



## ADVISORY GROUP 2019 ACTIVITIES

The Advisory Group convened three meetings in 2019. The Advisory Group engaged in discussion on a wide range of issues related to SAKs and sexual assault policies. The topics that received significant attention during Advisory Group meetings in 2019 and informed the recommendations include:

### 1: **Monitoring Progress of Sexual Assault Kit Testing**

The Advisory Group continued to monitor the progress of the untested SAK backlog. Based on data collected, the Office of the Attorney General reported that there were approximately 9,760 untested SAKs at local law enforcement agencies in 2015. As of October 31, 2019, testing was completed on 3,154 of those SAKs. The WSP crime labs continue to work with local law enforcement agencies to submit untested SAKs.

### 2: **Drafting Best Practice Models for Cold Case Victim Notification Protocol**

The Advisory Group researched best practice models for collaborative responses to victims of sexual assault from the point the SAK is collected to the conclusion of the investigation and prosecution of the case. The Advisory Group is drafting cold case victim notification protocol.

### 3: **Identifying Best Practice Models for Storage, Retention, and Destruction of Unreported Sexual Assault Kits**

The Advisory Group discussed long-term solutions for the storage, retention, and destruction of unreported SAKs as well as protocols for engaging with survivors associated with unreported SAKs. In addition, the Advisory Group worked through problems with the transportation and storage of unreported SAKs that arose during the moratorium period created by House Bill 1166 in 2019.

### 4: **Providing Resources For Investigation and Prosecution of Cold Cases**

The Advisory Group discussed the ongoing need for additional resources to investigate and prosecute cold cases.

### 5: **Proposing Solutions For the Long-term Storage of Unreported SAKs**

The Advisory Group discussed the long-term storage of unreported SAKs, including what items needed to be stored, how long those items should be stored, and at which location those items should be stored. Through the WSP's Sexual Assault Kit Tracking System, the Advisory Group identified that of the 2,013 SAKs collected between January 2019 and November 2019,

approximately 293 were unreported. The Advisory Group was unanimous in recognizing that storage should include the SAK and any additional items collected during the forensic examination. With that understanding, the group discussed the time frame and location of storage. The group discussed three potential timeframes within which SAKs could be stored: 1) Short (1-2 years); 2) Moderate (10-20 years); and 3) Long (50 plus years). The Advisory Group considered three separate locations for the long-term storage of unreported SAKs: 1) Local law enforcement agencies; 2) WSP crime labs; and 3) Hospital where the SAK is collected.



## SUMMARY OF RECOMMENDATIONS

- 1. PROVIDE RESOURCES FOR THE INVESTIGATION AND PROSECUTION OF COLD CASES:** Unanimous.
- 2. CONVENE AN ADVISORY GROUP TO DEVELOP STANDARD PROTOCOLS FOR ACCESS TO VICTIM ADVOCACY SERVICES IN HOSPITALS:** Unanimous.
- 3. STORE UNREPORTED SEXUAL ASSAULT KITS AND ANY ADDITIONAL ITEMS COLLECTED DURING A FORENSIC EXAMINATION FOR 20 YEARS:** This period should be reconsidered and lengthened if the statute of limitations is changed or eliminated. Unanimous.
- 4. STORE UNREPORTED SEXUAL ASSAULT KITS AND ANY ADDITIONAL ITEMS COLLECTED DURING A FORENSIC EXAMINATION AT LOCAL LAW ENFORCEMENT AGENCIES WITH FUNDING APPROPRIATED:** Near unanimous with the exception of the Washington Association of Sheriffs and Police Chiefs (WASPC) whose representative voted for the Washington State Patrol (WSP) crime labs to take on responsibility for the long-term storage of unreported SAKs.
- 5. COLLECT DNA SAMPLES FROM QUALIFYING OFFENDERS IN THE COURTROOM AT THE TIME OF SENTENCING:** Near unanimous with the WASPC representative abstaining from voting on this recommendation.



