

Annual Report to the Legislature and Governor

Washington Sexual Assault Forensic Examination
Best Practices Advisory Group

December 2022



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/task-forces#SAFE>.



TABLE OF CONTENTS

SECTION ONE	Advisory Group Membership.....	2
SECTION TWO	Executive Summary.....	3
SECTION THREE	Introduction.....	5
SECTION FOUR	Advisory Group 2022 Activities.....	7
SECTION FIVE	Recommendations.....	12
SECTION SIX	Advisory Group 2022 Plans.....	14
SECTION SEVEN	Endnotes.....	15



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

Vacant

Washington Senate

Leah Griffin

Representing Survivors of Sexual Assault

Nicole Stephens

Representing Survivors of Sexual Assault

Kristina Hoffman

Washington State Patrol (WSP)

Major Michael McNab

Washington Association of Sheriffs and Police Chiefs (WASPC)

Ben Santos

Washington Association of Prosecuting Attorneys

Ali Hohman

Washington Defender Association (WDA)

Laura Twitchell

Office of the Attorney General

Flora Diaz

Association of Washington Cities

Timothy Grisham

Washington Association of County Officials (WACO)

Amber Rodriguez

Washington Coalition of Sexual Assault Programs

Rick Torrance

Office of Crime Victims Advocacy (OCVA)

Jacqueline Barton True

Washington State Hospital Association (WSHA)

Terri Stewart

Sexual Assault Nurse Examiner

STAFF:

Kelly Richburg, Office of the Attorney General

Lauren Vlas, Office of the Attorney General



EXECUTIVE SUMMARY

To bring justice to sexual assault survivors, in 2015, the Washington State Legislature instituted reforms to the state's response to sexual assault. Efforts included a multidisciplinary initiative to address the backlog of untested sexual assault kits (SAKs), which preserve evidence left behind from an assault. To that end, the Legislature established the Sexual Assault Forensic Examination Best Practices Advisory Group (the Advisory Group) to reduce the number of untested SAKs in Washington and to review best practice models for managing all aspects of sexual assault investigations.¹ This report addresses the progress the Advisory Group has made in 2022, offers recommendations for legislative action, and outlines the Advisory Group's plans for 2023. The Advisory Group's authorizing language expires on June 30, 2023; however, given that work remains to improve the response to sexual assault, members recommended continuing the group.



Progress on 2021 Recommendation

- To increase sexual assault nurse examiner (SANE) availability, in 2021, the Advisory Group recommended providing state funding for statewide SANE training, and continuing education and retention programs, among other features. The Washington State Legislature responded by passing House Bill 1622, which established a new SANE training program at Washington State University.
- The other recommendations have not yet been adopted.



The Advisory Group's 2022 Activities

Monitored SAK Testing Progress

- Monitored the progress of testing the SAK backlog: **Washington is approximately 72 percent through fully testing and reviewing the backlog** – an increase of approximately 16 percentage points since October 31, 2021.² The Washington State Patrol (WSP) Crime Lab, in partnership with several private labs, has completed initial testing on nearly 100 percent of the estimated 9,232 backlogged SAKs. WSP has reviewed the results of 6,621 of the SAKs and uploaded 2,918 new DNA profiles into the database. There were 1,110 hits to individuals, meaning the DNA profile from the SAK matched a DNA profile in the database. WSP estimates test results from the remaining 2,611 kits will be reviewed by December 2023.³ The public can track the progress of kit testing by visiting the Attorney General's Office (AGO) Sexual Assault Kit Initiative website at <https://wasaki.atg.wa.gov/data-and-results>.

Published a Patrol Officer Reference Card

- Published a one-page resource for patrol officers responding to sexual assault.

Discussed Increasing Access to SANE Services Statewide

- Developed strategies for statewide SANE training, retention, and other issues facing SANEs.

Explored Opportunities for Statewide Data Collection to Provide Insights on Case Attrition

- Identified the need to collect more comprehensive statewide data and expand the in-depth review of select cases for the purpose of addressing case attrition.

Convened Stakeholders to Discuss Accountability Surrounding Collection of Lawfully-Owed DNA

- Discussed existing barriers local jurisdictions face complying with the state law requiring DNA collection from offenders not serving a term of confinement.

Discussed At-Home/Self-Administered Sexual Assault Kits Marketed to University of Washington Students

- Discussed concerns from community-based advocates, prosecuting attorneys, and medical professionals on the danger of self-collected evidence kits being misleadingly marketed as potentially admissible in a court of law.



