

Report of the Indiana Sexual Assault Response Team Advisory Council

November 30, 2018

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Summary

Pursuant to Ind. Code § 16-21-8-1.8(b), the Indiana Sexual Assault Response Team Advisory Council¹ (Advisory Council) is tasked with reporting the feasibility and logistics of implementing a system to track standard medical forensic examination kits for victims of a sex crime. The Advisory Council is pleased to report the following:

Task 1. Feasibility of Creating a Tracking System.

A sexual assault kit (SAK) tracking system can be built into the existing Victim Compensation Case Management System (VCCS), which is owned and implemented by the Indiana Criminal Justice Institute (ICJI).

Task 2. Resources and Training Needed.

Given that medical professionals and the ICJI staff are already using the system, the Advisory Council believes that system modifications and utility can be easily explained through videos or webinars supported with a documentation manual.

Task 3. Amount of Money Needed.

The ICJI estimates that further development of the VCCS to provide for the tracking of sexual assault kits will cost no more than \$350,000.

Task 4. Possible Sources of Funding.

The ICJI can fund this development. Maintenance costs will be absorbed under the existing contract between the vendor and the ICJI.

Task 5. Recommendation Concerning the Supervising Agency.

The Advisory Council recommends that the ICJI be authorized to serve as the supervising agency responsible for creating, operating, managing, maintaining, and funding the tracking system.

¹ The Advisory Council is an informal group comprised in part by representatives from the Indiana Criminal Justice Institute, the Indiana Prosecuting Attorneys Council, and the Indiana State Police. Other collaborators who assisted with the development of this report include the Indiana Association of Chiefs of Police, the Indiana Coalition to End Sexual Assault, the Indiana Emergency Nurses Association, the International Association of Forensic Nurses, the Indiana Sheriffs Association, and the Indianapolis – Marion County Forensic Services Agency.

Background

Senate Resolution 55 (2017).

Senate Resolution 55 (2017), as passed in April 2017, urged the Indiana State Police (ISP) to conduct a thorough audit of all untested sexual assault examination kits in Indiana and to provide a report of the findings and recommendations to the Legislative Council before December 1, 2017.²

On November 27, 2017, ISP submitted its report of the findings and recommendations from the audit to the Legislative Council.³ With the assistance of the Indiana Prosecuting Attorneys Council (IPAC), the ICJI, the elected Prosecuting Attorneys in each county, and dozens of law enforcement agencies and medical facilities, ISP was able to elicit a 99% response rate from Indiana counties. Self-audits by each individual county were conducted, and the data was then sent to the ISP for compilation. From the submitted data, it was determined that there were 93 untested kits reported to be in the custody of medical service providers, and 5396 untested kits reported to be in the custody of law enforcement. Of the 5396 untested kits, it was determined that 416 kits were non-reporting or “Jane Doe” kits, 1669 kits were no-crime/false report kits, and 751 kits were adjudicated; resulting in the net number of untested kits with no immediately discernible reason for having not been tested at 2560.

As part of its recommendations, ISP advised the Indiana criminal justice community to follow the National Best Practices as outlined in the National Institute of Justice report entitled *National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach*.⁴ One of these best practices is the implementation of a universal sexual assault kit tracking system to be used by law enforcement agencies and laboratories.

Ind. Code § 16-21-8-1.8.

Following the findings and recommendations of the ISP audit mandated by Senate Resolution 55, Senate Enrolled Act 264 (2018) was passed.⁵ This act created Ind. Code § 16-21-8-1.8, which requires the Advisory Council to prepare a report by December 1, 2018 that includes the following:

- (1) The feasibility of creating a tracking system to monitor the:
 - (A) number; and

² Senate Resolution 55 (2017) is available at <http://iga.in.gov/static-documents/4/6/d/a/46dae741/SR0055.02.COMS.pdf>.

³ The ISP report is available at <http://iga.in.gov/legislative/2019/publications/agency/reports/isp/#document-36b68272>.

⁴ National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach (2017) is available at www.ncjrs.gov/pdffiles1/nij/250384.pdf.

⁵ Senate Enrolled Act 264 (2018) is available at <http://iga.in.gov/static-documents/b/6/7/f/b67faa3a/SB0264.05.ENRH.pdf>.

- (B) testing status;
 - of kits submitted for testing.
- (2) The resources and training needed to create, manage, and maintain the tracking system described in subdivision (1).
- (3) The amount of money needed to create, manage, and maintain the tracking system described in subdivision (1).
- (4) Possible sources of funding for:
 - (A) the tracking system described in subdivision (1); and
 - (B) all associated expenses related to the creation, management, and maintenance of the tracking system described in subdivision (1).
- (5) A recommendation concerning the identity of the supervising agency or entity responsible for creating, operating, managing, and maintaining the tracking system described in subdivision (1).

