CREATION OF THE AG SART

- December of 2012 AG Van Hollen created Attorney General's Sexual Assault Response Team (AG SART)
- Appointed members represent four systems most often responding to victims of sexual assault:
  - medical
  - community-based advocacy
  - law enforcement
  - prosecution systems
- WI State Crime Lab also attends

ISSUES TO BE ADDRESSED:

Transmittal, storage and processing of forensic evidence collected during SANE exam, including:

- Composition of medical forensic collection kits
- Billing practices
- Accumulation of unsubmitted kits
- Provision of care process starting when patient presents at health care facility (create option for patient not initially wishing to report to law enforcement)
NEW PROTOCOL WHEN PATIENT PRESENTS FOR A SANE EXAM

MEDICAL FORENSIC EXAM WITH VICTIM COLLECTING INFORMATION AND GUTTEN

1. Medical Forensic Exam With Victim Collecting Information and Gutten
   - When you are called to a medical facility or a police station where there is an assault incident, you will be asked to perform a sexual assault medical examination on the patient.
   - The patient will be seen by a medical professional who will perform the medical forensic examination.
   - The examination will be conducted in a private room and will be performed by a trained professional.
   - The patient will be given a laboratory collection kit and instructed on how to properly collect the evidence.

2. Ensuring Whether to Report an Assault Incident
   - It is important to know whether to report the incident.
   - The incident must be reported to law enforcement.
   - The victim must be informed about the incident.
   - The victim should be provided with contact information for the local law enforcement agency.

3. Options for Medical Forensic Exam With Victim Collecting Information and Gutten
   - The patient will be provided with a laboratory collection kit.
   - The patient will be instructed on how to properly collect the evidence.
   - The evidence will be collected by a trained professional.
   - The evidence will be stored in a secure location.

4. Medical Forensic Exam With Victim Collecting Information and Gutten
   - The patient will be seen by a medical professional who will perform the medical forensic examination.
   - The patient will be given a laboratory collection kit and instructed on how to properly collect the evidence.
   - The evidence will be collected by a trained professional.
   - The evidence will be stored in a secure location.

5. Medical Forensic Exam With Victim Collecting Information and Gutten
   - The patient will be seen by a medical professional who will perform the medical forensic examination.
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   - The evidence will be collected by a trained professional.
   - The evidence will be stored in a secure location.

6. Medical Forensic Exam With Victim Collecting Information and Gutten
   - The patient will be seen by a medical professional who will perform the medical forensic examination.
   - The patient will be given a laboratory collection kit and instructed on how to properly collect the evidence.
   - The evidence will be collected by a trained professional.
   - The evidence will be stored in a secure location.

Local law enforcement agency and phone:

First name:

First name:

First name:

First name:

First name:

First name:

First name:

First name:

First name:

First name:

First name:
What is an accumulation of unsubmitted sexual assault kits?

What is an unsubmitted sexual assault kit?

A sexual assault kit that has not been submitted to a forensic laboratory for testing and analysis using CODIS-eligible DNA methodologies.
REASONS KITS UNSUBMITTED

Held at law enforcement agencies

- Victim reported to LE, decision made by LE or DA not to test.
- Conviction already achieved without DNA.
- Victim did not report to LE, LE took kit to maintain chain of custody but no report of incident.
- Kit held onto while defendant serves sentence.

HOW MANY UNSUBMITTED SEXUAL ASSAULT KITS?

- May 2014 DOJ sent a survey to every law enforcement agency in the state asking each department how many untested kits in their possession at that time.

  6,000 kits reported

- AG SART developed protocol.

SAKI GRANTS

- Based on AG SART protocol in September of 2015 DOJ awarded two grants to help test unsubmitted sexual assault kits.

  1. **DANY Grant** - $2 million for kit testing
  2. **BJA SAKI Grant** - $2 million for SART, Victim Outreach Campaign, and some kit testing. Required a certified inventory before kits could be tested.
• DOJ began inventory March 2016, requesting LE agencies provide 12 data elements for every kit in their possession.