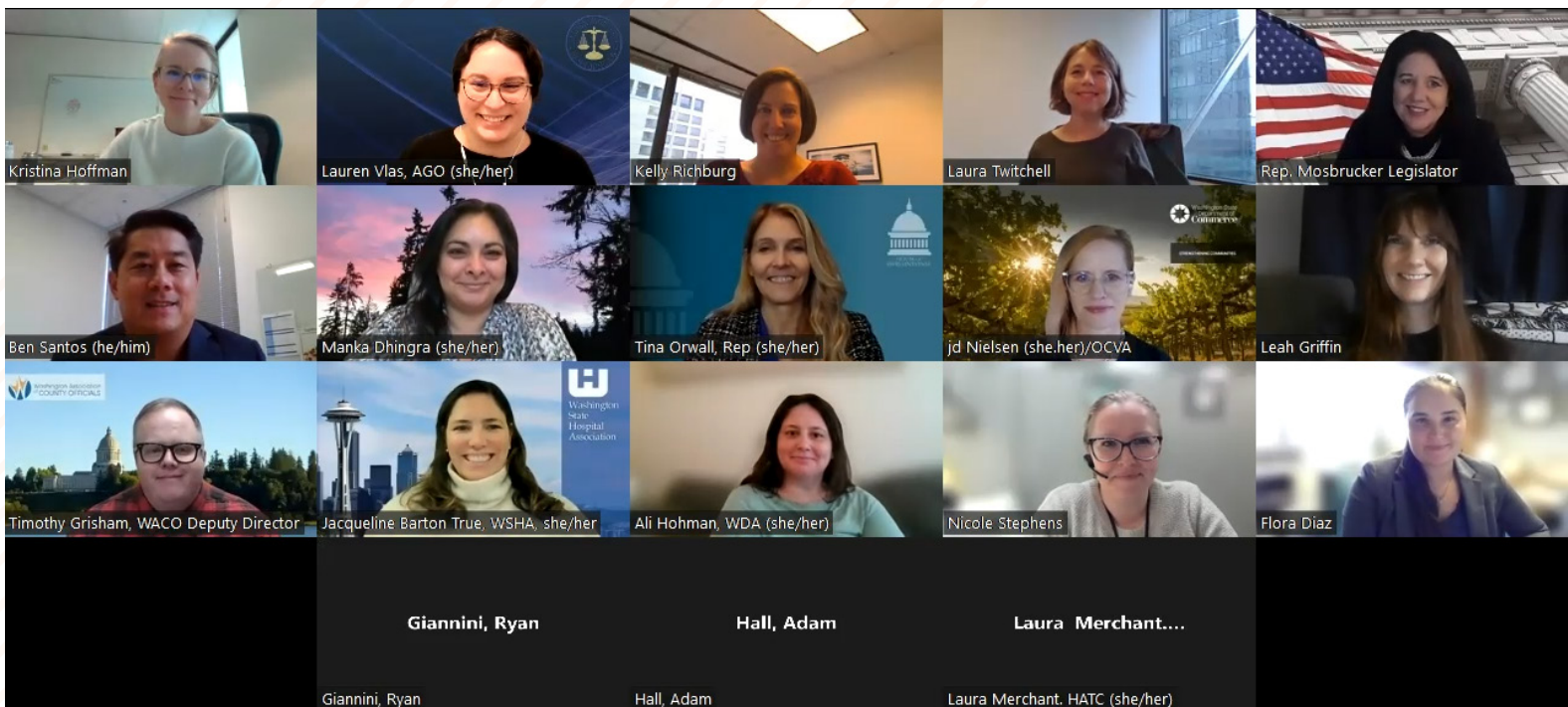
Recommendations

1. Ban the sale of at-home or self-administered SAKs.
2. Enhance accountability for collection of DNA from individuals who are required to provide their DNA as part of their conviction.
3. Provide additional resources for sexual assault prosecutions, including a prosecutor to serve as a resource for local prosecutors across the state for training and other assistance.
4. Encourage law enforcement and medical professionals to screen victims of intimate partner violence for non-fatal strangulation, and refer them for appropriate medical attention, including a forensic examination.
5. Increase data to inform policy actions by studying the feasibility of a statewide data collection system and expansion of the existing case review program.
6. Reauthorize the Advisory Group to continue and modify the scope of its important work as new issues emerge.



The Advisory Group's Preliminary 2023 Plans

- Continue monitoring testing of the backlog of SAKs and the collection of lawfully-owed DNA.
- Discuss vicarious trauma for disciplines involved in the response to sexual assault.
- Research and discuss affirmative consent laws such as those adopted in California, Connecticut, Illinois, and New York.
- Continue discussing statewide hospital coordination around availability of SANE services.



Advisory Group members at the October 25 meeting



INTRODUCTION

In 2015, the Washington State Legislature instituted reforms to the state's response to sexual assault, including coordinating multidisciplinary efforts to identify and resolve systemic barriers contributing to a backlog of untested SAKs and establishing mandatory testing requirements for SAKs. A SAK, used by a medical professional performing a forensic examination, preserves any evidence left behind from an assault.

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. Now, Washington state law requires all SAKs collected on, or after, July 24, 2015 to be submitted to law enforcement for forensic testing within 30 days of receipt, if the survivor consents to its testing.⁴ Furthermore, Washington state law requires a SAK be processed for DNA within 45 days of its receipt into the laboratory.⁵

The Sexual Assault Forensic Examination 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. The Advisory Group is focused on removing barriers to information-sharing and establishing a system that prioritizes the experiences of survivors.