In working to meet this mandate, the Advisory Council began collecting data on the SAK tracking systems of other states, as well as meeting with stakeholders in the community, including Sexual Assault Nurse Examiners (SANE nurses), victim advocates, prosecutors, and law enforcement officials. These meetings took place over the course of several months and provided valuable information on resources and formats that aided in ideas for the creation of Indiana's proposed system.

National Institute of Justice National Best Practices for SAKs.

The Advisory Council also researched the National Institute of Justice (NIJ) National Best Practices for Sexual Assault Kits. There are 35 recommendations that intend “to positively impact sexual assault responses and the experiences of victims and to ultimately result in safer communities.” These best practices fall under six main categories:

1. Multidisciplinary approach;
2. The medical forensic exam and sexual assault evidence collection;
3. Transparency and accountability of law enforcement for SAKs;
4. Investigative considerations;
5. Processing sexual assault kits in the laboratory; and
6. Post-analysis communication and policy considerations.⁶

Taking a multidisciplinary approach entails implementing a victim-centered, trauma-informed manner of care, involving victim advocates, and seeking out the voices of underserved and vulnerable populations. The medical-forensic exam and sexual assault evidence collection refers to standardizing SAKs and the process used to perform the exam and collect samples. Transparency and accountability of law enforcement for SAKs lays out the expectation for the tracking, transportation, processing, storage, and inventory of SAKs, including the best practice of law enforcement and laboratories using the same SAK tracking system. Investigative considerations discuss victim consent to test SAKs, improving case investigations and

⁶ National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach (2017).

communication through workflow, and training of law enforcement personnel. Processing SAKs in the laboratory covers efficiency, procedure, and protocol for operations of laboratories. Finally, post analysis communication and policy considerations include how to keep victims informed on the status of the SAKs, communicating with communities, and eliminating statutes of limitations.

Of particular relevance for the purposes of this report is the NIJ's recommendations under chapter (3) Transparency and Accountability of Law Enforcement for SAKs. The NIJ recommends that agencies responsible for the custody of evidence should have a system to track evidence, preferably an electronic tracking system. The evidence should be tracked from the time of collection of the SAK, custody of the evidence by the law enforcement agency, submission to and analysis by the forensic laboratory, through disposition/storage or destruction.⁷ The NIJ notes that many jurisdictions do not currently appropriate funding that would allow for robust information technology (IT) purchase and sustainment, and there may be obstacles to sharing data across agencies due to differences in types of information.⁸ The NIJ recommends overcoming these obstacles in order to develop a tracking system to be used by both law enforcement and laboratories.

Also of relevance for this report are recommendations under chapter (6) Post-Analysis Communication and Policy Considerations of the NIJ report. The NIJ recommends (pursuant to a key objective of the SAFER Act)⁹ providing victims with information related to the status of the SAK. Specifically, when law enforcement agencies implement electronic evidence management systems, they should develop a mechanism that allows victims near-real time access to key information related to the status of their SAK, potentially through the use of a web-based interface for the victims to access the appropriate information. The NIJ identifies four key status updates for victim notification:

1. SAK collected (date)
2. SAK received by law enforcement (date)
3. SAK submitted to forensic laboratory (date)
4. SAK analysis complete (date).¹⁰

State by State Comparison.

The Advisory Council researched, contacted, and/or visited with several other states who are in varying stages of development and implementation of their own SAK tracking systems. These states include Michigan, Oregon, Idaho, Utah, Montana, Connecticut, and Washington. Each of the systems varies greatly in what is included in programming. However, all states contracted with an outside vendor to develop and implement their respective systems. The cost

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

of each system varies. Some state systems cost over \$1 million for implementation, plus additional annual operation fees.

Vendor Communication.

Hospitals licensed in Indiana are required to “provide forensic medical exams and additional forensic services to all alleged sex crime victims who apply ... in relation to injuries or trauma resulting from the alleged sex crime.”¹¹ Services to these victims are provided free of charge.¹² The ICJI, through its Victim Services Division, administers the Victims of Violent Crime Compensation Fund.¹³ These funds are available to compensate victims, but they are also used to pay hospitals claiming reimbursement for forensic examinations.¹⁴

To assist in the operation of this program, the ICJI fields a case management system known as the Victim Compensation Case Management System (VCCS). This system allows physicians and sexual assault nurse examiners (SANEs) to enter data after a sexual assault examination has been conducted. This case management system stands as a ready platform to build the tracking system. ICJI currently maintains a contract with the vendor who developed and maintains the VCCS. The Advisory Council met with the vendor to explore an innovative, new component that would add a Sexual Assault Kit Tracking Module to work in tandem with the existing VCCS. They have confirmed that it would not be difficult to modify the system to allow for the tracking of each victim’s individual kit.