• Most kits should be tested.

• Exceptions include:
  ◦ Kits that being held due to state statute 968.205.
  ◦ Kits in case where offender acquitted or found not guilty.
  ◦ Kits where the victim did not report the assault to law enforcement, thus did not consent to have kit tested.

• US Department of Justice – Office on Violence Against Women

  • January 2017 – White Paper on Sexual Assault Kit Testing Initiative and Non-Investigative Kits

  • “It is OVW’s position that submitting non-investigative sexual assault kits to a forensic lab for testing, absent consent from the victim, should not be standard operating procedure for a law enforcement agency.”

• To make the inventory process more manageable, the state was certified in phases.

  • 557 inventories completed; more than 6,386 kits

  • 100% of law enforcement agencies and 100% of hospitals have finalized their SAK inventories

  • Over 4,059 SAKs (approximately two-thirds) have been designated for immediate testing
SAKI INVENTORY

- Of LE SAKs not designated for immediate testing:
  - 45% are for cases where the offender already convicted
  - 38% are for cases where victim not consented to testing.

- More than 2,600 SAKs have been received by the WSCL.

- 1,400 SAKs have been sent to Bode Cellmark Forensics for testing; they can receive 200 kits per month given testing demands from multiple states.

SAKI INVENTORY

Top 10 Wisconsin Counties by count of Unsubmitted Sexual Assault Kits (SAKs)

<table>
<thead>
<tr>
<th>County</th>
<th>No. of SAKs</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dane</td>
<td>1,793</td>
<td>199,332</td>
</tr>
<tr>
<td>Milwaukee</td>
<td>961</td>
<td>896,800</td>
</tr>
<tr>
<td>Racine</td>
<td>283</td>
<td>112,067</td>
</tr>
<tr>
<td>Waukesha</td>
<td>243</td>
<td>172,016</td>
</tr>
<tr>
<td>Wauwatonic</td>
<td>232</td>
<td>189,495</td>
</tr>
<tr>
<td>Kenosha</td>
<td>232</td>
<td>130,964</td>
</tr>
<tr>
<td>Milwaukee</td>
<td>231</td>
<td>757,850</td>
</tr>
<tr>
<td>Fond du Lac</td>
<td>79</td>
<td>50,487</td>
</tr>
<tr>
<td>Racine</td>
<td>73</td>
<td>62,287</td>
</tr>
</tbody>
</table>

DOJ SAKI SART

- Special Agents with the Division of Criminal Investigation
- Assistant Attorney General with the Division of Legal Services
- Victim Services Specialist with the Office of Crime Victim Services
- Research Analyst with the Bureau of Justice Information and Analysis
- Assistant District Attorney with the Milwaukee County District Attorney’s Office
SURVIVOR OUTREACH AND NOTIFICATION WORK GROUP

Workgroup created via the AG SART

- Comprised of survivors, advocates, SANE nurses, law enforcement, prosecutors, victim/witness, crime lab staff, and WCASA representatives

- Guiding principles:
  - Protect the survivor’s confidentiality and privacy
  - Empower the survivor by giving choices
  - Respect the survivor’s choice not to engage
  - Emphasis on trauma-informed and victim-centered practices

HTTP://USAT.LY/1J1Yu8I
**SURVIVOR NOTIFICATION WORK GROUP**

- The work group affirmed a previous decision of the AG SART that survivors would not be notified before their kit was tested.
  - Unless otherwise required by statute 175.405, only kits associated with a case that was reported to law enforcement, by the survivor, will be tested. This report to law enforcement is considered the victim’s consent to test the kit.
  - We don’t know what the survivor was told during the SANE exam. If they were told the kit would be tested immediately, it could feel like a betrayal that the kit hadn’t been tested until now.