In 2019, the Washington State Legislature established 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 SAKs in Washington and to review best practice models for managing all aspects of sexual assault investigations. The duties of the Advisory Group include:

Ongoing Duties of the Advisory Group

- Research 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;
- Monitor implementation of state and federal legislative changes;
- Collaborate with the Legislature, state agencies, medical facilities, and local governments to implement reforms pursuant to federal grant requirements; and
- Make recommendations for institutional reforms necessary to prevent sexual assault and improve the experiences of sexual assault survivors in the criminal justice system.

Completed Duties of the Advisory Group

- Determine the number of untested SAKs in Washington;
- Make recommendations regarding legislative policy options for reducing the number of untested SAKs;
- Make recommendations for securing non-state funding for testing SAKs, and reporting on progress made toward securing such funding; and
- Develop policies on the storage, retention, and destruction of unreported SAKs as well as protocols for engaging with survivors associated with unreported SAKs.⁶

The Advisory Group submitted a preliminary report and work plan in 2015⁷ and full annual reports with recommendations in 2016⁸, 2017⁹, 2018¹⁰, 2019¹¹, 2020¹², and 2021.¹³ 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.



Progress on 2021 Recommendation

The Legislature partially implemented the Advisory Group’s 2021 recommendation on increasing access to SANE services.

In 2022, the Legislature passed House Bill 1622, establishing a Sexual Assault Nurse Examiner Online (SANE) and Clinical Training Program at Washington State University College of Nursing and required the College of Nursing to develop and train SANEs as part of a Regional SANE Leader Pilot Program. Additionally, the College of Nursing must report on the community’s educational needs and produce recommendations on how to increase the number of available SANEs in the rural community.

Furthermore, the Legislature passed Senate Bill 5183, which, in addition to other provisions, required OCVA to partner with key stakeholders to develop strategies to make forensic nurse examiner training available to nurses in all regions of the state without requiring nurses to travel unreasonable distances and without requiring medical facilities or the nurses to incur unreasonable expenses.

Outstanding recommendations from 2021:

In 2021, the Advisory Group issued the following recommendations, which have not yet been adopted.¹⁴

- Dedicating funding for SANE training;
- Providing reimbursement for all SAK exams; and
- Increasing training opportunities for prosecutors of sexual assault cases.

