



## Sexual Assault Kit Submissions

### Frequently Asked Questions – October 2024 Update

What are the Florida Statute requirements for Sexual Assault Kit (SAK) submissions?

- Effective **July 1, 2016**, according to [§943.326, Florida Statutes](#), SAKs from reporting victims must be submitted to a laboratory within 30 days of a request being made by the victim or their representative. 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 crime laboratory to process evidence from a kit, there must be a law enforcement report. To test a non-reporting kit would violate the confidentiality and privacy of the victim's records under the Health Insurance Portability and Accountability Act (HIPAA) and [F.S. 760.40](#) which requires consent to DNA testing.
- Effective **July 1, 2023**, medical facilities that collect SAKs, law enforcement agencies that investigate sexual offenses or store the SAKs, and crime laboratories must participate in the tracking of SAKs through the use of [Florida Track-Kit™](#), the statewide rape kit tracking system database for both reporting and non-reporting SAKs.
- Effective **October 1, 2024**, newly collected SAKs from non-reporting victims must be brought to the FDLE laboratory FOR STORAGE ONLY. The FDLE is required to retain non-reporting SAKs for 50 years.

What is a reporting victim?

- A victim who, at any point, made a report and gave consent to evidence collection and testing is a reporting victim. There is no requirement for the victim to continue to communicate with law enforcement in the future if they do not wish to do so.

Should an agency submit a SAK to the crime laboratory for analysis when the victim no longer wants to participate in the criminal justice process, or the argument is consent?

- YES. SAKs from all reporting victims must be submitted to the crime laboratory for analysis. This does not mean the victim has to communicate with law enforcement if they do not choose to do so.
- YES, even when the argument of consent is provided, a reported case must have its kit submitted to the crime laboratory for analysis.

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, except for potential chain of custody purposes. The medical provider still carries out the forensic medical examination, and the evidence must be preserved and maintained in a manner that protects the identity of the victim. See [F.S. 395.1021](#) and VAWA 2005 42 U.S.C. § 3796gg-4(d) (reauthorized 2022).  
If the victim later chooses to file a report with law enforcement, they must sign a release authorizing the medical provider to make their identity known and the forensic examination record available to the law enforcement agency.
- Someone who does not wish to pursue an investigation or participate in the criminal justice process, is NOT a non-reporting victim.

What is an unfounded case?

- If there is investigative material, i.e., digital media or video, supporting the finding that a crime has not been committed, the case is considered unfounded.

Should unfounded cases be submitted?

- No. Unfounded cases should not be submitted.



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What are NOT reasons a case should be considered unfounded or non-reporting?

- A case should NOT be considered unfounded or non-reporting (and should be submitted) if:
  - The victim is not cooperating with law enforcement or the judicial system;
  - The victim cannot be located;
  - There is a question about consent;
  - The case was closed through plea agreement;
  - The State Attorney's Office declines prosecution; or
  - Statutes of limitations have been met.

How should SAKs collected prior to July 1, 2016 be handled?

- Florida statute does not require SAKs received by an agency prior to July 1, 2016 be submitted within 30 days. Please contact your crime laboratory for submission policies or requirements.
- FDLE Crime Laboratories will accept previously untested or partially tested SAKs from reporting victims regardless of offense date.

Where can SAKs be submitted for testing?

- The State of Florida crime laboratory system includes six FDLE crime laboratories and the following five county/regional crime laboratories:
  - Broward County Sheriff's Office Crime Laboratory;
  - Indian River Crime Laboratory;
  - Miami-Dade Sheriff's Office Crime Laboratory;
  - Pinellas County Forensic Laboratory
  - Palm Beach County Sheriff's Office Crime Laboratory

How should law enforcement agencies within the FDLE crime laboratory service areas plan to submit previously untested or partially untested SAKs from prior to July 1, 2016?

- FDLE crime laboratories accept all submissions of reported SAKs for testing, regardless of collection date.

What evidence should be submitted for a sexual assault investigation?

- Initial submission should only include the SAK, victim's underwear worn at the time of the incident or immediately thereafter (if not already in the kit), and condom, if applicable.
- Please refer to the FDLE CRIME LABORATORY EVIDENCE SUBMISSION MANUAL (on CJNet) or the submission manual for your laboratory for more details.

What is the statute of limitations for SAKs with an offense date prior to July 1, 2006?

- Contact your State Attorney's Office with questions regarding the statute of limitations. Following a CODIS DNA match ("hit") to a suspect, charges can be filed within a year for some cases.

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.
- Non-reporting kits stored by the FDLE will be destroyed after 50 years.

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

- FDLE will NOT accept SAKs collected by an ME, unless a suspected sex crime is part of the investigation or is otherwise relevant to the criminal investigation.
- SAKs from deceased individuals are not tracked using the [Florida Track-Kit™](#) system.