



## **Sexual Assault Forensic Examination Best Practices (SAFE)**

### **Advisory Group**

October 16, 2020 Virtual Meeting

### **Minutes**

**Attendees:** Rep. Tina Orwall, Rep. Gina Mossbrucker, Sen. Manka Dhingra, Michelle Dixon-Wall, Ben Santos, Denise Rodier, James McMahan, Alicia Eyler, Jen Wallace, Kristina Hoffman, Terri Stewart, Leah Griffin, Nicole Stephens, Lisa Immerwahr, Flora Diaz, Kate Hemann, Marylisa Priebe-Olson, Melissa Burke-Cain, Jenn Burkdoll, Colette Ammon, Marty Hill, Kelly Leonard, Adam Hall

#### **1. Call to Order**

Thirteen members were present at the beginning of the meeting, which is a quorum. The SAFE Advisory Group adopted the agenda without amendments.

#### **2. Guest Speaker: King County Deputy Prosecuting Attorney Maggi Qerimi**

Maggi Qerimi discussed the first backlogged sexual assault case that went to trial more than 10 years after the incident. The perpetrator has been convicted, but he will not be sentenced until he is in custody. The U.S. Marshals Service is attempting to locate him.

Participants discussed how the case illustrates many of the issues that the SAFE Advisory Group has grappled with, including legal hurdles, impacts to victims and costs associated with testing delays. First, prosecution can be hampered by the state's delay in testing sexual assault kits. This case faced a statute of limitations challenge. Second, it is essential to connect victims with advocates. Even when there is a CODIS hit, successful prosecution relies most heavily on the victim statement. Advocates can help manage expectations and also handle backlash from victims who are understandably upset with the delays. Some victims may have not been updated about the status of their case in years. In this particular case, the case was initially closed after attempts to follow-up with the victim were unsuccessful, even though the identity of the perpetrator was known. Participants discussed the difficulties associated with maintaining contact with victims who live in shelters. Providing shelter staff with information about how victims can obtain updates on the status of their cases may be helpful. Another issue the prosecutor's office faced is the cost of bringing in experts from the out-of-state lab to testify. Participants discussed convening a small group to address the full scope of needs and costs as kits are tested and hits occur. James McMahan also expressed interest in learning more about the bail process in this case, particularly if it was impacted by the changes made during the last legislative session.

Representative Orwall provided the names of several reporters who may be interested in covering this story: Hanna Scott/Kiro, Essex Porter/King 5, Anna Boiko-Weyrauch and Austin Jenkins/KUOW, and Sara Jean Green/Seattle Times. Ben Santos stated that he would be in touch with the King County Prosecutor’s Office media personnel.

**3. Updates – Testing, Investigations, Storage**

Kate Hemann shared that of the more than 10,000 previously unsubmitted sexual assault kits (SAK) inventoried through SAKI:

9,913	Kits Submitted
4,988	Kits Fully Tested
1,922	New profiles entered into CODIS
875	CODIS hits

Kristina Hoffman provided an update on the testing of SAK 3 cases (kits collected prior to July 24, 2015):

6,636	SAK-3 kits that have been sent to outsourcing lab
1,516	New profiles entered into CODIS
577	CODIS hits

Kristina Hoffman provided an update on SAK testing timeframes.

- STRs (active/high-priority cases) have an average turnaround time of 270 days from the time the initial paperwork is submitted to when the report is sent back to law enforcement. For most of this time, kits are in the queue. It takes 56 days on average to complete testing once the kit is assigned to a scientist.
- SAK-2s (inactive/lower-priority cases) are done in-house and outsourced to private labs. They have an average turnaround time of 494 days; 114 days (on average) from the time the kit is assigned to a scientist.
- SAK-3s (previously unsubmitted kits) are being completely outsourced. Turnaround times are difficult to accurately portray due to the bulk intake of requests, and the outsourcing and subsequent WSP review process.