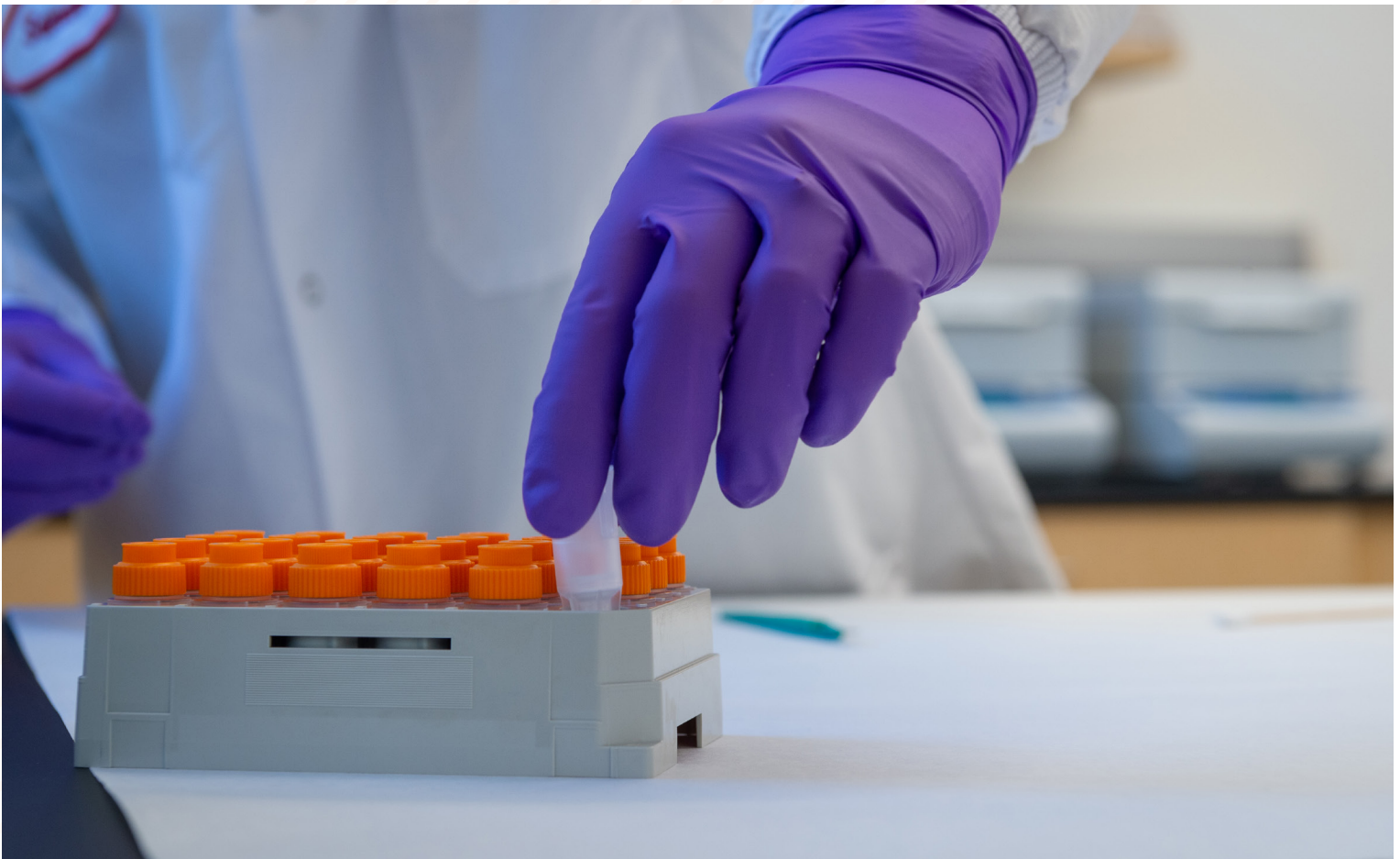


Photo courtesy of WSP



Advisory Group 2022 Activities

Over the course of four meetings in 2022, the Advisory Group:

Monitored SAK Testing Progress

- Monitored the progress of testing and reviewing the SAK backlog.

On July 24, 2015 House Bill 1068 went into effect, requiring the DNA testing of every SAK in Washington. The Legislature provided the WSP Crime Lab with funding to begin testing the state's backlog of SAKs. In October 2017, the Washington State AGO was awarded a \$3 million Sexual Assault Kit Initiative (SAKI) grant from the Department of Justice to continue this effort. The SAKI project is part of a coordinated, statewide effort to test every single backlogged SAK in the state. The backlog refers to SAKs that had not been submitted to a crime lab for testing prior to the 2015 statute requiring law enforcement agencies to submit SAKs for testing, as well as those that had not been submitted for testing in 2018 when the AGO conducted an inventory. Based on the data collected by the Washington State Patrol Crime Lab and the AGO, it is estimated that our state's total backlog was approximately 9,232 SAKs.

Since 2015, the Crime Lab has worked diligently with local law enforcement agencies to submit nearly all of the SAKs, outsourcing them to one of three vendor labs for testing. As of October 31, 2022, over 9,000 SAKs, nearly 100 percent of the backlog, has been tested by a vendor lab and 6,621 of those SAKs have had their test results reviewed by WSP – an increase of approximately 16 percentage points since October 31, 2021. From these SAKs tested, 2,918 new profiles have been uploaded into the Combined DNA Indexing System (CODIS), resulting in 1,110 DNA “hits” to individuals, meaning the DNA profile from the SAK matched a DNA profile in CODIS.

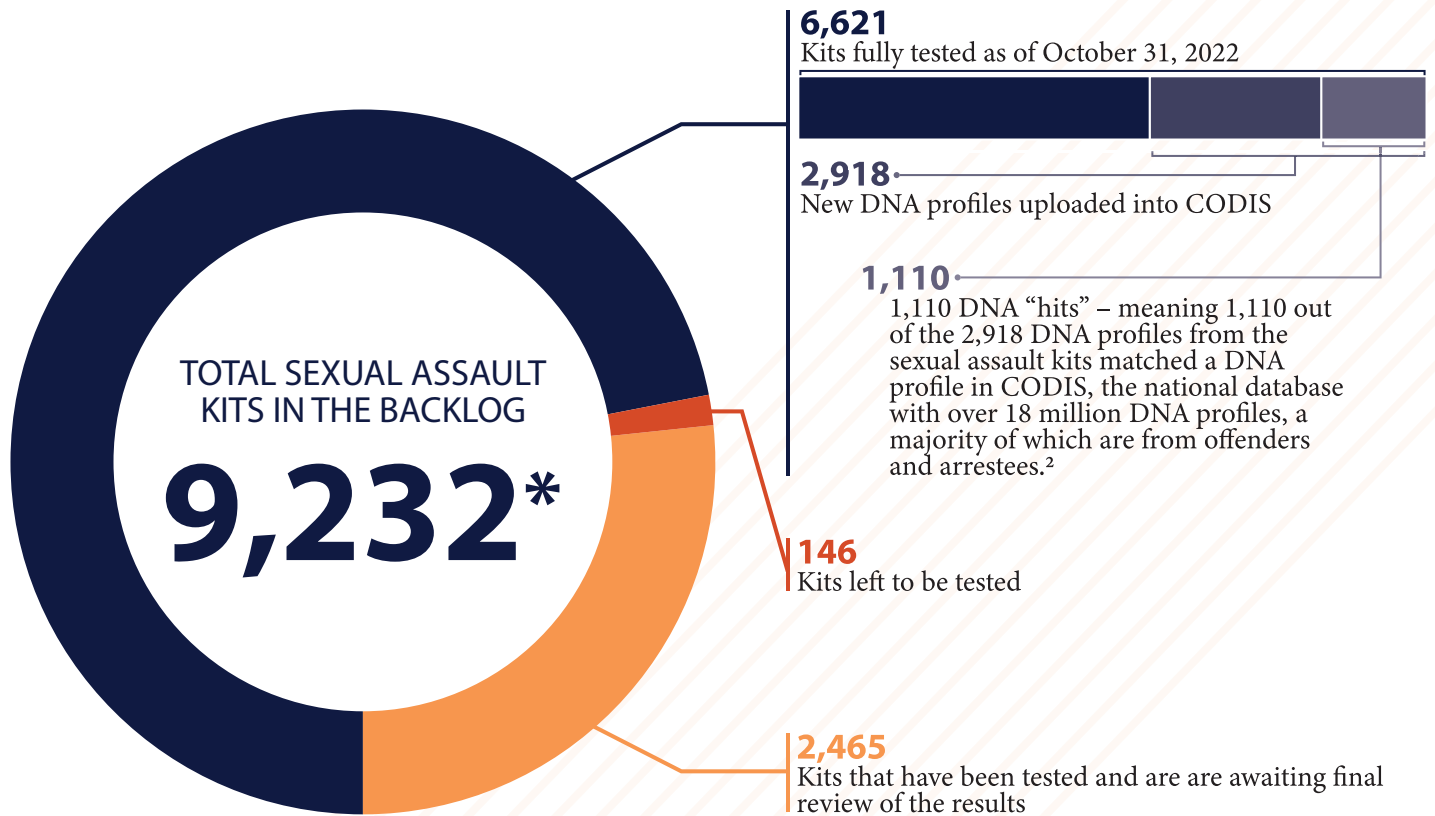
- Testing timeframe requirements for newly received SAKs

