



Sexual Assault Kit Submissions Frequently Asked Questions

When does the new Sexual Assault Kit (SAK) law take effect and what are the submission requirements?

- Effective July 1, 2016, according to newly-created §943.326, Florida Statutes, SAKs, **from a reporting victim, received by an agency on or after July 1, 2016**, must be submitted to a laboratory within 30 days from the date of receipt. Also, kits must be submitted within 30 days of a request being made by the victim or their representative, if the request is made on or after July 1, 2016. The request can be made to law enforcement or a medical provider. Once evidence is submitted to the lab, testing must be completed within 120 days.
- For a Florida Department of Law Enforcement (FDLE) or regional county laboratory to process evidence from a kit, there must be an accompanying law enforcement report. Non-reporting kits will not be tested under this new law unless a victim converts from a non-report to make a report to law enforcement. To test a non-reporting kit would violate the confidentiality and privacy of the victim's health records under the Health Insurance Portability and Accountability Act (HIPAA).

Should an agency submit a SAK from a non-reporting victim to the crime laboratory?

- No. SAKs from a non-reporting victim should not be submitted to the laboratory.

What is a non-reporting victim?

- All victims are entitled to voluntary, confidential services. A non-reporting victim is one who did not authorize reporting the assault to law enforcement, therefore no police or incident report exists. The medical provider will still carry out the complete forensic and medical examination and the evidence will be preserved and maintained in a manner that protects the identity of the victim.
- If the victim later chooses to file a report with law enforcement, he or she must sign a release authorizing the medical provider to make their identity known and the forensic examination record available to the law enforcement agency.

Should unfounded cases be submitted?

- No. Unfounded cases should not be submitted.

What is an unfounded case?

- If there is documentation supporting the finding that a crime has not been committed, the case is considered unfounded.

What are reasons a case should NOT be considered unfounded?

- A case should not be considered unfounded (and should be submitted) if:
 - The victim is not cooperating with law enforcement or the judicial system;
 - The victim cannot be located;
 - The suspect states sex occurred but it was consensual;
 - The case was closed through plea agreement;
 - Prosecution of the case has been declined by the State Attorney's Office; or
 - Statutes of limitations have been met.

When can a SAK be disposed of?

- Per §943.326, Florida Statutes, a collected SAK must be retained in a secure, environmentally safe manner until the prosecuting agency has approved its destruction.



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How should SAK submissions received prior to July 1, 2016 be handled?

- The newly enacted statute does not require SAKs received by an agency prior to July 1, 2016 be submitted within 30 days; please work out a submission plan with your respective crime laboratory director.
- The state of Florida crime laboratory system includes six FDLE crime laboratories and the following five county crime laboratories:
 - Broward County Sheriff's Office Crime Laboratory;
 - Indian River Crime Laboratory;
 - Miami-Dade Police Department Crime Laboratory;
 - Palm Beach County Sheriff's Office Crime Laboratory; and
 - Pinellas County Forensic Laboratory.
- SAKs received prior to July 1, 2016 can be submitted as an investigation dictates, but must be submitted within the next three years so testing may be completed by June 30, 2019.

Are there any concerns with the statute of limitations and SAKs received prior to July 1, 2016?

- SAKs with an offense date prior to **July 1, 2006** are time sensitive due to statute of limitation concerns. When a crime laboratory gets a "hit" to a possible suspect on a DNA profile from an offense that occurred prior to **July 1, 2006**, prosecutors have one year in which to charge the suspect. Law enforcement agencies are advised to develop a strategic plan in consultation with prosecuting authorities for submission of SAKs to the crime laboratory for testing when the offense date is prior to **July 1, 2006**.

How should law enforcement agencies within the FDLE crime laboratory service areas plan to submit untested inventory?

- To meet the needs of all contributors within the FDLE laboratory system service area, please contact your regional laboratory director prior to submitting any previously untested SAKs identified in the SAK Survey. They will work with you to create a submission plan for your agency based on the number of previously untested kits, as well as laboratory staffing and workload. Once the plan has been established, agencies should prioritize which SAKs are submitted. All eligible SAKs submitted will be analyzed, but FDLE asks for agency cooperation so laboratory staff can best manage the anticipated increased workload.
- SAKs from current investigations should be submitted to the appropriate crime laboratory immediately.

Should SAKs collected by Medical Examiners (ME) be submitted to FDLE crime laboratories?

- FDLE will NOT work SAKs collected by a ME unless a suspected sex crime is part of the investigation or is otherwise relevant to the criminal investigation. Any cases not conforming to this standard should not be submitted.

What evidence should be submitted for a sexual assault investigation?

- Initial submission should only include the SAK, plus one pair of underwear the victim was wearing at the time of the incident or immediately thereafter (if not already in the kit) and one condom, if applicable.
- After completion of SAK testing, if no probative results are obtained, the victim's clothing worn at the time of the incident may be submitted in the next submission.
- Please refer to the FDLE CRIME LABORATORY EVIDENCE SUBMISSION MANUAL or the submission manual for your county laboratory for more details.