



LAC

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A REVIEW OF THE STATEWIDE SEXUAL ASSAULT KIT TRACKING SYSTEM OPERATED BY THE S.C. STATE LAW ENFORCEMENT DIVISION (SLED)



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Introduction and Background

Audit Objectives

Members of the General Assembly asked the Legislative Audit Council (LAC) to conduct an audit of the S.C. State Law Enforcement Division's (SLED's) creation and operation of a statewide sexual assault kit (SAK) tracking system as directed by Act 134 of 2020. The requestors were concerned with SLED's compliance with the law, procurement of proper contractors, and whether SLED was pursuing best practices and developing appropriate partnerships with stakeholders.

Our audit objectives for this audit were to:

- Evaluate how SLED has implemented and complied with the requirements of S.C. Code §23-3-1300 regarding the sexual assault kit tracking system.
- Determine how SLED can improve its administration of the sexual assault kit tracking system.

Scope and Methodology

The period of our review was generally calendar years 2020 through 2024, with consideration of earlier periods, when relevant. To conduct this audit, we used the following sources of evidence:

- Interviews with SLED staff, members of the SAK task force, staff of other state agencies, interested parties, and other states.
- LAC survey of other states.
- LAC surveys of users of the SAK system, including law enforcement agencies, DNA laboratories, medical facilities, and sexual assault nurse examiners (SANEs).
- SLED's budget requests and budget documentation.
- Interviews with staff of InVita Healthcare Technologies (InVita).
- Track-Kit® system review including training webinars and stakeholder portals.
- Materials Management Office documentation regarding the award of the tracking system contract.
- Federal and state laws and regulations.
- U.S. Department of Justice—Office of Justice Programs.
- Joyful Heart Foundation's End the Backlog Initiative.
- SLED's crime statistics, operations manuals, and other data on its website.
- S.C. Office of the Attorney General's opinions.

Criteria used to measure performance primarily included state law, the practices of other states, and principles of good business practices. We interviewed SLED staff and reviewed responses to LAC surveys of other states and stakeholders/users in our state. We also researched any ongoing legal proceedings regarding our audit's topic and found none.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those generally accepted government auditing standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on these audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on these audit objectives.

S.C. Code §2-15-50(b)(2) requires us to review the effectiveness of organizations, programs, activities, or functions to determine if they should be continued, revised, or eliminated. We did not conclude from the review of these objectives that this program or SLED should be eliminated. However, we have a number of recommendations for improvement.

Background

In 2013, Congress passed the Sexual Assault Forensic Evidence Reporting (SAFER) Act to create protocols for accurate, timely, and effective sexual assault evidence collection and analysis. Legislation to track sexual assault kits was passed by some states as early as 2002 to eliminate the backlog of untested kits. A sexual assault kit, also known as a rape kit, contains evidence collected during a forensic medical examination which normally includes biological evidence such as saliva, blood, semen, urine, and skin cells, as well as photos, clothing, and other physical evidence.

As of 2022, there were still over 25,000 untested sexual assault kits nationally, including untested kits in South Carolina. As of August 2024, after various reforms were implemented, 20 states reported that they no longer had any untested sexual assault kits or, in other words, had cleared their backlogs.

End the Backlog is an initiative of the Joyful Heart Foundation, which is a national, non-profit organization whose focus is on sexual assault, domestic violence, and child abuse. The End the Backlog initiative is working to eliminate the backlog of untested sexual assault kits across the United States with a national campaign to pass comprehensive sexual assault kit reform legislation in all 50 states.

In 2017, the U.S. Department of Justice’s National Institute of Justice released *National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach* outlining 35 recommendations to address:

- Evidence collection.
- Prioritization of evidence and time periods for collection.
- Evidence inventory, tracking, and auditing technology solutions.
- Communication strategies.
- Victim engagement and notification.

State Law

In May 2020, South Carolina’s legislature passed Act 134, which was codified as S.C. Code §23-3-1300, requiring SLED to create and operate a statewide tracking system for all sexual assault kits. The statute mandates certain requirements including.

