
Anonymous Sexual Assault Kit Recommendations: LAW ENFORCEMENT AGENCIES



Definitions – Anonymous vs. Non-Reporting Victim:

Anonymous Victim/Unreported Kit: A victim of sexual assault requesting a medical forensic examination, inclusive of a sexual assault kit (SAK), but does not consent to disclosing identifying information or to participate in the criminal justice process. Healthcare providers should not release identifying information, print/label name on outside of SAK, chain of custody, or other items. (May also be referred to as Jane Doe kits.)

Non-reporting/Unreporting Victim: A victim of sexual assault requesting a medical forensic examination, inclusive of a sexual assault kit (SAK), that is choosing to not report to law enforcement at time of examination. Victim may consent for healthcare providers to use identifying information that may be released to outside agencies (i.e., name can be printed or labeled on outside of sexual assault kit, chain of custody, or other items).

****Victims 17 years and younger cannot be non-reporting or anonymous victims.****

Recommendations for Law Enforcement Agencies:

When is Law Enforcement required to pick up anonymous/non-reporting SAKs from the hospital?

The law enforcement agency located in the jurisdiction where the crime was committed is responsible for taking the Sexual Assault Kit (SAK) into its custody. This must be done **within 48 hours** of law enforcement being notified by a healthcare facility that a SAK has been completed. Law enforcement should communicate with the healthcare facility about whether the SAK was properly entered into the Indiana Sexual Assault Kit Tracking System. Law enforcement should then complete status updates within the Tracking System according to agency policy and Indiana statute. See Indiana Code §16-21-8-10.

Note: Law enforcement / local Sexual Assault Response Teams **cannot require** a healthcare facility to place victim **identifiers** on the outside of an anonymous/non-reporting victim's SAK as a condition for kit pick up. Healthcare facilities are instructed not to put any victim identifying information on the SAK or Chain of Custody (COC) form for anonymous/non-reporting cases. Each patient has a unique Medical Record Number (MRN). To label the SAK and COC in these cases without compromising the victim's decision to remain anonymous/non-reporting, healthcare facilities are encouraged to write "Anonymous" and then the victim's MRN on those items. (Ex: "Victim Name: Anonymous 000012345")

What should Law Enforcement do with anonymous/non-reporting SAKs?

Law enforcement should pick up anonymous and non-reporting Sexual Assault Kits (SAKs) from the healthcare facility, and transport them to evidence storage. The chain of custody should be maintained while this process occurs, according to agency policy and Indiana statute. See Indiana Code §16-21-8-10.

How long should Law Enforcement store anonymous/non-reporting SAKs?

Law enforcement will continue to store an anonymous or non-reporting Sexual Assault Kit (SAK) for at least one (1) year after being placed in evidence storage, or when the victim requests law enforcement involvement and the kit is transported to a crime lab for analysis, whichever comes first. If/when the SAK is to be destroyed, the victim must be notified. See Indiana Code §35-33-5-5 and §16-21-8-10. Each county should have a plan developed for secured storage and destruction of samples. See §16-21-8-10(e).

Law enforcement should give consideration to extending anonymous/non-reporting SAK storage time out to the statute of limitations for sex crimes. See Indiana Code §35-41-4-2. The Indiana Statewide Sexual Assault Response Team recommends law enforcement store SAKs indefinitely, but if that is not possible, at least for ten (10) years. If evidence storage is limited, it is recommended that the law enforcement agency reach out to larger agencies nearby to request assistance with SAK evidence storage. Local Sexual Assault Response Teams may be of assistance to law enforcement agencies for developing this plan for locating storage space.

Statute of Limitation:

Prosecution for some offenses is prohibited after a certain amount of time has elapsed since the crime's commission. The length of this period depends on numerous factors, which are all outlined in **Indiana Code §35-41-4-2**; commonly referred to as "the statute of limitation." Law enforcement should reference this statute's text to determine whether prosecution for a particular crime is still legally possible. Depending on the variables present in a case, the statute of limitation for a crime may be 5 years, 10 years, until the victim reaches the age of 31, until 4 years have elapsed since the victim ceased to be a dependent of the offender, or, there may be no limitation period at all, and the crime may be charged at any time. Other evidentiary situations may warrant an additional 1-year or 5-year period to bring forth a prosecution, even if the original period of limitation has elapsed.

When should Law Enforcement send an anonymous SAK to crime lab for testing?:

Immediately upon the reporting of the crime. When the Sexual Assault Kit is no longer associated with an anonymous/non-reporting victim, and it instead becomes a kit associated with a **reported crime**, then it should be **immediately sent** to the crime lab for testing.

Kits that remain associated with anonymous/non-reporting victims shall not be sent to the crime lab for testing.

If a previously anonymous victim later reports the assault to Law Enforcement (LE), how can LE identify that victim's specific SAK?:

First, LE should obtain a signed Release of Information (ROI) from the victim to allow information sharing between the healthcare facility and LE, etc. Then, LE should provide the ROI to the healthcare facility where victim had the exam done, and request information about how the originally anonymous kit was labeled at the healthcare facility.

The health care facility should have printed/labeled one of the following options on the outside of the SAK and COC form instead of the victim's name:

“Victim Name” space should be filled instead by:

- Anonymous plus Medical Record Number (MRN), or
 - Ex: Anonymous 000012345
- Victim Initials plus Medical Record Number (MRN), or
 - Ex: AB 000012345
- Medical Record Number (MRN) by itself.
 - Ex: 000012345

Once presented with the signed ROI and information about the subsequent report to LE, the healthcare facility should provide LE with the MRN for the victim and/or how that kit was originally labeled, which will allow LE to properly identify it from LE's evidence storage.

NOTE: Healthcare providers are not able to discuss protected health information with, or release a patient's chart to, outside agencies (even law enforcement), without a subpoena or signed Release of Information (ROI).

Delay of Report – releasing information to outside agencies:

Law enforcement should provide a signed Release of Information (ROI) to the healthcare facility before any information sharing is permitted.

Law enforcement should work with healthcare facilities to ensure they are able to accept the ROI form being used.