



Arizona Sexual Assault Evidence Collection Kit Task Force Meeting

MEETING MINUTES

March 3, 2016

9:00 AM

Arizona State Capitol, Executive Tower, Third Floor Conference Room
1700 West Washington Street
Phoenix, Arizona 85007

A general meeting of the Arizona Sexual Assault Evidence Collection Kit Task Force convened on March 3, 2016 at the Arizona State Capitol, Executive Tower, Third Floor Conference Room located at 1700 West Washington Street, Phoenix, Arizona 85007. Notice having been duly given. Present and absent were the following members of the Commission.

Members Present

Bill Montgomery (Co-Chair)	Mark Dannels	Debbie Lesko
Frank Milstead (Co-Chair)	Jessie Delmar (via phone)	Phil Lovas
Maria Syms (on behalf of Mark Brnovich)	Katie Hobbs	Myriah Mhoon
Colleen Clase	Jessye Johnson	Sheila Polk (via phone)
Christina Corieri	Todd Larson	Mary Roberts
	Alan Goodwin (on behalf of Barbara LaWall)	Pete Wingert

Members Absent

Kate Brophy McGee

Staff Present

Courtney Coolidge

A. CALL TO ORDER

Bill Montgomery called the meeting to order at 9:03 a.m.

B. OPENING REMARKS

Mr. Montgomery and Colonel Milstead welcomed the group and outlined the duties of the Task Force as listed in Executive Order 2016-02. A public service announcement from the Governor's Office was shown to the Task Force in addition to "What is a Sexual Assault Kit?" video from the National Institute of Justice.

C. INTRODUCTION OF TASK FORCE MEMBERS

Co-Chairs invited Task Force Members to introduce themselves.

D. UPDATE ON SURVEY

Colonel Milstead provided an update on a survey that was sent out to law enforcement agencies statewide. The goal of the survey is to begin the process of conducting an inventory of the total number of untested Sexual Assault Kits (SAK) statewide. The survey

was issued in the beginning of February and to date there had been approximately 35% participation among law enforcement agencies. Col. Milstead indicated that staff would be reaching out to each agency personally to ensure maximum participation. Col. Milstead indicated it may be beneficial for staff to draft another letter from the Co-Chairs to the law enforcement agencies.

Senator Debbie Lesko asked what the goal was in terms of receiving responses from agencies.

Mr. Montgomery indicated that one goal would be to reach out to every department prior to the next meeting on April 5, 2016.

E. VICTIM OVERVIEW

Jessye Johnson from the Arizona Coalition to End Sexual and Domestic Violence outlined a couple items the Task Force should keep in mind as they move forward. Ms. Johnson indicated that every victim is different, the nature of the relationship between the victim and perpetrator should be considered, and that not all victims may want the kit tested or to move forward with prosecution.

Ms. Johnson encouraged the Task Force to take a look at two model programs from Detroit and Houston. Ms. Johnson indicated that these states did a good job in communicating with the victim throughout the process.

Mr. Montgomery indicated that there are many considerations for this Task Force to consider as they review untested kits and develop protocols for testing. Mr. Montgomery stated that it is important that the offender does not continue to have control over the victim and effectively having control over the process in determining when SAKs are to be tested.

F. INVESTIGATOR OVERVIEW

Assistant Chief Mary Roberts from the Phoenix Police Department provided background to the Task Force from the perspective of the investigator. Phoenix has inventoried and identified the location of each untested sexual assault kit in their Department. They have also developed timeline goals for testing the untested SAKs. From the investigator perspective, when an individual presents to the Department that they are a victim of sexual assault, the number one priority is the preservation of evidence. However, at this point there is nothing to establish that a crime has occurred.

Mr. Montgomery further emphasized to the Task Force the need to have a crime in order to submit the information to the Combined DNA Index System (CODIS).

Ms. Roberts continued that from the perspective of the investigator a crime is probable cause and as such they would err on the side of submission.

Mr. Montgomery identified to the group that this will be another decision point for the Task Force to identify as part of a protocol.

Ms. Roberts also stated to the group there are funding challenges that agencies will have in addition to the funding that is received to test the SAK. Ms. Roberts discussed priorities of police agencies and the effect sexual assault cases have on the rest of the agency.

Mr. Montgomery emphasized that these are key areas that the Task Force is going to wrestle with moving forward. Part of the Task Force charge is to identify funding sources and there will be additional funding needed aside from the actual testing of the SAK.