RCW 5.70.040 outlines requirements for WSP to test kits received starting May 1, 2022 within 45 days of receipt. Since May, 99.4% of the kits received were tested within 45 days, resulting in a testing turnaround time of less than 30 days on average.



High throughput lab testing machine

With 146 kits left to be tested and 2,465 kit results left to be reviewed, our state is approximately 72 percent through fully testing the backlog. WSP expects to complete review and testing by December 31, 2023



**9,232, or nearly all of the kits, have been submitted for testing. However, until all of the kits have been received and verified by the Washington State Patrol Crime Laboratory, these numbers are subject to change.*

Published a Patrol Officer Reference Card

- Published a resource for patrol officers responding to sexual assault.

Advisory Group members identified key considerations for patrol officers responding to reports of sexual assault and developed a one-page reference card, consistent with victim-centered, trauma-informed best practices and current training practices.

Discussed Increasing Access to SANE Services Statewide

- Advisory Group members participated in a workgroup to recommend strategies for statewide SANE training, retention, and other issues facing SANEs.

OCVA convened a stakeholder workgroup, as required by Senate Bill 5183, to develop strategies to make SANE training available to nurses in all regions of the state without requiring nurses to travel unreasonable distances and without requiring medical facilities or the nurses to incur unreasonable expenses. Advisory Group members participated in the workgroup and had the opportunity to discuss the draft recommended strategies at an Advisory Group meeting.

Discussed Support for Survivors amidst Resource Shortages

- Identified issues facing police departments and prosecuting attorney offices and discussed factors contributing to delays in sexual assault case processing.

In the wake of several news articles alleging Seattle Police Department’s “de-prioritization of sexual assault cases,” Advisory Group members discussed factors contributing to delays in the progress of sexual assault cases and historical issues facing police departments and prosecuting attorney offices.^{15,16,17} Two Advisory Group participants published an op-ed in the Seattle Times outlining concerns and issuing a call to action centering the needs of survivors.¹⁸

Explored Opportunities for Statewide Data Collection to Provide Insights on Case Outcomes

- Identified the need to collect more comprehensive statewide data and expand the in-depth review of select cases for the purpose of addressing criminal justice outcomes.

In order to better understand why cases fall out of the criminal justice system and how to foster improved outcomes for survivors and their communities, the Advisory Group learned about the King County Prosecuting Attorney Office's data dashboard that captures data on open cases, felony referrals, declines, filings, dispositions, demographics, and more. Additionally, the Washington State Supreme Court Gender and Justice Commission presented highlights from the 2021 Gender Justice Study Report and discussed with the Advisory Group the need for improved data collection throughout the justice system, a central recommendation of the Gender and Justice Commission's report.¹⁹ Finally, the Advisory Group discussed opportunities to expand the existing case review program to study a larger number of cases. The Washington State Criminal Justice Training Commission's sexual assault investigations case review program is mandated by the Legislature for select law enforcement agencies and prosecuting attorney offices as a mechanism to evaluate the Victim-Centered Engagement and Resiliency Tactics (VCERT) victim interviewing training. The VCERT training is required for all WA state officers involved in adult sexual assault investigations. Comprehensive data collection and the case review process are two critical tools for evaluating criminal justice outcomes and informing potential policy actions to address inequities in the response to sexual assault statewide.²⁰

Convened Stakeholders to Discuss Accountability Surrounding Collection of Lawfully-Owed DNA

- Discussed potential solutions to enhance collection of lawfully-owed DNA from offenders not serving a term of confinement.

With tens of thousands of DNA samples from offenders missing from the database, Advisory Group members discussed variability in how local jurisdictions collect DNA, and the need for each local jurisdiction to adopt protocols to ensure collection takes place as required. While methods of collection vary by jurisdiction depending on available resources, Advisory Group members recommended additional outreach, education, and training on the importance of DNA collection and its impact on sexual assault investigations.