- ❖ All medical facilities, law enforcement agencies, forensic laboratories, or other persons or entities that collect evidence for sexual assault kits must participate in the tracking system.
- ❖ The statewide system must:
 - Track the location and status of sexual assault kits.
 - Allow participating entities who have custody of sexual assault kits to update and track the status and location of the kits.
 - Allow victims of sexual assault to anonymously track or receive updates regarding the status of their sexual assault kits.
- ❖ SLED shall submit semiannual reports on the statewide system to the House and Senate Judiciary committees and to the Governor on January 31 and July 31 each year, beginning in 2022, which includes statewide and by jurisdiction data of the:
 - **Total number** of sexual assault kits in the system.
 - Total and semiannual number of sexual assault kits where forensic analysis has been **completed**.
 - Number of sexual assault kits **added** to the system in the reporting period.
 - Total and semiannual number of sexual assault kits where forensic analysis has been **requested but not completed**.
 - Average and median length of time for sexual assault kits to be **submitted** for forensic analysis after being added to the system, including separate sets of data for all sexual assault kits in the system and added to the system in the reporting period.

- Average and median length of time for forensic analysis to be **completed** on sexual assault kits after being submitted for analysis, including separate sets of data for all kits and those added in the reporting period.
- Total and semiannual number of sexual assault kits **destroyed or removed** from the system.
- Total number of sexual assault kits where forensic analysis has not been completed and **six months** or more have passed since the kits were added to the system.
- Total number of sexual assault kits where forensic analysis has not been completed and **one year** or more has passed since the kits were added to the system.

❖ SLED shall establish **guidelines** to ensure that the statewide sexual assault kit tracking system protects victim information from disclosure to nonparticipating entities. Information in the system is confidential and not a public record.

S.C. Code §23-3-1300 is attached, in its entirety, in Appendix F. Notably, SLED has produced all the reports required by S.C. Code §23-3-1300.

Tracking System

South Carolina's statewide tracking system was rolled out, by region, beginning in December 2023 and finalized in February 2024. Prior to going live with the system, SLED established a sexual assault kit task force whose members represented forensic labs, law enforcement agencies, the judicial branch, medical facilities, victim advocates, and victims (which we will also refer to as survivors). There was training offered to the stakeholders required to participate in the system.

The state's system, Track-Kit, developed by InVita Healthcare Technologies was chosen by SLED through a competitive RFP process. It is used in at least 15 other states.

SLED is the mandated operator of the tracking system under S.C. Code §23-3-1300; however, it has no oversight authority over the entities required to participate under the law, like local law enforcement agencies or medical facilities. As written, the law does not provide penalties for entities not participating in the system as required.

LAC Surveys of System Users

We used SurveyMonkey® to assess the effectiveness of Track-Kit, the statewide sexual assault kit (SAK) tracking system implemented by SLED. While overall stakeholder participation in our surveys was lower than expected, survey responses highlighted several areas of concern, such as SLED's inefficient rollout of Track-Kit, communication issues, and difficulties faced by users working with the system. Additional comments received from survey respondents reinforced the conclusion that users have unresolved concerns regarding SLED's administration of the Track-Kit system.

The goal of surveying the Track-Kit users was to identify any issues faced by users or entities required to enroll in the system per S.C. Code §23-3-1300(B). The surveys targeted key stakeholders in Track-Kit, including law enforcement agencies, forensic labs, medical facilities, and sexual assault nurse examiners (SANEs). The questions were designed to gather user feedback on enrollment, training, and overall satisfaction with SLED's administration of Track-Kit. The total number of responses to individual questions in some surveys may not match the overall number of survey participants because respondents were able to skip some questions.

In addition, the surveys were meant to be informational in nature and to allow those using the system to provide feedback anonymously. Despite sending reminders to encourage survey participation, the guarantee of anonymity prevented direct follow up with potential respondents, which may have resulted in low response rates. Stakeholder survey responses can be found in Appendices B–E.

Law Enforcement Survey

We surveyed 281 South Carolina law enforcement agencies from May 20, 2024 to June 5, 2024. We emailed the survey link to 235 police chiefs (including directors and training officers) and all 46 county sheriffs. Approximately 31% (88 of 281) of law enforcement survey recipients participated in our survey.

According to some law enforcement respondents, they have not yet enrolled in Track-Kit for the following reasons:

- Lack of awareness about the SAK tracking system or the mandatory nature of participation.
- Need for an invitation or additional information from SLED about Track-Kit.
- Enrollment is unnecessary as larger law enforcement agencies manage SAKs for them.
- They have not collected a SAK since the system's implementation.

The feedback from law enforcement respondents regarding the training provided by SLED was varied. When asked if their departments' personnel received sufficient training before the tracking system was implemented, most reported that it was sufficient. However, some respondents reported that the training was insufficient because they were not offered training on the system or the department received training, but encountered issues when the system was used. In addition, several respondents commented that they were unaware that there was a tracking system.

