

CODIS Hit Investigative Strategies and Notification Recommendations for Law Enforcement

Introduction: Many cold cases have minimal evidence, so considerable time will be needed to locate and re-interview the victim, suspect, and witnesses. While cold cases do present unique challenges, it is important to remember that there have been numerous improvements in the field of forensic science, which is constantly evolving. It is possible that more advanced testing could shed new light on old evidence. As you review your case evidence, consider consulting with the KSP Lab to determine if additional testing is possible.

Additionally, over the past few years much more has been learned about victim-centered and trauma-informed victim interviewing techniques. Victims who were not perceived as credible at the time of their assault may have been exhibiting what is now widely recognized as typical post-trauma behavior. There are numerous law enforcement resources that offer best-practice interview and victim support techniques. The Department of Criminal Justice Training (DOCJT) started offering training specific to sexual assault and best-practice interviewing techniques in 2016. Additional training will be offered in the upcoming years that will develop well-rounded, victim-centered officers.



I. Submission of Sexual Assault Kits to the Kentucky State Police Central Lab

The Kentucky Revised Statutes relating to sexual assault were revised in 2016 requiring that law enforcement agencies submit all Sexual Assault Kits (hereinafter SAK(s)) to the Kentucky State Police (hereinafter KSP) Lab within 30-days of receipt. According to **KRS 15.440**, all reported kits must be submitted and tested for DNA regardless of the intentions of the prosecutor. The victim of the sex crime has the right not to release their SAK to law enforcement if he/she does not want to report the crime. In those situations, the hospital will be required to maintain the kit for one (1) year. If the victim changes his/her mind within a year of SAK collection, the hospital will release the kit to law enforcement.

The KSP Central Lab will organize and begin processing the SAK submissions based on the order of receipt from law enforcement agencies. The SAK may be tested onsite or outsourced to a forensic lab, typically giving your agency time to prepare for the possible CODIS hit results.

Associated Resource Hyperlinks

Evidence Collection – <http://kentuckystatepolice.org/wp-content/uploads/2018/05/RevisionPhysicalEvidenceNew.pdf>

SAFE Act Statutes – <https://ag.ky.gov/victims/toolkit/Documents/Kentucky-SAFE-Act-Statutes.pdf>

II. Preparing for CODIS Hit Notifications

SAK submissions will typically take a few months to process before the results are provided to your agency. During this time, please take the opportunity to re-evaluate the corresponding investigation. The manner in which the case will be assigned/reassigned ahead of the CODIS hit notification will be conducted in accordance with individual agency policy and procedure.

Preparation may include:

- ▶ Familiarize yourself with all aspects of the investigation and plan the next steps.
 - ▶ Locate the original case reports, and determine if any/all evidence still exists
 - ▶ Gather all associated documents including: original and supplemental police reports, Medical reports, crimes scene reports, legal documents, property impound sheets, previous laboratory results, photographs, audio or video recordings.
 - ▶ Create a master case file of all documentation.
 - ▶ We also suggest using a cover sheet that will help the officer highlight the critical information from the documentation.
- ▶ Determine whether there has been ongoing correspondence between the victim, your agency, and victim advocates to prepare for the notification.
- ▶ Review all reports and physical/forensic evidence to determine if additional testing is needed. Per **KRS 524.140**, all evidence must be retained and cannot be destroyed unless an order is issued by the court of jurisdiction.

- Evaluate electronic evidence such as phones, computers, external hard drives, vehicle GPS, smart and fitness watches, video surveillance and security systems.
- Research social media, public media information and cloud accounts.
- Determine current suspect, witness, and victim whereabouts.
- Team plan with the appropriate prosecutor and victim advocate. The advocate can assist law enforcement with safety planning for the victim.
- Collaborate with KSP intelligence and the Kentucky Fusion Center to determine if there are similar cases, registered sex offenders, similar Modus Operandi (MO), or other information, which may assist the investigator in the investigation.
- Enter case information into the Violent Criminal Apprehension Program (ViCAP) to link perpetrators and case MO to solved and un-solved sexual assaults, violent crimes and murders.