## ONGOING ADVISORY GROUP EFFORTS FOR 2020

The Advisory Group is engaged in ongoing discussions, research, and efforts to reduce the number of untested SAKs in Washington and to review best practice models for managing all aspects of sexual assault investigations. This work includes but is not limited to the following activities:

1. Continuing to monitor the progress of the submission and testing of the backlog of SAKs stored at local law enforcement agencies;
2. Researching and creating recommendations for the retention periods for records associated with a sexual assault case and evidence collected during a sexual assault forensic examination;
3. Developing best practices for the investigation of sexual assault cases from a victim-centered, trauma-informed perspective; and
4. Researching and creating recommendations about necessary training for disciplines involved in sexual assault cases.



# INTRODUCTION

## Objectives

In 2015, the Washington State Legislature instituted sexual assault reform, including coordinating multidisciplinary efforts to identify and resolve the systemic barriers contributing to a backlog of untested SAKs and establishing mandatory testing requirements for SAKs. The Sexual Assault Forensic Examination (SAFE) Best Practices Task Force (now the “Advisory Group”) was formed to bring together law enforcement, victim advocates, survivors, hospitals, prosecutors, and legislators to reform processes around sexual assault forensic examinations to bring justice to survivors of sexual assault.

In 2019, the Washington State Legislature established the Sexual Assault Forensic Examination Best Practices Advisory Group (the Advisory Group) within the Office of the Attorney General through Substitute House Bill 1166. The Advisory Group’s mission is to reduce the number of untested sexual assault kits (SAK) in Washington and to review best practice models for managing all aspects of sexual assault investigations. The duties of the Advisory Group include, but are not limited to:

- Determining the number of untested SAKs in Washington;
- Researching the locations where the untested SAKs are stored;
- Making recommendations regarding legislative policy options for reducing the number of untested SAKs;
- Researching the best practice models for collaborative responses to survivors of sexual assault from the point the SAK is collected to the conclusion of the investigation and prosecution of a case, and providing recommendations to address any gaps in Washington and resources that may be necessary to address those gaps;
- Making recommendations for securing nonstate funding for testing SAKs, and reporting on progress made toward securing such funding;

- Developing policies on the storage, retention, and destruction of unreported SAKs as well as protocols for engaging with survivors associated with unreported SAKs;
- Monitoring implementation of state and federal legislative changes;
- Collaborating with the Legislature, state agencies, medical facilities, and local governments to implement reforms pursuant to federal grant requirements; and
- Making recommendations for institutional reforms necessary to prevent sexual assault and improve the experiences of sexual assault survivors in the criminal justice system.

The Advisory Group membership is undertaking its mission with a shared belief that Washington can improve the care of sexual assault survivors and reduce the number of untested SAKs. This coordination of multidisciplinary efforts is focused on removing barriers to information-sharing and establishing a system that prioritizes the experiences of survivors. To make meaningful steps toward bringing accountability to the process of SAK testing in Washington, the Advisory Group works openly and collaboratively while viewing the process through the eyes of sexual assault survivors.

The Advisory Group submitted a preliminary report and work plan in 2015 and full annual reports with recommendations in 2016, 2017, and 2018 which can be found at: <http://leg.wa.gov/JointCommittees/Archive/SAFE/Pages/default.aspx>. The reports contain information about the Advisory Group’s activities, relevant legislative and policy changes, and recommendations to the Legislature and Governor for institutional reforms needed to improve the care of sexual assault survivors and reduce the number of untested SAKs. The Advisory Group was set to expire in June 30, 2019, but was extended by the Legislature through December 31, 2021 by Substitute House Bill 1166 (2019).



# TERMINOLOGY

## **Sexual Assault Kit (SAK)**

A sexual assault kit (SAK) preserves any evidence left behind from an assault. After a person survives a sexual assault, a medical professional may perform a forensic examination using a SAK, also called a Sexual Assault Forensic Examination (SAFE) kit, or rape kit.

## **Sexual Assault Nurse Examiner**

A sexual assault nurse examiner (SANE) is a registered nurse specially trained to provide evidentiary examinations of survivors of sexual assaults. Although there is no state-issued license or endorsement, the International Association of Forensic Nurses (IAFN) grants SANE certification to registered nurses who: complete training that meets the IAFN SANE Education Guidelines, meet clinical practice requirements, pass an examination, and comply with ongoing training requirements.