The responses to the law enforcement survey indicate a lack of awareness about the tracking system and available training opportunities. Some respondents emphasized the need for SLED to offer additional training for hospital staff and law enforcement personnel. They also highlighted the importance of resolving editing restrictions in Track-Kit related to the status of SAKs, and consulting evidence custodians and investigators before implementing similar systems.

Local Laboratories Survey

From May 20, 2024 to June 3, 2024, we surveyed a representative from each of the five forensic laboratories in South Carolina, excluding SLED's forensic lab. We emailed a link to the survey, and all five recipients responded, resulting in a 100% (5 of 5) response rate. All laboratory survey respondents confirmed their enrollment as users in Track-Kit.

The majority of lab survey respondents indicated they received adequate training on the system before its implementation. However, one staff member mentioned training was received after the system's go-live date. When asked about challenges encountered while working with Track-Kit, two respondents reported no issues, two reported encountering issues, and one staff member had not yet used the tracking system. Notable challenges reported included managing older, pre-system kits.

Medical Facility Staff Survey

We surveyed South Carolina medical facilities from May 24, 2024 to June 20, 2024. The South Carolina Hospital Association (SCHA) distributed the survey link to medical facilities and hospital staff members on behalf of the LAC. Although the SCHA could not provide a complete list of survey recipients, it initially sent the invitation to 217 hospital leaders, followed by a second invitation to 249 leaders, totaling 466 invitations. The response rate for the survey was approximately 5% (22 of 466). However, some respondents did not answer all questions, as noted earlier. Despite the limited number of responses, the information collected from medical facility respondents provided valuable insights.

The majority of respondents to the medical facility survey were enrolled in the Track-Kit system. However, fewer than half of them reported that staff received sufficient training from SLED before the system went live. Several respondents reported the training provided was insufficient. Some respondents mentioned issues such as the training occurring after the system's go-live date, lack of awareness or late notification of training, and limited or no training opportunities.

Several respondents reported various problems with Track-Kit, including the inability to modify important information, issues with kit barcodes, entities not enrolling as required, and problems with logins or passwords.

When asked if they had contacted SLED regarding any issues, most answered that they did not. Among those who did contact SLED, most reported the agency responded promptly to their issues. However, one respondent mentioned that although SLED responded promptly, the solution provided was not satisfactory.

Sexual Assault Nurse Examiners (SANEs) Survey

Since we did not receive the response rate we expected from the medical facilities' survey, we surveyed registered nurses specializing in sexual assault forensic examinations between June 24, 2024 and July 9, 2024. The survey targeted all Sexual Assault Nurse Examiners (SANEs) in South Carolina who were listed in the International Association of Forensic Nurses directory. Of the 43 SANE survey recipients, 12 respondents, representing nearly 28% of recipients, completed the survey. Despite the low response rate, the SANE respondents had similar issues to other users and identified more concerns.

All SANE survey respondents reported they were enrolled in Track-Kit and actively using the system to input collected sexual assault kits (SAKs). However, half of the respondents indicated they did not receive sufficient training from SLED before the system's rollout. Training issues noted by SANE respondents included:

- Uninformed about training or were informed too late to attend.
- Found the training to be confusing.
- Did not receive in-person training and instead were given written instructions.
- Limited availability of training opportunities.

When asked about the adequacy of statewide SANE coverage, a significant majority of respondents expressed the need for additional specialized professionals to support sexual assault survivors. SANE respondents criticized the inefficient rollout of Track-Kit, claiming that SLED seems to be unaware of which medical professionals are most involved in the system. Respondents also suggested that all users should undergo mandatory virtual training before gaining access to Track-Kit.

SLED's Implementation of Sexual Assault Kit Tracking System

Implementation Delays

SLED did not implement a sexual assault kit (SAK) tracking system by June 1, 2022, as required by state law. We reviewed state law, agency records, procurement documentation, and implementation times for other states. We also interviewed SLED employees and found:

- SLED did not meet its June 1, 2022, deadline for implementing a SAK tracking system, and therefore has not complied with S.C. Code §23-3-1300(D).
- The SAK tracking system was fully implemented on February 20, 2024, which is almost 21 months past SLED's implementation deadline under state law.
- Overall, it took SLED over 3½ years from the state law's effective date of May 14, 2020 to fully implement a SAK tracking system.