Discussed At-Home/Self-Administered Sexual Assault Kits Marketed to University of Washington Students

- Discussed concerns from community-based advocates, prosecuting attorneys, and medical professionals about the danger of self-collected evidence.

Advisory Group members raised concerns about private companies promoting do-it-yourself, or "DIY" sexual assault kits, including how the kits misleadingly suggest that self-collected evidence will be admissible in a court of law when it does not meet strict standards for evidence collection and chain of custody.

Continued gathering information about investigations, charges, and prosecutions resulting from testing the backlog

With funds the Attorney General's Office received as part of the Sexual Assault Kit Testing Initiative (SAKI), as well as legislative appropriations to clear the backlog of SAKs, kits from the following cases were tested and the offenders were ultimately convicted.

Warning: The following section contains graphic descriptions of sexual assault.

Convicted & sentenced



- **State v. Carillo (Clark County):** Mr. Carillo pled guilty to Rape of a Child in the Third Degree in December 2021 and was sentenced to 20 months in custody.

In 2006, a 15-year-old girl reported a sexual assault and obtained a forensic examination, but did not wish to participate in further legal proceedings. In 2017, the SAK was tested through the initiative to clear the backlog, resulting in a hit that matched Carillo's DNA profile. Carillo was arrested and pled guilty.

- **State v. Childs (King County):** Mr. Childs was convicted by a jury and in January 2022 was sentenced to life without possibility of release.

In 2006, Childs, a 30-year-old man at the time, raped a 12-year-old girl, who was unknown to him, at the Torchlight Parade. In 2018, through the initiative to clear the backlog, the Crime Lab tested the SAK and it matched the perpetrator. In 2019, Childs was extradited from Florida to Washington, where he was convicted by a jury.

- **State v. Davidson (King County):** Mr. Davidson pled guilty to two counts of Rape in the Third Degree in two separate cases and was sentenced to 54 months in custody in October 2020.

In 2014, Davidson sexually assaulted a young woman in the stairway leading to a Metro station in Seattle. The victim completed a forensic exam at Harborview Medical Center. The victim's SAK was tested in June of 2017, resulting in a "hit" to an unknown individual. In December of 2019, after the perpetrator's DNA had been collected and entered into the CODIS database pursuant to a non-violent conviction, it matched to Davidson. He pled guilty to two counts of Rape in the Third Degree for two separate cases with two different victims.

- **State v. Downing (Whitman County):** Mr. Downing pled guilty to four counts of Rape in the First Degree and one count of Assault in the Second Degree with sexual motivation. In August 2022, he was sentenced to 238 months to life in prison.

In 2003, Downing broke into a home in Pullman, threatened a woman at gunpoint and sexually assaulted her multiple times. In 2004, he broke into the apartment of two women. With a gun, he tied up one woman and raped the other. Through the use of genetic genealogy technology paid for with SAKI grant funding from the AGO, and assistance from a SAKI investigator, police collected DNA from an identified suspect and developed a profile that ultimately matched Downing. He pled guilty and will not be eligible for parole for nearly 20 years.

- **State v. Shreves (Clark County):** Mr. Shreves pled guilty to Rape in the Second Degree and was sentenced in June 2022 to 144 months to life.

In 2003, Shreves raped a young girl at a party in Vancouver. At the time, the SAK was only partially tested. In 2020, after completing full testing, the DNA matched to the perpetrator. Shreves was arrested by Vancouver Police for Rape in the Second Degree. He pled guilty and was sentenced to 144 months to life.

- **State v. Johnson (Spokane County):** Mr. Johnson pled guilty to Rape in the Third Degree and was sentenced to 12 months confinement. In addition, he must register as a sex offender for 10 years.

In 2002, Johnson sexually assaulted a 13-year-old girl he met at a park. The victim's SAK was tested through the initiative to clear the backlog in 2018 and in 2020, DNA from the kit matched Johnson. He pled guilty to Rape in the Third Degree and was sentenced to 12 months confinement.



Charged, trial pending

- **State v. Halvorson (Spokane County):** Mr. Halvorson is currently charged with Assault in the Second Degree, Strangulation, Rape in the Second Degree, and Rape in the Third Degree. His trial is scheduled for January 2023.

In 2004, a Spokane woman was raped. Her SAK was not tested until 2018, with the Attorney General's inventory of unsubmitted kits across the state. In August 2021, DNA from the kit matched to the alleged defendant. The defendant has a long history of sexual violence in the Spokane area and was committed as a sexually violent predator in 2012, when the AGO filed a petition and prevailed at a subsequent trial.



Photo courtesy of WSP



2022 RECOMMENDATIONS

The Advisory Group voted on the following recommendations during the October 25, 2022 meeting.