Associated Resource Hyperlinks

Sexual Assault Resources – <https://www.kasap.org/get-info/resource-library/resource-library---home>

Victim Crisis Line – <https://www.kasap.org/get-help/services-offered-at-rape-crisis-centers>

ViCAP Overview – https://archives.fbi.gov/archives/news/stories/2008/august/vicap_080408
<https://sakitta.ogr/toolkit/index.cfm?fuseaction=tool&tool=42>

III. Receipt of CODIS Hit Notifications

The KSP Central Lab will notify each law enforcement agency, prosecutor, SAKI Task Force Coordinator, and Kentucky Association of Sexual Assault Programs of CODIS hits. The notification that you will receive will identify the victim of the sexual assault, your corresponding case information, and a hit packet from KSP Intelligence containing contact information/ last known address for the victim, as well as any available information on the suspect. If an individual was identified through the DNA testing, the notification will also provide information about the specific offender.

Investigators may receive a variety of reports from the crime laboratory that could include:

- CODIS Hit: indicate an identified individual exists within the CODIS database.
- Case to Offender Hit: indicate an unidentified individual. A DNA profile was obtained from the evidence: however, there are no matches in the CODIS database. A Profile is added and remains in the CODIS database. A hit letter will not be issued unless a future hit occurs to another case or to an offender in the CODIS database.
- Case to Case Hit: indicate an unidentified individual with a DNA match to other victims and/or cases. The profile obtained from the evidence will be entered into and remain in the CODIS database.
- DNA obtained/ No Hit
- If no DNA was found during testing, the lab report will reflect this and there will not be anything entered into CODIS and no hit letter released.

If an offender is identified through the testing, that individual's name and identifiers will be provided with the CODIS Hit notification. If the individual is not identified, but additional victims are known, you may be able obtain additional case information from the other investigating law enforcement agencies to assist with your case investigation. This information will be provided in accordance with KSP Lab and CODIS protocol.

Associated Resource Hyperlinks

<https://www.ovcttac.gov/taskforceguide/eguide/5-building-strong-cases/53-victim-interview-preparation/trauma-informed-victim-interviewing/>

<https://www.sakitta.org/resources/docs/SAKI-Cold-Case-Recommendations.pdf>

SAKITTA CODIS Hit Follow-up: Strategies and Guidelines – <https://sakitta.org/toolkit/index.cfm?fuseaction=tool&tool=3>

IV. Preparation for Victim Notification and Continuing Investigation

Conduct a preliminary search for the victim to determine his/her whereabouts and any personal circumstances that may affect the victim's response to the notification. Once the victim's current location is known, determine which rape crisis center provides services to that area (Reference the attached KASAP Regional Map). Coordinate with a victim advocate from the local rape crisis center regarding notification of the victim, or if one is not available, utilize a victim advocate associated with your local prosecutor's office, police agency or the Attorney General's SAKI Team.

Once you have identified the location of the victim, you will need to determine how and who should be present during the notification. To provide the victim with support during and after the notification, it is recommended that the law enforcement officer and a community or systems-based advocate to do the notification together. Working as a team, law enforcement and the Victim Advocate should be prepared to answer the victim's questions. Allow the Victim Advocate to determine their immediate needs and available trauma resources. Under most circumstances, *you should attempt to set up a follow-up interview **after the notification** to lessen the impact on the victim and give them time to process the new information.*

Frequently, the only means to make contact with the victim is by phone, so it may be important that the officer and victim advocate work together for the initial phone call. If initial contact is by phone, attempt to set up a date and time to meet in person for the notification. If the victim requests to be given the information immediately, work with your victim advocate and be prepared to provide appropriate information by phone and then request additional meetings and interviews to further the investigation.

Additional considerations for preparing to notify the victim:

- The notification is a time to share information and answer the victim's questions.
- Determine if there are officers or victim advocates that have developed a positive relationship

with the victim and could assist with the notification?

- Are there safety concerns to be aware of during the notification, such as dangerous animals, felonious activity, illicit drug use, offender is in current contact with victim?
- If the victim has had negative contact with the police, arrest warrants, etc., you may want to have the victim advocate do the notification without law enforcement being present, and withhold police involvement until the circumstances have improved or resolved. Law enforcement should make the final decision on how to proceed, but let the circumstances and a victim-centered, commonsense approach be your guide.
- Be prepared to answer questions about the perpetrator and the court process.
- Is there an appropriate place to do the notification that will allow privacy for the victim?
- What resources may be needed for the victim, such as crisis support, drug addiction, suicide and domestic violence counseling, etc.?
- During the initial contact with the victim, allow the victim to choose how they prefer to be notified. Ideally, notification should be made in person, when practicable. Making the notification during the initial contact is not recommended, unless the victim makes such a request.