Multiple SLED employees and the agency's implementation report placed responsibility for the delay on a lack of funding from the General Assembly. It is unclear why the agency was not more proactive in identifying funding for the system when SLED officials stated the need for a system had been discussed as early as 2017. We found:

- SLED did not request funding for the system in its FY 20-21, FY 21-22, or FY 22-23 budget requests.
- SLED also did not seek alternative funding sources for the system, like the federal Bureau of Justice Assistance's (BJA's) Sexual Assault Kit Initiative (SAKI) grants.

Timeline

SLED did not implement a SAK tracking system within the time frame required under state law. We found that, overall, it took SLED over 3½ years to fully implement the tracking system.

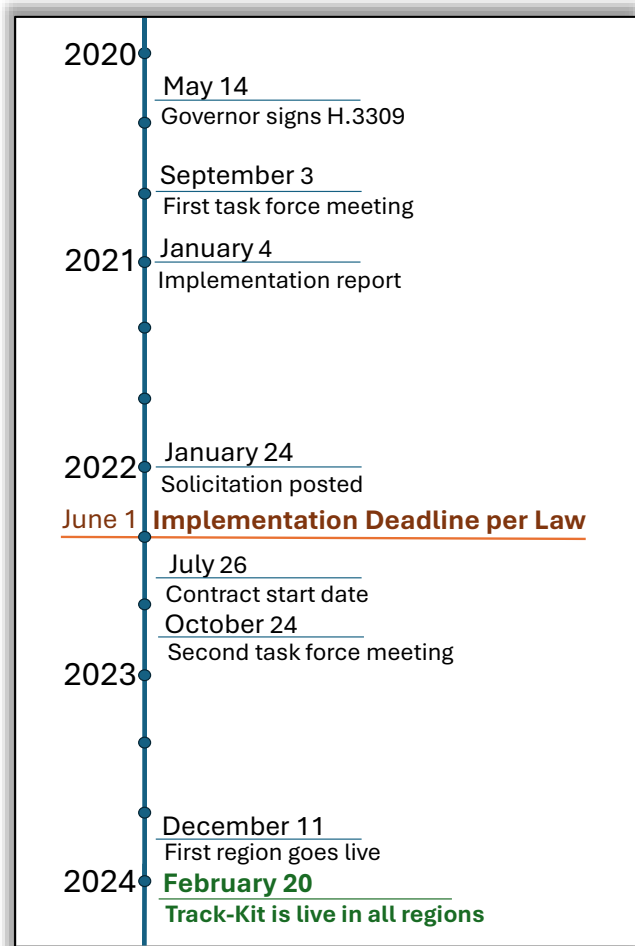
Act 134, which mandated the creation of a statewide SAK tracking system, became law in 2020 and is codified as S.C. Code §23-3-1300. Subsection D of this law states that "...all entities must participate fully in the system no later than June 1, 2022...."

SLED did not post a solicitation for the tracking system until January 24, 2022—almost 21 months after S.C. Code §23-3-1300 became law. During that time, SLED convened the sexual assault kit task force, which met on September 3, 2020. Subcommittees of the task force met throughout November 2020. Issues with the task force are discussed in *Sexual Assault Kit Tracking Task Force* in our report.

We interviewed multiple SLED employees and asked each employee what their responses would be to criticisms that the system took too long to implement. Each employee stated the time spent was necessary to ensure the system was what the state needed. Additionally, multiple SLED officials stated the agency began discussing tracking systems as early as 2017. While the agency identified the need early, it is unclear why it took the agency so long to develop and post a solicitation for the system.

A contract was awarded six months and two days after the solicitation was posted. After the contract began, it took a little over 1½ years to develop and implement the Track-Kit system. Key dates in the SAK tracking system implementation process are identified in Figure 2.1.

**Figure 2.1: Track-Kit
Implementation Key Dates**



NOTE: This timeline shows key dates only and is not inclusive of all dates of activity.

Source: LAC analysis of SLED records.

In preliminary exit, SLED provided the LAC with a new SLED timeline. When compared with the timeline SLED sent earlier in the audit, we found additional dates included in the list that were not provided originally. As noted, our timeline in Figure 2.1 is representative of key dates in the implementation process and not inclusive of all activity. Regardless of the activity occurring between the key dates in Figure 2.1, the deadline for implementation under state law was still not met.

Other States' Implementation Times

To compare implementation times, we conducted a survey of states known to be using the Track-Kit system and South Carolina's neighboring Southeastern states (see *Appendix A*). Our survey had a response rate of 63%. We contacted 24 states and ultimately 15 states completed the survey, 7 did not complete the survey, and 2 requested not to participate. All 15 responding states had implemented a tracking system, and 80% of those states implemented their tracking systems in less than three years—quicker than South Carolina.