Senator Lesko stated that when conducting the survey it would be valuable to know the reason the SAK was untested because depending on funding the Task Force will need to prioritize.

Col. Milstead agreed that the first step is to understand the big picture of the total number of untested SAKs statewide, but will also need to go back to agencies to identify in detail why each SAK went untested.

G. CRIME LAB OVERVIEW

Vincent Figarelli from the Department of Public Safety provided an overview to the Task Force from the crime lab perspective. Mr. Figarelli emphasized the need to have proper documentation throughout the process. Mr. Figarelli stated that when a SAK comes into the lab the technician starts with an initial screening. Specifically a Y-STR screening, which was implemented at DPS approximately a year ago. During this process the first step is to look for male DNA on all swabs. DPS currently performs this process within 30 days. If it is determined that there is male DNA, the lab would contact the detective to provide that information, so if there is a suspect in the case the, lab would perform a direct comparison. Mr. Figarelli stated that there is a misconception that it is possible to do a direct comparison in CODIS, which is not the case.

Mr. Figarelli stated that outsourcing SAKs to private laboratories cost about \$600 per kit. However, there is time involved conducting the back end review, which can bring the total cost to process a SAK up to \$2,000-\$3,000 per kit.

Ms. Syms asked what type of policies should be in place in terms of protocols.

Mr. Figarelli explained that several states have taken different approaches including mandating times for the entire process from the forensic nurse examiner to the crime lab.

H. PROSECUTOR OVERVIEW

Jon Eliason from the Maricopa County Attorney's Office gave an overview to the Task Force from the prosecutor perspective. Specifically, challenges that prosecutors face in successful prosecution of sexual assault cases in regards to going back and testing untested SAKs. Evidence challenges include evidence that was not collected or recorded or has been lost or destroyed, witnesses, chain of custody and the statute of limitations. Challenges with the victim include that they could have trauma, be vulnerable and, depending how long ago the assault was, not remember details or not want to re-live them. Lastly, challenges with "the story" and explaining why the SAK was not tested previously, how to corroborate the victim and if there is there a change in "the story" from past to present.

I. UPDATE ON MARICOPA COUNTY EFFORTS

Mr. Eliason provided the Task Force an update on the efforts in Maricopa County in conducting an inventory and testing previously untested SAKs County wide. Maricopa County received \$1,900,000 in funding from the DANY Grant which was approved by the

Maricopa County Board of Supervisors on January 13, 2016. A team was put together to conduct an inventory of all untested SAKs in Maricopa County. The next steps will be to submit SAKs for testing, track tested kits and upload profiles to CODIS, victim notification and prosecution of cases.

Mr. Eliason provided background on a couple states that have already gone through this process. In New York City, 17,000 SAKs were sent for testing, resulting in over 2,000 DNA matches and 200 cold case prosecutions. In Wayne County, Michigan, 11,000 untested SAKs were discovered in an abandoned law enforcement agency's warehouse and of the initial 2,000 SAKs tested, there were 670 DNA matches in the national DNA database, including hits linking to crimes committed in 26 other states. Lastly, in Houston, Texas 6,663 SAKs were tested resulting in 850 matches in the federal DNA database and the prosecution of 29 offenders.

J. UPDATE ON NATIONAL EFFORTS

Judge Ron Reinstein gave the Task Force an update of efforts being done nationally. Mr. Reinstein is part of the Sexual Assault Forensic Evidence Reporting (SAFER) Act working group. The SAFER group is charged with the development of national best practices and protocols on the accurate, timely and effective collection and processing of DNA evidence. This will include implementing standards for DNA evidence collection and storage, processing of evidence in a timely and appropriate manner, investigation follow up, prosecution and victim notification and engagement.

There is also a Sexual Assault Kit Processing Working Group (SWGDM) that is examining what impacts the best practices will have on the crime lab. This includes examining the guidelines for determining what items to test and the order for testing them. It also includes recommendations for time frames of DNA analysis from submission, to profile completion, and entry into CODIS.

Mr. Reinstein emphasized the challenge of ensuring the protocol that is established is flexible enough to be adaptable nationwide.

Mr. Reinstein also mentioned the Joyful Heart Foundation and a checklist that they put together for states that are looking to evaluate untested SAKs. Mr. Reinstein stated this would be a good resource for the Task Force to review in starting the process in Arizona.

K. CALL TO THE PUBLIC

Col. Milstead gave the call to the public with no responses.

L. ADJOURNMENT

The meeting was adjourned at 10:58 AM.