## **Unsubmitted SAKs or Untested SAKs**

Unsubmitted or untested SAKs have not been submitted to a crime lab for testing. These SAKs are booked into evidence and held in police evidence storage facilities, but have not had a request for laboratory examination submitted by a detective and/or prosecutor. Prior to 2015, law enforcement agencies and prosecutors had the discretion to submit SAKs to forensic laboratories for testing, but were not required to do so.

## **Unreported SAK**

An unreported SAK is a SAK collected from a survivor who has not reported the sexual assault to law enforcement.

## **Sexual Assault Protection Order**

A sexual assault protection order is a civil order issued by a court for a person who is a survivor of nonconsensual sexual conduct or penetration that gives rise to a reasonable fear of future dangerous acts by the respondent. Sexual assault protection orders are available for survivors of sexual assault who do not qualify for a domestic violence protection order. A sexual assault protection order may restrain the respondent from having any contact with the survivor, prohibit the respondent from certain places, and contain other relief as the court deems necessary for protection of the survivor.

## **Statute of Limitations**

A statute of limitations is a time limit for initiating prosecution after a crime is committed. Once a statute of limitations has expired, a prosecutor is barred from bringing charges against an alleged perpetrator. Statutes of limitations vary according to the crime.

## **Combined DNA Index System (CODIS)**

The Combined DNA Index System is the generic term used to describe the FBI's program of support for criminal justice DNA databases as well as the software used to run these databases.

## **Lawfully Owed DNA**

Certain offenders are required to provide a sample of their DNA. Lawfully owed DNA has never been collected or submitted to CODIS.



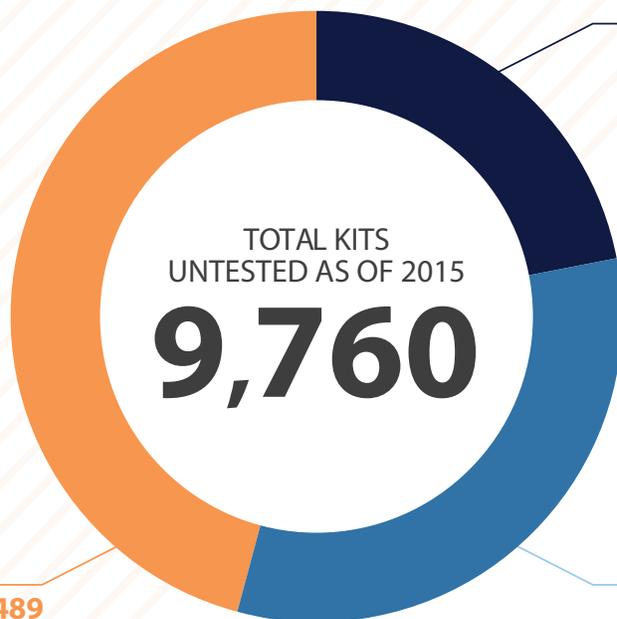
# ADVISORY GROUP 2019 ACTIVITIES

The Advisory Group convened three meetings in 2019. Advisory Group meetings included staff briefings, presentations from experts and practitioners, information sharing, and discussion. Advisory Group members also independently consulted with stakeholders and advocates to inform the discussions, decisions, and recommendations made by the Advisory Group. The Advisory Group engaged in discussion on a wide range of issues related to SAKs and sexual assault policies. This report focuses on the topics that received significant attention during Advisory Group meetings in 2019 and informed the recommendations included in this report.

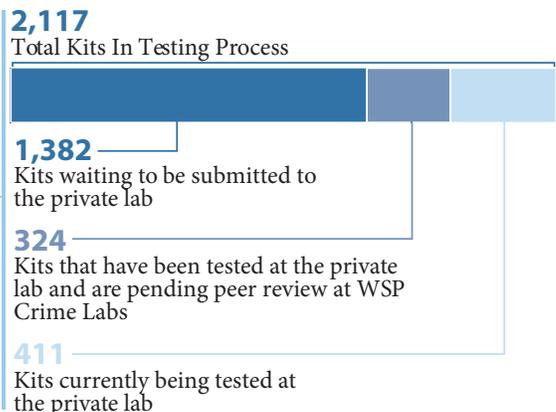
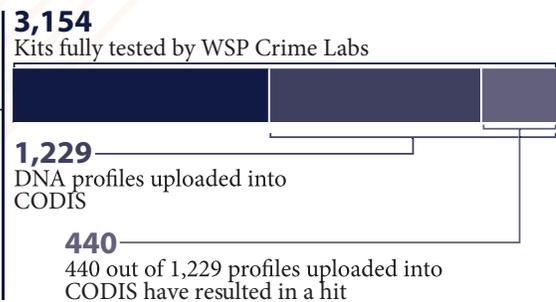
## 1: Monitoring Progress of Sexual Assault Kit Testing