Associated Resource Hyperlinks

SAKI Key Considerations – <https://centerforimprovinginvestigations.org/wp-content/uploads/2018/07/SAKI-Cold-Case-Recommendations.pdf>

Trauma Informed Interviewing – <https://www.ovcttac.gov/taskforceguide/eguide/5-building-strong-cases/53-victim-interview-preparation/trauma-informed-victim-interviewing/>

V. Victim Notification

It is not advisable to ask a victim whether they want to proceed with prosecution or to attempt a victim interview at the notification. In fact, you should make it clear to the victim that you are not asking them to make any decisions at this time.

It is important to the success and outcome of the case to be patient with the victim and build rapport. Allow the notification to be the time that helps the victim re-build trust with the criminal justice system. The victim advocate will greatly assist with this process.

If the victim is a juvenile, you should work with the appropriate Department of Community Based Services and the regional Children's Advocacy Center for information, support and interviewing services. While some investigations may have the need for detectives to conduct a complete comprehensive interview with the victim, the notification process may not be the most ideal time or location to complete even a partial interview. However, one should be prepared to answer questions from the victim.

Questions frequently asked by victims during notification:

- Why was my kit not tested at the time of my sexual assault?

- Was my case presented to a prosecutor/grand jury?
- Where is the perpetrator?
- Does my perpetrator have a history of sexual violence?
- What resources and/or support services are available in my area?
- What happens now?
- What is the role of the advocate, prosecutor or officer?
- Will this information be in the news?

Additional best-practice considerations for the victim notification:

- Ensure that you and the victim are in a private and safe environment.
- Ask the victim if it is okay to meet another time to discuss the incident.
- If the victim begins to discuss the incident, let the victim know that you understand that the incident may be difficult to discuss.
- Traumatized victims often need several days to process the incident before they should be interviewed.
- Use of trauma-informed interviewing techniques, employing good listening skills including understanding, empathy, and patience are recommended.
- Allow yourself and the victim advocate time to develop trust with the victim.
- Be aware of surroundings and if others may be able to hear your questioning and responses and how that may affect your interview.
- Be aware that victims will all react differently. Angry, confused, upset, lackadaisical, depressed, scared, etc. These are all normal emotions and responses for a victim.

After completing the notification, discuss the possibility of needing to speak with them further and the reasons why further contact could be needed. Additionally, explain that it is the victim's decision as to whether they want to continue the investigation. Even if you are not trying to have them clarify this at the time of the notification, it is important that they are aware that the choice is theirs. It is important to provide contact information for you and the victim advocate.

*Once the victim has been notified, please complete the **reporting link** that accompanied the notification email.*

VI. Additional Investigation Considerations

Sexual assault and cold-case investigations present many challenges, but the victim and the search for justice on their behalf must remain our top priorities. Consider the following suggestions as you further your criminal investigation:

- Know the details of your case and your investigative notes, then prioritize your case needs. Preparation is a necessity to the success of the prosecution and supporting the victim throughout the process. Consider using the checklist which was developed based on this document to

assist you in your investigation.