Notably, SLED's length of time spent procuring a system and developing the system after the contract was awarded aligns with the most common lengths of time reported by respondents to our survey. The greatest delay for SLED was in the initial phases of the project—specifically, the time from passage of the state law to the date the solicitation for the tracking system was posted.

This phase of the project took over a year and a half. In its January 4, 2021 implementation report, SLED stated it took “months of thorough collaboration and deliberation” to determine if the procurement process would be needed, and that “once SLED has obtained sufficient funding to proceed with a RFP, SLED will be in a better position to evaluate a realistic implementation schedule.”

System Cost

Multiple SLED employees and the agency's implementation report stated a lack of funding created a significant barrier to procurement of a system. However, we reviewed agency budget requests and interviewed a SLED official and found SLED did not ask for funding for the system in its FY 20-21, FY 21-22, or FY 22-23 budget requests. We also found SLED did not seek alternative funding sources, like the BJA's SAKI grant.

Budget Requests

At the time Act 134 of 2020 was signed, SLED reported to the S.C. Revenue and Fiscal Affairs Office that the development of a tracking system would cost between \$250,000 and \$500,000. Ultimately, the contract for the system was signed with a total potential value of \$723,260 over five years.

SLED did not request funding for the system in its FY 20-21, FY 21-22, or FY 22-23 budget requests. We asked an agency official with direct knowledge of SLED's budget why SLED had not requested funding for the system. The official stated the agency does not usually ask for funding when a cost is legislatively mandated, but that the agency will make a request for recurring funding going forward. SLED did request funding for the system in its FY 23-24 budget request.

Grant Funding

The BJA's SAKI grants are designed to improve the function of the criminal justice system through the investigation and prosecution of cases resulting from SAK evidence and DNA. This program has been utilized by 90 grantees covering 43 states and the District of Columbia. Grantees include local and state entities and have included agencies like the Idaho State Police, Kansas Bureau of Investigation, Michigan Department of State Police, and the Tennessee Bureau of Investigation.

The grant program identifies six categories (also referred to as purpose areas) for which applicants can receive funding. According to the terms of the grant for FFY 2021 and FFY 2022, SLED, as a state law enforcement agency, would have been eligible to apply for funding under three purpose areas, including Purpose Area 1: Comprehensive Approach to Unsubmitted Sexual Assault Kits. Recipients of funding for this category may use funding to purchase a SAK evidence tracking system; however, the grant would have also required dedication to testing previously unsubmitted SAKs and system-wide reform. In both FFY 2021 and FFY 2022, \$2.5 million was available per grantee for the first purpose area.

We asked three SLED employees, independently, why the agency did not apply for the SAKI grants. All three stated the agency was not eligible for the funding. One employee stated the agency would need to have partnered with another agency like the S.C. Office of the Attorney General. One official stated the agency weighed the pros and cons of the grant and found SLED would not have the staff needed.

During preliminary exit, SLED provided us with an email between one of its officials and an official from the BJA. SLED claimed this email showed that SLED is ineligible to apply for a SAKI grant. In the email, a SLED official asked whether SLED could utilize the SAKI grants to outsource ">3000" backlogged SAKs. The BJA official responded that, "if the kits are purely being stored at the lab without official testing requests then they would qualify for SAKI."

Notably, neither the SLED official nor the BJA official were discussing SLED's overall eligibility for a SAKI grant to support the sexual assault kit tracking system in this email. In fact, the BJA's official response suggests that SLED, as an entity, could be eligible for SAKI. Further, the BJA official closes the email with "We'd love to have SC join the SAKI network!" Again, this clearly implies that SLED, as an entity, would be eligible to apply for a SAKI grant.

It is unclear why SLED employees believe the agency is ineligible to apply for a SAKI grant when SAKI program descriptions from 2020 to 2024 have all stated that state law enforcement agencies are eligible to apply, and when several past grantees have been state law enforcement agencies. While the grant program would require comprehensive reform and likely claim significant staff time, it could substantially address the backlog of SAKs and prevent justice for sexual assault survivors from being further delayed.

Recommendation

1. If the Bureau of Justice Assistance makes funding for the Sexual Assault Kit Initiative available again, the S.C. State Law Enforcement Division should apply for the Bureau of Justice Assistance's Sexual Assault Kit Initiative grant.