The Advisory Group continued to monitor the progress of reducing the number of untested SAKs. In 2018, the Office of the Attorney General, pursuant to the Sexual Assault Kit Initiative (SAKI) grant requirements, conducted a statewide inventory of untested SAKs to determine the number of SAKs that had not yet been submitted by law enforcement agencies to the Washington State Patrol (WSP) for testing. The Washington State Patrol (WSP) reported on the status and progress of the SAK testing.

Based on data collected, the Office of the Attorney General reported that there were approximately 9,760 untested SAKs at local law enforcement agencies in 2015. As of October 31, 2019, testing was completed on 3,154 of those SAKs. From these SAKs tested, 1,229 new profiles were uploaded into CODIS. There were 440 new DNA “hits”, meaning the DNA profile from the SAK matched a DNA profile in CODIS. The WSP crime labs continue to work with local law enforcement agencies to submit untested SAKs.



**4,489**  
Total untested kits not in the testing process



SOURCE: Washington State Attorney General's Office.



## **2: Drafting Best Practice Models for Cold Case Victim Notification Protocol**

The Advisory Group researched best practice models, both in-state and across the country, for collaborative responses to victims of sexual assault from the point the SAK is collected to the conclusion of the investigation and prosecution of the case. The Advisory Group is drafting cold case victim notification protocol.

## **3: Identifying Best Practice Models for Storage, Retention, and Destruction of Unreported Sexual Assault Kits**

The Advisory Group discussed long-term solutions for the storage, retention, and destruction of unreported SAKs as well as protocols for engaging with survivors associated with unreported SAKs. In addition, the Advisory Group identified ways to address challenges associated with the transportation and storage of unreported SAKs that arose during the moratorium period created by House Bill 1166 in 2019, during which the destruction of untested SAKs was prohibited.

## **4: Providing Resources For Investigation and Prosecution of Cold Cases**

The Advisory Group discussed the ongoing need for additional resources to investigate and prosecute cold cases. As SAKs associated with cold cases continue to result in DNA hits in the CODIS database, the need for law enforcement resources increases exponentially.

## **5: Proposing Solutions For the Long-term Storage of Unreported SAKs**

The Advisory Group discussed the long-term storage of unreported SAKs, including what items needed to be stored, how long those items should be stored, and at which location those items should be stored. Through the WSP's Sexual Assault Kit Tracking System, the Advisory Group identified that of the 2,013 SAKs collected between January 2019 and November 2019, approximately 293 were unreported. The Advisory Group was unanimous in recognizing that storage should include the SAK and any additional items collected during the forensic examination. With that understanding, the group discussed the time frame and location of storage. The group discussed three potential timeframes within which SAKs could be stored: 1) Short (1-2 years); 2) Moderate (10-20 years); and 3) Long (50 plus years). The Advisory Group considered three separate locations for the long-term storage of unreported SAKs: 1) Local law enforcement agencies; 2) WSP crime labs; and 3) Hospital where the SAK is collected.





# POLICY AND FUNDING CHANGES: WASHINGTON STATE SEXUAL ASSAULT KIT REFORM

In 2015, the Washington State Legislature instituted sexual assault reform. Below is a summary of the institutional reforms made to reduce the number of untested SAKs and to improve the experiences of sexual assault survivors seeking justice through the criminal justice system:

## Testing

### Policy Changes

- **House Bill 1068 (2015)** required the testing of all SAKs, directed law enforcement to log SAKs into the WSP system within 30 days, and funded seven new staff in the state lab dedicated to testing SAKs.
- **HB 2530 (2016)** implemented the first tracking system in the nation to track the location and status of SAK processing from the time the SAK is collected at the hospital to the time the SAK is received by law enforcement for the investigation and prosecution of the sexual assault. The system allows victims to track and check the status of their SAKs. Additionally, WSP was directed to publish semi-annual reports documenting the progress of tested and untested SAKs.