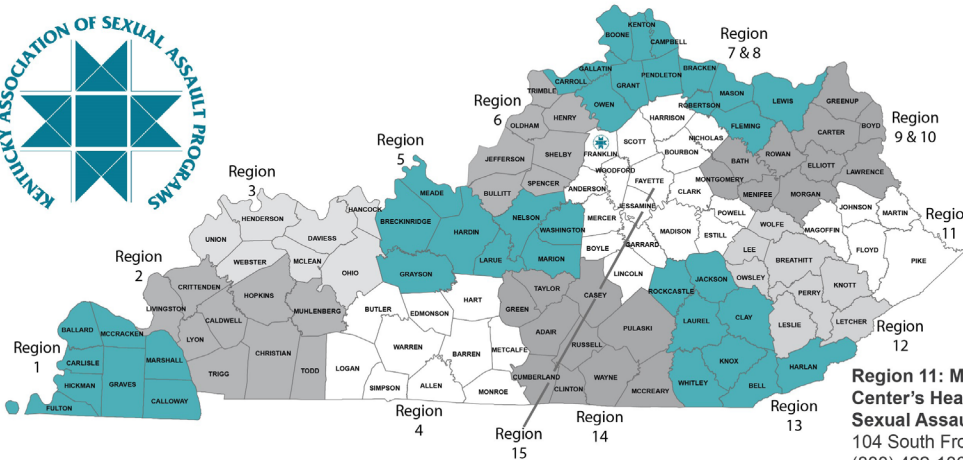
- What information and evidence needs to be collected to support the DNA findings?
- Where is the perpetrator? How do we find? What if in another jurisdiction?
- Is perpetrator known to victim or family? Is perpetrator a possible serial sex offender or on a sex offender registry?
- Who needs to be interviewed or re-interviewed?
- Research the suspect's background, criminal history, law enforcement contacts, work history, education, phone history, active relationships, past and disgruntled relationships, finances, residence history, vehicle history, social media, habits, known clothing and shoes, unique characteristics, memberships, etc. Consider resources such as KSP Intelligence, the FBI's ViCAP database, or the Regional Organized Crime Information Center (ROCIC).
- Collaborate with the Multi-Disciplinary Team i.e. the prosecutor, advocate, Kentucky Association of Sexual Assault Programs, local Rape Crisis Center, and other law enforcement agencies for advice.
- Do we need surveillance, search warrants, additional lab tests, polygraph, etc.?
- Will discreet DNA samples need to be collected (Abandoned DNA, trash pull)?
- Utilizing ViCAP, KSP Intelligence and the Kentucky Fusion Center, determine if there are their similar investigations / victims that may suggest a serial offender?
- Any additional corroborating evidence? Surveillance video, bank card usage, cell phone usage, touch DNA, fingerprints, shoe prints, receipts, social media, monitoring tech gadgets, etc.
- Develop arrest operations and officer safety considerations.
- Develop a suspect contact strategy i.e. interview / interrogation, search warrant, evidence gathering strategy, etc. The SAKI TTA Toolkit has resources which may assist investigators.
- Attempt to reduce exposure of the victim when possible by keeping the victim's name off of the search warrant, citation, press releases, etc.
- Perseverance - Be driven to obtain justice for the victim and realize that the victim is depending on you.

-Associated Resource Hyperlinks-

Sexual Assault Inv. Resources – <https://centerforimprovinginvestigations.org/sexual-assault-investigations/>

SAKI TTA Pre-packaged briefcase of resources for sexual assault investigators – <https://sakitta.org/toolkit/index.cfm?fuseaction=quick-pack&qp=3>

APPENDIX



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Region 1: Lotus
P.O. Box 8506, Paducah, KY 42002-8506
(800) 928-7273 | hopehealgrow.org

Region 2: Sanctuary, Inc.
P.O. Box 1165, Hopkinsville, KY 42241
(800) 766-0000 | sanctuaryinc.net

Region 3: New Beginnings Sexual Assault Support Services
1716 Scherm Road, Owensboro, KY 42301
(800) 226-7273 | nbowensboro.org

Region 4: Hope Harbor, Inc.
913 Broadway Ave, Bowling Green, KY 42101
(800) 656-HOPE (4673) | hopeharbor.net

Region 5: Silverleaf Sexual Trauma Recovery Services
751 S Provident Way, Elizabethtown, KY 42701
(877) 672-2124 | silverleafky.org

Region 6: The Center for Women & Families
P.O. Box 2048, Louisville, KY 40201
(844) BE-SAFE-1 | (844) 237-2331
thecenteronline.org

Region 7 & 8: Women's Crisis Center
(Covington & Maysville)
111 East Third Street, Maysville, KY 41056
(800) 928-3335 | wccky.org

Region 9 & 10: Pathways Victim Services
(Ashland & Morehead)
P.O. Box 790, Ashland, KY 41101
(800) 562-8909 | www.pathways-ky.org

Region 11: Mountain Comprehensive Care Center's Healing Program for Survivors of Sexual Assault & Domestic Violence
104 South Front Ave., Prestonsburg, KY 41653
(800) 422-1060 | mtcomp.org

Region 12: The Rising Center
637 Morton Blvd., Hazard, KY 41701
(800) 375-7273 | therisingcenter.org