✓ **BAN ON THE SALE OF AT-HOME/DIY SEXUAL ASSAULT KITS**

In favor: 14; Opposed: 0; Abstained: 0; Absent: 2 (Washington Coalition of Sexual Assault Programs (WCSAP) and WASPC)

In Washington state, sexual assault survivors are entitled to free forensic examinations and medical care, regardless of their decision to make a report to law enforcement or participate in an investigation. In recent years, for-profit makers of SAKs have marketed and sold at-home “do-it-yourself” kits encouraging survivors to gather their own forensic evidence following an assault. However, marketing for these kits misleadingly suggests that self-collected evidence will be admissible in a court of law when it does not, in fact, meet strict standards for evidence collection and chain of custody. For example, self-collected DNA may not be eligible for entry in CODIS, a national DNA database used to identify unknown perpetrators or serial offenders, unless certain criteria are met. Moreover, when agencies or advocacy groups publicly criticize DIY/at-home kits or draw attention to their limitations, these companies have sometimes threatened defamation lawsuits. The Advisory Group recommends that the Legislature ban the sale of at-home or “do-it-yourself” sexual assault kits in Washington state and join experts, survivors and advocates across the country in denouncing nonviable alternatives to comprehensive medical care and pathways to justice for survivors.

✓ **ENHANCE THE COLLECTION OF LAWFULLY-OWED DNA**

In favor: 14; Opposed: 0; Abstained: 0; Absent: 2 (WCSAP and WASPC)

Local police departments and sheriff’s offices are responsible for collecting DNA from persons convicted of specific offenses and not serving a term of confinement. If the local law enforcement agency has a protocol for collecting a DNA sample in the courtroom, the person can be ordered to provide a sample before leaving court. Currently, because some jurisdictions lack robust procedures, the DNA database is missing tens of thousands of samples from offenders who are obligated to submit them. To promote accountability for offenders and justice for survivors, the Advisory Group recommends the Legislature amend the existing statute to require local jurisdictions to develop and implement DNA collection protocols to enhance the collection of lawfully-owed DNA for qualifying offenders who will not serve a term of confinement, or have been sentenced to time served. Going forward, each jurisdiction can continue to determine collection methods, including use of a DNA compliance hearing or staff to support DNA collection in the courtroom, but protocols must be in place to ensure DNA collection happens and courts must track and confirm lawfully-owed DNA samples have been submitted. Finally, the Legislature should consider appropriating funds for outreach, education, and training to stakeholders on the importance of ensuring DNA collection in compliance with Washington state law.

✓ **PROVIDE STATEWIDE RESOURCES FOR PROSECUTIONS**

In favor: 12; Opposed: 0; Abstained: 2 (Washington Defender Association (WDA) and SANE representative); Absent: 2 (WCSAP and WASPC)

While Washington has made progress in requiring victim-centered, trauma-informed training for law enforcement officers investigating sexual assault cases, there remains a lack of Washington-specific specialized training for prosecutors working on sexual assault cases. In order to assist with the development and implementation of training, the Legislature should establish a statewide centralized prosecutor to provide technical assistance upon request. For example, the statewide prosecutor can partner with the Washington State Criminal Justice Training Commission to expand the Case Systems Training Review program, and build on the ongoing effort to provide victim-centered trauma-informed training for all law enforcement and prosecutors involved in sexual assault investigations across the state. The statewide prosecutor may also be able to assist with criminal prosecutions by serving as a resource to county

prosecutors. Additionally, as many jurisdictions struggle with caseloads, the Legislature should consider funding a unit at the AGO focused on cold case sexual assault cases in order to provide assistance to county prosecutors upon request.

✓ **LAW ENFORCEMENT AND MEDICAL PROFESSIONALS SHOULD IDENTIFY AND TREAT VICTIMS OF NON-FATAL STRANGULATION**

In favor: 13; Opposed: 0; Abstained: 1 (Washington Association of County Officials (WACO)); Absent: 2 (WCSAP and WASPC)

The prevalence of non-fatal strangulation (NFS) is estimated to be 10% in all women and nearly 70% in women experiencing intimate partner violence (IPV). Individuals of all ages and genders may experience a strangulation assault that can result in long-term health consequences. The seriousness of the assault is often overlooked, however, because only half of NFS victims have any visible sign of injury. In one study, only 3% of NFS survivors sought medical care. Senate Bill 5183, a landmark piece of legislation, made Washington state the first state to provide free forensic evidentiary exams to victims of NFS. In an effort to raise awareness about the seriousness of the crime and the nature of its presentation, law enforcement should screen victims of IPV for a history of NFS and document any signs or symptoms, as well as inform victims they may have suffered non-visible injuries and encourage them to seek prompt medical attention. Moreover, medical professionals should be aware of the signs and symptoms of NFS, routinely screen patients at risk of IPV, ask whether they have experienced NFS, and recommend appropriate and timely medical and forensic services.

✓ **INCREASE DATA TO INFORM POLICY ACTIONS**

In favor: 14; Opposed: 0; Abstained: 0; Absent: 2 (WCSAP and WASPC)

Available national and local data indicates that a significant portion of sexual assault cases reported to law enforcement end without a conviction. Cases drop out of the criminal justice system for various reasons. To better understand the factors and foster improved criminal justice outcomes for survivors and communities, Washington should collect more comprehensive statewide data and expand the in-depth review of select cases. Data could also identify any racial, ethnic, sexual orientation, and disability status disparities in case outcomes. The Advisory Group recommends that the Legislature:

- a. Engage with technical experts who will consult with local jurisdictions across the state to study the feasibility of establishing a statewide data collection system for all felony cases modeled after the King County Prosecuting Attorney's Office's (KCPAO) dashboard, including understanding barriers to collecting data and how a statewide data dashboard could inform future policy decisions. KCPAO's dashboard captures data on open cases, felony referrals, declines, filings, dispositions, demographics, and more, presenting a unique opportunity for increased transparency, accountability, effectiveness, and reform; and
- b. Expand the case review program to understand barriers law enforcement and prosecutors face moving forward with certain types of sexual assault cases, including drug and alcohol-facilitated assaults.