### Funding Changes

- The 2016 Supplemental Operating Budget included a total of \$3.8 million for SAK reform. Of those funds \$2.5 million was provided to begin testing untested SAKs. Additionally, \$871,000 was provided for Fiscal Year 2017 and \$1.7 million was provided for the 2017-2019 biennium to implement the tracking system to track SAKs.

- The 2016 Supplemental Operating Budget included \$1.5 million to fund three additional WSP lab technicians to address the SAK backlog for three years, raising the total staff dedicated to testing SAKs to ten.
- In 2017 the Office of the Attorney General (AGO) received a \$3 million SAKI grant from the U.S. Department of Justice to fund a team within the AGO dedicated to processing SAKs, assisting law enforcement with testing and investigating untested SAKs, and reopening, investigating, and prosecuting cold cases.
- In 2019 the AGO received a \$2.5 million SAKI grant from the U.S. Department of Justice to continue assisting law enforcement with testing and investigating untested SAKs, reopening, investigating, and prosecuting cold cases, collecting lawfully owed DNA, and hiring a victim advocate.
- The 2019 Operating Budget appropriated \$10.3 million to WSP crime labs funding the implementation of HB 1166.
- The 2019 Capital Budget authorized funding for the construction of a crime lab equipped with technology which will enable the lab to process a higher volume of SAKs.



## Evidence Preservation

- **HB 1069 (2015)** protected the DNA contained within SAKs from being destroyed within the statute of limitations.

## Sexual Assault Nurse Examiner (SANE) Services

### Policy Changes

- **SHB 2711 (2016)** required the OCVA to study and make recommendations regarding the availability of SANEs. In 2017, the OCVA published the recommendations in the report, “Study of Sexual Assault Nurse Examiner Availability, Adequacy, Costs, and Training”, which identified eight strategies for increasing the availability of SANE services. The study included a roster of SANEs across the state, an assessment of the availability of SANEs across the state, and strategies for increasing the availability of SANEs in underserved areas.
- **HB 1016 (2019)** required hospitals to notify survivors within two hours of arrival if they do not have an unused SAK or a provider available with sexual assault examination training.

### Funding Changes

- The 2015 Operating Budget allocated funds to provide grants for SANE training and services through the Office of Crime Victims Advocacy (OCVA).
- The 2016 Supplemental Budget allocated a total of \$3.8 million for SAK reform. Of those funds, \$76,000 was allocated to the OCVA funding the implementation of HB 2711 to study the availability of SANEs throughout the state. Additionally, \$437,000 was provided on a one-time basis to the Department of Commerce to allocate grants for SANE services and training.

## Training and Best Practice

### Policy Changes

- **HB 1109 (2017)** directed the Criminal Justice Training Commission (CJTC) to develop new training and incorporate into existing training a victim-centered, trauma-informed approach. This included incorporation of such training into the Basic Law Enforcement Academy curriculum as well as the protocol for responding to sexual assault calls.

- **HB 2101 (2018)** required the OCVA to develop best practices that local communities may voluntarily use to create more access to SANEs, including, but not limited to, partnerships to serve multiple facilities, mobile SANE teams, and multidisciplinary teams to serve sexual assault survivors in local communities. The OCVA was also required to develop strategies to make SANE training available to nurses in all regions of the state without requiring the nurses to travel unreasonable distances or incur unreasonable expenses.
- **HB 1166 (2019)** created a moratorium period within which the destruction of untested SAKs was prohibited and the preservation of untested SAKs was required. All newly submitted SAKs were mandated to be tested within 45 days and unsubmitted SAKs within two years. The Survivor Bill of Rights was established under which survivors may no longer be required to provide payment for the testing of their SAKs. The statute of limitations for the prosecution of a sex offense following the identification of a suspect by DNA testing or photograph was extended to two years.