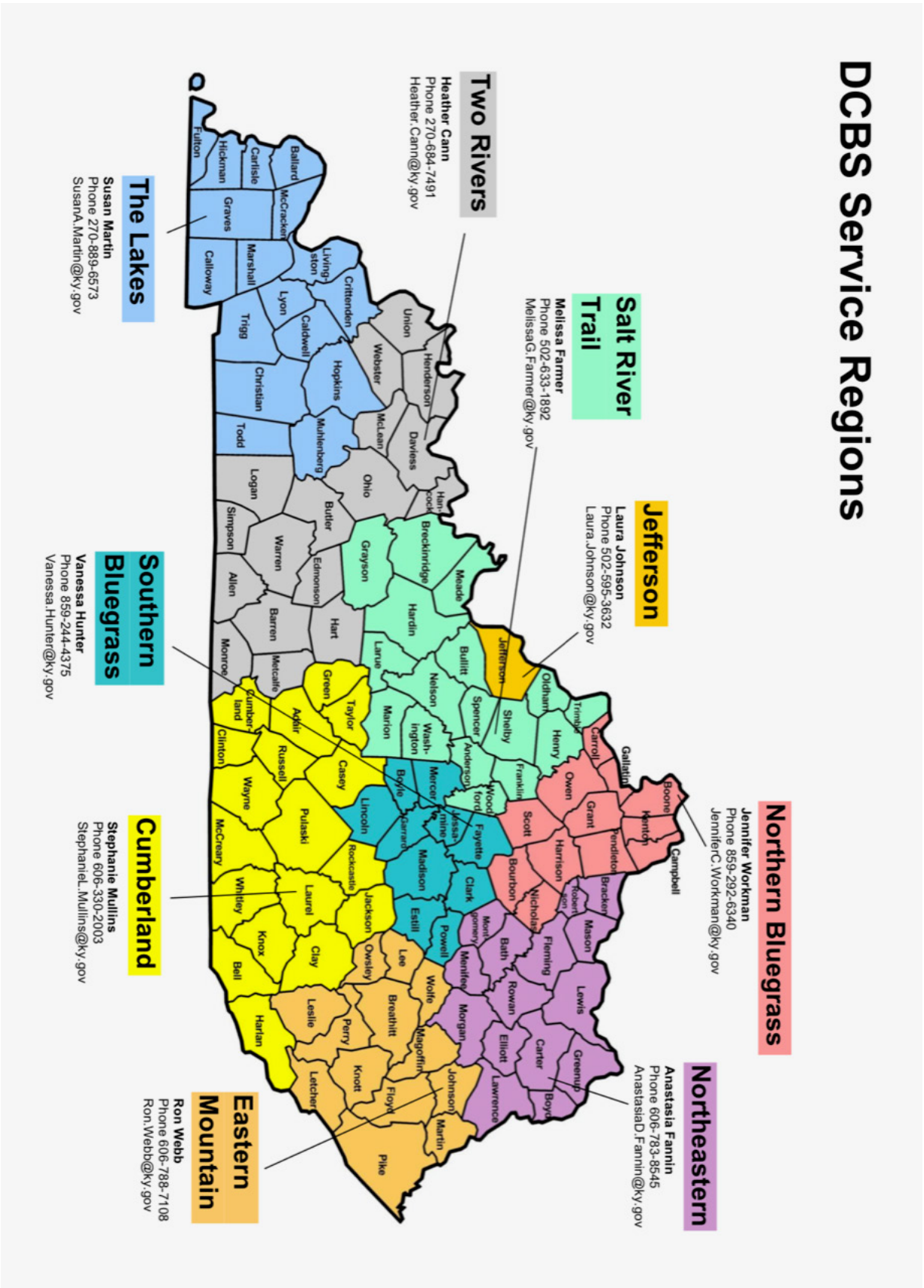
Region 13: Cumberland River Behavioral Health Rape Victim Services
P.O. Box 568, Corbin, KY 40701
(800) 656-HOPE (4673) | crvvs.org

Region 14: Adanta Sexual Assault Resource Center (ASARC)
259 Parkers Mill Road, Somerset, KY 42501
(800) 656-HOPE (4673)

Region 15: Ampersand Sexual Violence Resource Center of the Bluegrass
P.O. Box 1603, Lexington, KY 40588
(800) 656-HOPE (4673) | ampersandky.org

KENTUCKY ASSOCIATION OF SEXUAL ASSAULT PROGRAMS
P.O. Box 4028 | Frankfort, KY 40604 | (800) 656-HOPE (4673) | www.kasap.org

DCBS Service Regions



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