Stakeholder Participation in Track-Kit System

Not all law enforcement agencies and medical facilities are enrolled in Track-Kit. We reviewed information available in Track-Kit as of July 1, 2024. All six forensic laboratories were enrolled; however, only 64% of law enforcement agencies and 50% of medical facilities were participating in the system at that time. Notably, of the law enforcement agencies, all sheriffs' departments were already enrolled in the system. The challenges presented by this lack of participation are further discussed in *Inventory of Untested Sexual Assault Kits Needed* in our report.

S.C. Code §23-3-1300(B) states:

All medical facilities, law enforcement agencies, forensic laboratories, or other persons or entities that collect evidence for, or receive, store, analyze, maintain, or preserve sexual assault kits, must participate in the statewide sexual assault kit tracking system...

SLED is the mandated operator of the tracking system under S.C. Code §23-3-1300. However, SLED has no oversight authority over the entities required to participate under the law. As written, the law does not provide penalties for entities not participating in the system as required.

We spoke with multiple SLED employees about ensuring all law enforcement agencies and medical facilities are enrolled statewide in compliance with the statute. One SLED official stated SLED sent letters and memos reminding stakeholders that participation has been mandated by legislation; it is not a SLED mandate. The employee emphasized that SLED is not the regulating body, but that SLED asked each regional SLED captain to help get all sheriffs to participate in the system. The employee also noted that if someone arrives with a SAK, and they are not enrolled in Track-Kit, SLED employees will assist the individual in enrolling before leaving.

Another SLED employee noted changes in the law would help with getting individuals required to participate enrolled in the system. The employee noted there are no repercussions for not enrolling. A SLED official also stated a public-facing dashboard could bring accountability. Our recommendations regarding a public-facing dashboard can be found in *Sexual Assault Kit Tracking Dashboard* in our report.

In our survey of other states (*Appendix A*), we asked how they enforced participation in the statewide SAK tracking system. Two states noted they made the names of stakeholder entities not participating in the system public, either through a public audit document outlining compliance or through a public report published online. A third state withholds grant funding for non-compliance.

Without participation from every law enforcement agency and medical facility, an accurate count of untested SAKs cannot occur, and reported processing times may not be reflective of actual processing times statewide. The quality of the data reported from Track-Kit will improve as more stakeholders enroll in the system.

Recommendations

2. The S.C. General Assembly should amend S.C. Code §23-3-1300 to include penalties for entities not participating in the system as required.
3. The S.C. General Assembly should amend S.C. Code §23-3-1300 to require that the S.C. State Law Enforcement Division publicize and publish online the names of entities not participating in the tracking system as required.
4. If state law is not amended as outlined above, the S.C. State Law Enforcement Division should publicize and publish online the names of entities not participating in the tracking system as required.

Selection of a Vendor

SLED chose an appropriate vendor for the statewide sexual assault kit tracking system. We evaluated this choice by reviewing procurement documentation, interviewing SLED officials, surveying other states, surveying users of the system, and reviewing the websites for sexual assault kit tracking systems. We found:

- SLED utilized the state procurement request for proposal (RFP) process to solicit vendors.
- The vendor selected, InVita Healthcare Technologies, was the highest scoring vendor after technical and demonstration evaluation.
- With 15 current clients as of April 2024, InVita Healthcare Technology's (InVita) Track-Kit Sexual Assault Kit (SAK) software had the most deployments of any SAK tracking software on the market.
- There are two free tracking systems on the market that SLED did not inquire about prior to selecting a vendor through the RFP process.
- There have been minimal issues experienced with the Track-Kit system since going live.

Procurement Process

S.C. Code §23-3-1300(A) allows SLED to contract with an entity for the creation, operation, and maintenance of a statewide SAK tracking system. SLED utilized the state procurement RFP process to solicit vendors.

The RFP was posted for bids on January 24, 2022 by the Materials Management Office (MMO). The RFP underwent two amendments to answer questions by potential bidders. The date of award was set for April 25, 2022; however, on that day, a notice was issued stating the award posting date was "extended until further notice." We asked MMO why the award posting date was extended and were told SLED probably needed more time to evaluate the vendors that responded to the RFP. The intent to award was posted on July 13, 2022, almost three months after the initial award date was scheduled.