## Sexual Assault Protection Orders

### Policy Changes

- **SB 5256 (2018)** revised the terms and standards for renewal, modification, or termination of a sexual assault protection order. The two-year maximum term for a final sexual assault protection order was changed to allow an order to be made permanent.
- **HB 1149 (2019)** established the presumption of a survivor’s reasonable fear when obtaining a sexual assault protection order. This removed the requirement that a petitioner who seeks a sexual assault protection order allege and prove a reasonable fear of future dangerous acts by a defendant accused of sexual assault.

## Statutes of Limitation

### Policy Changes

- **SB 5649 (2019)** removed or extended the statute of limitations for certain sex offenses.



# RECOMMENDATIONS TO THE LEGISLATURE & GOVERNOR

The Advisory Group was tasked with providing recommendations to the Washington State Legislature and Governor by December 1, 2019. The Advisory Group members voted on recommendations during the November 5, 2019 meeting. The Advisory Group adopted recommendations by majority vote. Members were invited to draft a minority report to represent their opinions differing from the recommendations adopted by the Advisory Group, but no member chose to write a minority report. The final recommendations are organized below by subject to the extent feasible. The order does not reflect priority.



## PROVIDE RESOURCES FOR THE INVESTIGATION AND PROSECUTION OF COLD CASES:

UNANIMOUS

Adequate resources are needed so law enforcement agencies and prosecutors can balance current caseloads with the additional cold cases arising from new DNA matches. As Washington continues to make strides in testing the backlog of SAKs, the number of SAKs that result in a DNA hit in the CODIS database will likely increase. At the end of October 2019, the WSP crime labs completed testing on 3,154 SAKs, which resulted in 440 new DNA hits. Of those 440 new hits, 76 matched more than one case. The testing of backlogged SAKs has already led to the prosecution of cold cases. In one case, a SAK was collected in 2007 but remained untested until December 2017. Ten years after the sexual assault, the suspect was charged with child rape.

Currently, access to resources for the investigation and prosecution of sexual assault cases varies across jurisdictions, resulting in inconsistent access to justice for Washington's survivors of sexual assault. Many jurisdictions lack the resources for a specialized unit staffed by investigators and prosecutors with trauma-informed, victim-centered training to address sexual assault cases. Cold cases, in particular, present unique challenges, including the significant amount of time required to identify evidence and locate witnesses. The addition of cold cases will further strain jurisdictions, limiting their ability to identify perpetrators and bring justice to survivors.

***“The testing of backlogged SAKs has already led to the prosecution of cold cases. In one case, a SAK was collected in 2007 but remained untested until December 2017. Ten years after the sexual assault, the suspect was charged with child rape.”***



## CONVENE AN ADVISORY GROUP TO DEVELOP STANDARD PROTOCOLS FOR ACCESS TO VICTIM ADVOCACY SERVICES IN HOSPITALS:

UNANIMOUS

Providing early access to advocacy services is a critical step in establishing a system that prioritizes the experiences of survivors, equipping them with information about their rights and available resources. Hospitals are often the first point of contact for survivors after a sexual assault, yet they do not have protocols for connecting survivors with available advocacy services. The development of such protocols is a substantial undertaking and should be informed by perspectives from across the state.



## STORE UNREPORTED SEXUAL ASSAULT KITS AND ANY ADDITIONAL ITEMS COLLECTED DURING A FORENSIC EXAMINATION FOR 20 YEARS:

*This period should be reconsidered and lengthened if the statute of limitations is changed or eliminated.*

UNANIMOUS

Storing SAKs and additional evidence for 20 years is consistent with the state's 20-year statute of limitations for the majority of adult sexual assaults. Further, this timeframe strikes a balance between allowing survivors significant time to report a traumatic event and acknowledging the realities associated with investigating and prosecuting sexual assault cases after considerable time has passed. The Advisory Group did not recommend a longer storage period because the passage of time frustrates law enforcement's ability to investigate, as witnesses become more difficult to locate and evidence – such as surveillance videos and phone records – is destroyed.