✓ **REAUTHORIZE THE ADVISORY GROUP**

In favor: 13; Opposed: 0; Abstained: 1 (SANE representative); Absent: 2 (WCSAP and WASPC)

The Advisory Group's authorizing language expires on June 30, 2023; however, given that work remains to improve the response to sexual assault, members recommended continuing the group.



2022 PLANS

In 2022, the Advisory Group plans to focus its efforts to:

- Continue to monitor testing of the backlog of SAKs and the collection of lawfully-owed DNA;
- Discuss vicarious trauma for disciplines involved in the response to sexual assault;
- Research and discuss affirmative consent laws such as those adopted in California, Connecticut, Illinois, and New York; and
- Continue discussing statewide hospital coordination and the availability of SANE services.



Members of the Advisory, community partners, and WSP representatives, at a tour of the Vancouver Crime Lab



ENDNOTES

1 Untested or unsubmitted SAKs are those that have been booked into evidence by law enforcement, but not submitted to a crime lab for testing.

2 To increase testing capacity, WSP has the ability to outsource eligible kits for testing to a private and accredited testing laboratory. These vendor laboratories have procedures that have been reviewed and approved by the WSP technical leader, and the WSP takes ownership of the resulting DNA data for entry into the CODIS database. “Fully tested” means the WSP has facilitated outsourcing of the SAK to a private vendor lab, the vendor lab has tested the SAK and sent a report on the results to the WSP, the WSP has reviewed the results and, if eligible, uploaded them into the CODIS database. As of September 30, 2022, the WSP has outsourced 100 percent of the backlogged SAKs to one of three vendor labs, 98 percent of the SAKs have been tested, and approximately 72 percent of the SAKs have had their results reviewed by the WSP.

3 “DNA Testing of Washington’s Sexual Assault Kits, Annual Report to the Legislature and Governor | 2022,” *Washington State Patrol Forensic Laboratory Services Bureau, Crime Laboratory Division*, October 2022, https://app.leg.wa.gov/ReportsToTheLegislature/Home/GetPDF?fileName=Sexual%20Assault%20Kit%20Annual%20Report_2022_206b7a0b-bd0d-4ddb-b6c1-79020b51e59d.pdf.

4 RCW 70.125.090.

5 RCW 5.70.040.

6 An unreported SAK is one that has been collected from a survivor who has chosen not to report the sexual assault to law enforcement.

7 Available at: <http://leg.wa.gov/JointCommittees/Archive/SAFE/Pages/default.aspx>.

8 Ibid.

9 Ibid.

10 Ibid.

11 Available at: https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/Press_Releases/SAFE%20Report%202019.pdf.

12 Available at: <https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/SAFE%20Report%202020%20V3.pdf>.

13 Available at: <https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/2021%20SAFE%20Report.pdf>.

14 See page 10 for a list of the Advisory Group’s 2021 recommendations: <https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/News/2021%20SAFE%20Report.pdf>.

15 “Seattle police department stopped investigating adult sexual assaults this year, memo shows,” *KUOW and the Seattle Times*, June 1, 2022, <https://www.kuow.org/stories/seattle-police-stopped-investigating-adult-sexual-assaults-this-year-memo-shows>.

16 “Seattle PD unveils new plan to tackle sexual assault investigations backlog caused by staff shortage,” *Q13 Fox*, June 2, 2022, <https://www.q13fox.com/news/seattle-pd-has-new-plan-to-increase-sexual-assault-investigations-slowed-by-staff-shortage>.

17 “Staffing shortages take toll on sexual assault unit at Seattle Police Department,” *KIRO 7 News*, June 1, 2022, <https://www.kiro7.com/news/local/staffing-shortages-take-toll-sexual-assault-unit-seattle-police-department/NIN75P5HARF2BPY7U2UUTA5PDY/>.

18 “Sexual assault cases: how long do survivors have to wait for justice?” *The Seattle Times*, September 13, 2022, <https://www.seattletimes.com/opinion/sexual-assault-cases-how-long-do-survivors-have-to-wait-for-justice/>.

- 19 “2021: How Gender and Race Affect Justice Now,” *Washington Courts, Administrative Office of the Courts, Gender and Justice Commission*, September 2021, https://www.courts.wa.gov/subsite/gjc/documents/2021_Gender_Justice_Study_Executive_Summary_and_Recommendations.pdf.
- 20 “Case Systems Training Review,” *Washington State Criminal Justice Training Commission*, September 2021, https://www.cjtc.wa.gov/docs/default-source/default-document-library/cstr-final-report-11-30-21.pdf?sfvrsn=a448d9ee_2.