Five vendors responded to the RFP, with prices ranging from just under \$133,000 to just over \$2.7 million. A panel of five evaluators was formed to score the vendors' responses. All five vendors were scored based on their technical solution and methodology and qualifications and experience. After technical scoring, two vendors were invited to provide a demo of their systems to SLED. The top two vendors were within \$5,000 in total price. After the technical and demonstration scores were calculated, InVita Healthcare Technologies (InVita) was the highest scored vendor by nearly 150 points. It was decided that InVita was most advantageous to the state and a five-year contract was awarded. Evaluating Track-Kit at the end of the contract period and documenting its effectiveness, in writing, would allow SLED to ensure it is continuing to meet the needs of the state.

Justification for scoring InVita as the highest rated vendor included:

- The product is specifically designed for the public safety/criminal justice market.
- The system required little configuration.
- The product had evolved from other client input in response to changes in SAK processing.
- Experience justifies the product is ready to be delivered with minimal development.

Track-Kit, InVita's Sexual Assault Kit Tracking System

According to InVita's website, its Track-Kit SAK software allows jurisdictions to track SAKs from collection to reporting, leading to improved transparency, accountability, and resolution for survivors. Track-Kit is a highly configurable, turnkey cloud system, that state IT departments can implement, roll out, and maintain easily and quickly. Track-Kit addresses the need by providing a secure, cloud-based tracking system that records every step of the collection process, from the medical facility when law enforcement picks the kit up to the laboratory for analysis. All stakeholders are notified when the kit requires attention, ensuring accountability is maintained. Survivors can also track the movement of their kits from collection to pick-up to processing at the laboratory, making Track-Kit a comprehensive approach to SAK reform.

InVita has more deployments than any other SAK tracking system on the market. InVita's system tracks one third of the total population of rape victims nationwide. As of April 2024, there were 15 current InVita clients, and an additional client in the specification writing phase.

Key features for selecting an effective SAK tracking system include ease of use, minimal onsite IT staff, and security anonymity. Track-Kit was designed so that stakeholders require very little intervention. Being a cloud-based system, there is little to no need for onsite IT staff. Security measures ensure any data collected is not linked to any individual and is kept confidential. There is no personally identifiable information or personal health information entered into nor stored in Track-Kit. Additionally, users in each portal are unable to view any information about kits which are not in their possession or jurisdiction.

Interviews with SLED Employees Involved in the Process

We interviewed SLED employees involved in the selection and implementation of InVita's Track-Kit system. In our interviews, SLED employees stated they would recommend InVita, InVita was amazing to work with, and they never felt a lack of confidence in the company and product.

One SLED official, who was involved in selecting the vendor, stated SLED wanted a vendor that would hold their hands through the process. According to InVita's website, "...partnering with InVita means receiving white glove service from the moment your program is initiated to the moment it deploys statewide, along with ongoing training and support to ensure your success."

Survey of Track-Kit Users in South Carolina

We surveyed South Carolina users of Track-Kit at the local labs, law enforcement agencies, medical facilities, and SANEs. In our surveys, we inquired about any issues experienced since Track-Kit went live. We had a total of 127 respondents to the surveys, which included 5 local labs, 88 law enforcement agencies, 22 medical facility staff, and 12 SANEs. While 127 users responded, only 57 reported using the system since going live. Of the 57 respondents using the system, only 7 reported experiencing issues with the system.

We also received comments about the system from four of the ten non-SLED task force members who responded to our interested party letters. Of those four comments, only one was an issue with the system, while the other three stated the system was easy to use, works as intended, and is straightforward. Overall, there have been minimal issues experienced, and it seems the system is not difficult for the users.

Survey of Other States Using InVita's Track-Kit

We sent a survey to 13 of the 15 current InVita clients in other states; 2 clients declined participation in our initial conversations with them, so they did not receive a survey. We received completed surveys from 9 of the 13 InVita clients. Our survey inquired about the reason for choosing InVita, how much customization was needed to the system, and if the system met the needs of their state. Table 2.2 summarizes the responses.

Table 2.2: Summary of Survey Responses, InVita States

SURVEY QUESTION	NUMBER OF INVITA CLIENTS	RESPONSE
Reason for Choosing InVita	3	Selected through procurement process
	3	Price and reputation, research
	2	Fit needs/criteria
	1	Time to go online, ease of use, survivor portal
Customization Needed	5	A little
	3	A moderate amount
	1	A lot
Met the Needs of State	8	Yes
	1	Still in customization phase

Source: LAC analysis of other state survey results.

Other SAK Tracking Systems

We also surveyed surrounding Southeastern states to determine what SAK tracking systems are utilized. Six respondents use a system other than Track-Kit. Of the six, two respondents use Forensic Advantage®, two respondents use Idaho's tracking system, one respondent uses SAMS-Track, and the final respondent created its own system.