## STORE UNREPORTED SAKS AND ANY ADDITIONAL ITEMS COLLECTED DURING A FORENSIC EXAMINATION AT LOCAL LAW ENFORCEMENT AGENCIES WITH FUNDING APPROPRIATED:

*Near unanimous with the exception of WASPC whose representative voted for the WSP crime labs to take on responsibility for the long-term storage of unreported SAKs.*

The Advisory Group considered three separate locations for the long-term storage of unreported SAKs: 1) Local law enforcement agencies; 2) WSP crime labs; and 3) Hospital where the SAK is collected. All potential locations would face storage capacity barriers.

**Local Law Enforcement Agencies:** Local law enforcement agencies are suited to maintain long-term custody of unreported SAKs, as they routinely store other evidence and unclaimed property not connected to a reported crime. Local law enforcement agencies are equipped to maintain chain of custody and have established processes for the secure storage, transportation, and tracking necessary for the long-term storage of evidence. Storing both SAKs and their related evidence together at local law enforcement agencies avoids separation of evidence and reduces the risk of items being lost. Unreported SAKs are evidence of a crime and are a critical piece to successful prosecution in the event that a survivor chooses to report the sexual assault to law enforcement.

**Washington State Patrol Crime Labs:** The crime labs are not recommended due to a lack of processes and protocols for the transportation, tracking, and security for the long-term storage and chain of custody requirements for evidence. The WSP Vancouver and Spokane crime labs are currently storing unreported SAKs and will continue to do so for the duration of the moratorium period created by HB 1166 in 2019. Due to a lack of refrigerated storage space, however, the crime labs are unable to store items requiring cold storage, resulting in the separation of the SAK from the associated evidence requiring cold storage. Furthermore, due to the volume of untested SAKs and the lack of capacity at crime labs, local law enforcement are shipping SAKs directly to a private outsourcing lab. The crime labs would need to build additional storage facilities, purchase refrigeration units, and hire additional evidence custodians to sufficiently store unreported SAKs.

**Hospitals:** Hospitals are not recommended given limitations associated with long-term storage and chain of custody requirements. Hospitals are not equipped with adequate space to store items for extended periods of time, particularly blood and urine, which require refrigerated storage. Furthermore, hospitals are not equipped to maintain legal chain of custody requirements to utilize the SAK evidence in a criminal prosecution. Prior to the moratorium period created by HB 1166 in 2019, many smaller hospitals could not properly store this evidence and entered into contracts with local law enforcement to handle the storage of SAKs and associated evidence. If required to store these items for any extended length of time (for some smaller hospitals more than a few weeks) hospitals would be required to build additional storage, purchase refrigeration units, and hire individuals to monitor and maintain records of their retention and destruction. These additional costs may deter hospitals from providing SANE services.



## COLLECT DNA SAMPLES FROM QUALIFYING OFFENDERS IN THE COURTROOM AT THE TIME OF SENTENCING:

*Near unanimous with the WASPC representative abstaining from voting on this recommendation.*

To ensure that defendants are held accountable for providing lawfully owed DNA, samples must be collected at the time of sentencing before defendants have a chance to leave the courthouse. Though the collection of DNA from defendants is a crucial step in identifying repeat sex offenders, solving cold cases, and providing justice to survivors, a census conducted by the Office



of the Attorney General revealed that thousands of individuals who were legally ordered to provide a DNA samples failed to do so. Washington law does not currently mandate out-of-custody defendants to provide DNA samples at the time of sentencing. In jurisdictions that are already collecting lawfully owed DNA at the time of sentencing, defendants who are convicted for sexual assault consistently have their DNA uploaded into CODIS.



# ONGOING ADVISORY GROUP EFFORTS FOR 2020

**The Advisory Group is engaged in ongoing discussions, research, and efforts to reduce the number of untested SAKs in Washington and to review best practice models for managing all aspects of sexual assault investigations. This work includes but is not limited to the following activities:**

- Continuing to monitor the progress of the submission and testing of the backlog of SAKs stored at local law enforcement agencies;
- Researching and creating recommendations for the retention periods for records associated with a sexual assault case and evidence collected during a sexual assault forensic examination;
- Developing best practices for the investigation of sexual assault cases from a victim-centered, trauma-informed perspective; and
- Researching and creating recommendations about necessary training for disciplines involved in sexual assault cases.