- Depending on when the assault occurred, the statute of limitations may have already run out on the case so charges may never be filed in the case.
- There’s no guarantee that anything will be found during testing. Potentially re-traumatizing the victim for no new development could be very risky.
- These factors, combined with the likelihood that it’s been years since the assault occurred, indicate that notifying survivors before testing could lead to potentially adverse consequences for the survivor.

In focus groups with victims, the Joyful Heart Foundation noted that some victims felt survivors should be notified before testing so they could have input on testing decisions; this perspective was not widely endorsed by the majority of survivors or practitioners because of the potential to adversely affect survivors.
Survivor Outreach and Notification

Opt-in & Active Outreach

Victim Outreach

By Your Side
Support for Sexual Assault Survivors in Wisconsin

www.byyoursidewi.org
April Newsletter

SAKI SUCCESS STORIES

Who? Wisconsin Department of Justice
What? "By Your Side" is an initiative that supports sexual assault victims throughout the sexual assault kit (SAK) testing process.
Why? Wisconsin has approximately 6,000 unsubmitted SAKs. The Attorney General’s Sexual Assault Response Teams rely on the courage of survivors to help apprehend offenders.
How? Resources and information to help and support sexual assault survivors in Wisconsin can be found at the By Your Side website.

In light of these accomplishments, we want to acknowledge the progress made by our incredible grantees! While there are too many successes to list in one email, here’s a sample of “5 SAKI Success Stories for the History Books”

1. The Wisconsin Department of Justice launched “By Your Side,” an initiative aimed at decreasing the backlog of sexual assault evidence kits in the state by connecting survivors of sexual assault with support services.
   Read more.

VICTIM OUTREACH – OPT IN

- Information line – DOJ’s Office of Crime Victim Services

- Resource for survivors to ask questions about their sexual assault kits or sexual assault reports

- If requested, SAKI SART pursues information about sexual assault kit

- Survivors referred to local programs for advocacy services and support
**Victim Outreach – Active Notification**

- Multidisciplinary review team, consisting of representation from local law enforcement, prosecutors, community-based advocates, and SANE nurses.

- Post-testing notification should be conducted in partnership between law enforcement and community-based sexual assault service providers.

- Agencies/departments should designate staff members specially trained in the neurobiology of trauma, common trauma reactions among sexual assault survivors, victim notification procedures, etc.

- **When will the victim be contacted?**

- **How will the victim be contacted?**
  - Phone
  - In-Person
  - Letter

- **Who will contact the victim?**

- **What will the victim be told?**

- **Data collection**

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**Considerations for Case Discussion**

- Is this case within the statute of limitations?

- How old was the victim at the time of the assault?

- Do results change the outcome of an investigation?

- Do results affect a decision to prosecute?

- What information will be given?

- What if survivor no longer lives in your jurisdiction?

- How will staff be trained to conduct notifications?
CASE SCENARIO:

- Three years ago, a seventeen year old female reported a sexual assault to law enforcement.
- A SANE exam was performed and a forensic evidence kit was collected.
- The kit was never sent to the crime lab because the victim stopped returning the detective’s phone calls after a few days.
- The kit has now been returned with a CODIS hit to an identified perpetrator.

CASE SCENARIO:

- Seventeen years ago, a 50-year old woman reported that she was sexually assaulted by a man she met at a bar the night before.
- A SANE exam was performed and a forensic evidence kit was collected.
- The kit was never sent to the crime lab because the offender admitted to consensual sexual intercourse.
- The kit has now been returned with a foreign DNA profile that matches to a foreign DNA profile from a kit associated with a case in another county.

PRACTITIONER RESOURCES

WWW.SAKITTA.ORG
**YOU CAN HELP!**

- Share information about SAKI resources
- Discuss victim notification procedures and protocols with your SART teams
- Connect with DOJ’s SAKI SART team for assistance and support if needed
- Relay knowledge or expertise from working “cold case” sexual assault cases

Questions or for more information:

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