¹¹ I.C. § 16-21-8-1(a).

¹² *Id.* at § 16-21-8-6.

¹³ *Id.* at § 5-2-6.1-40.

¹⁴ *Id.* at § 16-21-8-1(a).

Findings and Recommendation

Pursuant to Ind. Code § 16-21-8-1.8(b), and based on the aforementioned research, the Advisory Council reports the following:

Task 1. Feasibility of Creating a Tracking System.

Under the direction of the ICJI, the contracted vendor will expand the scope of the VCCS to include a SAK tracking module. New interfaces will be created and some existing components will be updated to correspond with all parties who will have access to the SAK tracking system. There will be modules for forensic medical service providers, law enforcement agencies, and forensic laboratories. Each type of user will be able to access only their module. No identifying information of victims will be included in the SAK tracking system. Each kit will be identifiable only through a unique claim number and PIN. All modules within the SAK tracking system will be in compliance with the NIJ's National Best Practices.

Forensic medical service providers (FMSPs) collecting SAKs will continue to have access to log in to VCCS. The FMSPs will access the SAK tracking module to add a new kit and generate the unique claim number and a PIN associated only with that kit. They will do this by scanning a universal barcode on the SAK provided by ISP. ISP has already developed these new SAKs, and the barcodes are already visible on all new kits being distributed statewide. The FMSPs will scan the universal barcode, and the SAK will then be accessible in the tracking system. If the FMSP does not have a barcode scanner, there will be an option to manually enter the kit number. Once the SAK has been initiated in VCCS, the FMSP will then be responsible for providing the claim number and PIN to the victim so they may access information for their kit in the tracking system.

The module for forensic laboratories will be developed to accept a kit number in addition to the current functionality of a claim number and PIN. Forensic laboratories will be expected to update the SAK tracking system when they receive the kit from a medical facility or local law enforcement agency. Law enforcement agencies will be responsible for updating the SAK tracking system if the kit is destroyed after the one-year waiting period in cases where the victim chooses not go forward with the criminal justice process.

The VCCS currently allows victims to track their claims. The module will be expanded to allow a victim to tie their claim to a personal kit.¹⁵ The victim will need to utilize the claim number and PIN provided to them by the FMSP. The victim will be able to follow the location and the following statuses of the SAK:

1. When the SAK has been collected

¹⁵ Adopting a confidential interface for victims so that they may stay informed about the status of their kit, is in keeping with recognized trends and best practices. *See, e.g.*, NAT'L INST. OF JUSTICE, NATIONAL BEST PRACTICES FOR SEXUAL ASSAULT KITS: A MULTIDISCIPLINARY APPROACH 67 (2017).

2. When the SAK has been submitted for testing
3. When analysis of the SAK is complete
4. If the SAK was destroyed after the one-year waiting period

Although the tracking system will have additional functionality, such as the ability to compile data, it is not meant to be a substitute for official chain of custody records or to substitute for any systems in use by law enforcement agencies and laboratories.

The project completion time is approximately seven months. It is estimated to be completed during the last half of 2019.

Task 2. Resources and Training Needed.

The vendor will provide a training video with audio demonstrating the functions and how they are to be utilized by the following users:

1. FMSPs will learn how to enter data and kit registration and how to update kit status.
2. Laboratory staff and law enforcement will learn how to update kit status.
3. The ICJI staff will learn how to edit and operate the SAK tracking system in the VCCS.
4. The victim will learn how to tie a kit to a claim and how to view kit status.

A documentation manual will be prepared with screen capture information on how each user is to interact with the software.

Task 3. Amount of Money Needed.

The cost of adding the SAK tracking module to the VCCS system is estimated to be \$350,000. This is significantly less than the costs of other SAK tracking systems utilized in other states. ICJI will also absorb the maintenance costs of the system as part of the routine maintenance contract for the VCCS.

Task 4. Possible Sources of Funding.

The ICJI will cover the cost of adding the module to the existing system. This will require no additional appropriations from the Indiana General Assembly.

Task 5. Recommendation Concerning the Supervising Agency.

The Advisory Council recommends that the ICJI be authorized to serve as the supervising agency responsible for creating, operating, managing, maintaining, and funding the tracking system.

Conclusion

The need to better monitor sexual assault kits is a need Indiana shares with other jurisdictions. A tracking system will greatly assist in meeting that need. In Indiana, a system already in use can be adapted for this purpose. The Advisory Council has begun taking the necessary first steps to identify the system's requirements with a particular focus on allowing victims secure access. While much work lies ahead, the Advisory Council is optimistic that a tracking system within the VCCS will be available in the near future.