Ben Santos later shared that the turnaround times King County is experiencing are longer than those quoted, particularly for cases within the past 5 years. Terri Stewart added that victims back out of SANE exams and evidence collection when they learn about the timeline. Kristina Hoffman relayed that the turnaround times are averages for the state as a whole, and there will be kits done faster and slower than the reported averages, and each WSP regional lab will have varying turnaround times based on their staffing capacity. Law enforcement agencies are encouraged to call the local WSP DNA lab supervisors and communicate any time-sensitivities (court dates, public safety risks, etc. so that a kit can be reprioritized accordingly). Participants discussed convening a small group to better understand the process for testing incoming current kits.

Kristina Hoffman also shared that progress is being made on the high throughput lab in Vancouver. Scientists have already moved in. In addition, 16 new scientists have been hired and are in the process of being trained. Training should be done early 2021.

Kate Hemann noted that not every CODIS hit results in an investigation, so it is important to track the outcomes associated with hits. For a subset of cases, the Legislature provided \$2 million for WASPC's grant program to assist with SAK-3 investigations. WASPC reached out to their members to obtain information about the status of investigations of hits on SAK-3 cases.

Kate Hemann shared that the AGO received internal approval to use \$100,000 in grant funds for cold storage. This storage can be either refrigeration or freezer storage. James McMahan noted that WASPC has been in touch with its members to learn about their cold storage needs.

Kate Hemann also provided an update on the lawfully owed DNA project, which was recently awarded \$670,000 in additional funding. 51,000 people have been identified as potentially owing DNA. To date, DNA has been collected from 185 people who were on the AG's list of offenders who owe a sample. There have been some hits to sexual assault and homicide cases.

#### **4. Victim Notification Best Practices**

Participants reviewed the draft document and made wording changes to reflect that the best practices relate to notifying victims affected by the previously unsubmitted backlog of sexual assault kits. Participants discussed including all training under one URL in the document as a way to more efficiently manage updates. Members agreed to vote on the document knowing that additional training information will be added. By voice vote and with no objections, the SAFE Advisory Group recommended the victim notification best practices.

#### **5. Training Updates and Future Best Practice Recommendations**

Jen Wallace from CJTC provided information about the trauma-informed interviewing training for law enforcement officers. To date, 14 training sessions have been held with about 300 officers. It is not possible to gauge the universe of officers to train, as it is a subjective assessment by each agency to determine which officers should participate in the training. This particular training is not required, but counts towards the 24 hours of in-service training that officers are required to complete annually. Jen Wallace reported that very few jurisdictions have not sent any officers to a session. The training has received positive feedback from participants, particularly the opportunity to practice with live actors and the eye-opening information about the neurobiology of trauma that helps explain victim behavior.

The live actor training may be beneficial for training other professionals as well, such as prosecutors who need to be prepared to have difficult conversations with victims about the status of their cases. This type of interactive training was compared to "DUI Bootcamp" training for prosecutors. Participants also discussed creating a bench book for judges and engaging the Gender and Justice Commission of the state Supreme Court. Participants discussed convening a small group to further address training.

Terri Stewart shared that Harborview is conducting a program where an experienced SANE virtually assists a less experienced individual. Increasing accessibility of SANEs will be discussed more in depth at the new Sexual Assault Coordinated Community Response Task Force meetings.

Participants also discussed removing the requirement that the state prove the perpetrator was not married to the victim as an element of certain sex crimes. WA has several sex offenses specific to when the victim of the crime is a minor child or vulnerable adult. All of the crimes requiring providing that the victim not be married to the perpetrator. If a sex offender moves to Washington from out of state, the offender is required to register in Washington if the person would be required to register as a sex offender in their state of conviction. Washington must conduct a comparability analysis for any sex offender moving to this state to determine if their offense is comparable to an offense for which registration is required in Washington. However, many states do not include proof the perpetrator not be married to the victim at the time of the offense as an element of a sex crime. As a result, these crimes are not comparable to Washington crimes, and the out of state sex offender is not required to register when moving to Washington. James McMahan shared that this was the subject of [Senate Bill 6155](#), which did not pass during the 2020 Legislative Session.