Forensic Advantage

According to the website for Forensic Advantage, it seems that system is most similar to InVita, as it is a software solution created specifically for forensic laboratories. Forensic Advantage's price is based on the state's population and includes maintenance, upgrades, updates, and 24/7 technical support. Forensic Advantage did not respond to the RFP issued by SLED; therefore, it was not an option reviewed by SLED when selecting the vendor.

However, SLED did receive a demo of Forensic Advantage in September 2020, by the Vice President of the company, and again in December of 2020, by the Virginia Department of Forensic Services, prior to the RFP being posted in January 2022. The only documentation available for review from these demos included handwritten notes by SLED attendees of the demos. Without more substantive documentation of the demos of Forensic Advantage, it is impossible to tell if the Forensic Advantage system would have met SLED's needs.

Idaho's System

Idaho's Sexual Assault Tracking System was implemented statewide in Idaho in January 2017, the first state to implement a statewide SAK tracking system. According to a 2023 Idaho legislative report entitled *Sexual Assault Evidence Collection Kit Annual Report*, 6 states had adopted the system (including North Carolina), which Idaho was offering at no cost, and 29 states had inquired about the system. South Carolina was not included as a state that had inquired.

SAMS-Track

The Sexual Assault Management System, or SAMS, was developed in Portland, Oregon in 2018 but did not have an outward-facing survivor portal. The outward-facing portal, SAMS-Track, was launched in 2020. Both Idaho's system and SAMS-Track are free software systems available to interested local or state jurisdictions—therefore, neither program would respond to an RFP as they do not actively seek new clients. Even with the promise of “free” software systems, there are still costs associated with the systems, such as paying the travel expenses for live training, personnel costs, and equipment upgrades when required.

We asked a SLED official if the free systems were considered since funding was noted by SLED as a major hurdle in obtaining a tracking system. SLED responded that it was aware of the free systems but understood the systems were only “free to a certain degree.” The SLED official stated it was a collective decision of SLED officials to utilize the bid process to select a vendor.

Recommendation

5. The S.C. State Law Enforcement Division should evaluate Track-Kit, in writing, at the end of each contract period to determine if it is meeting the needs of the state.

Sexual Assault Kit Tracking Task Force

We reviewed the sexual assault kit tracking task force to determine its purpose, members, necessity and usefulness. We requested and reviewed all meeting documentation for the task force and its subcommittees, including dates, times, and locations of all past and upcoming meetings and minutes or notes from all past meetings. We found the task force:

- Only held two meetings, one in 2020 and one in 2022.
- Only held one meeting with each subcommittee.
- Has not been active since the planning stages.
- Was not imperative to the success of implementing the sexual assault kit tracking system.
- Members did not participate in the responsibilities as described in its stated purpose.

Overview of the Sexual Assault Kit Tracking Task Force

While S.C. Code §23-3-1300 does not require SLED to create a task force, a sexual assault kit tracking task force was created to aid in the development and implementation of the sexual assault kit tracking system. The task force consisted of 41 members, 19 of which are, or were, SLED employees. According to documentation reviewed, there were only two meetings of the task force. The first meeting was in September 2020 to kick-off the start of the task force. There were 31 task force members in attendance at the kick-off meeting. The second meeting was held in October 2022 to discuss how the vendor would roll out the pilot program. It is unclear how many task force members were in attendance for the second meeting, since no minutes were taken. In the documentation we reviewed, there was no evidence of any other task force meetings.

In addition to the task force, subcommittees were created to focus on specific stakeholder groups. The subcommittees' members represented local laboratories, law enforcement agencies, medical facilities/sexual assault nurse examiners (SANEs), information technology, and victims/victim advocates. Each of the subcommittees held one meeting. We reviewed the members of each task force to determine how many members are, or were, SLED employees as opposed to external stakeholders. Table 2.3 details the breakdown.

Table 2.3: Breakdown of Members on Each Task Force Subcommittee

SUBCOMMITTEE GROUP	MEMBERS	
	SLED EMPLOYEE	NON-SLED EMPLOYEE
Local Labs	3	5
Victims/Victim Advocates	3	6
Information Technology	5	2
Hospital/SANes	4	3
Law Enforcement Agencies	6	2

Source: LAC analysis of SLED documentation.

We asked a SLED official if the task force was still active and were told there has not been any activity by the task force after the completed roll-out in February 2024; however, documentation shows there has not been any activity by the task force since 2022. We were also told many members of the task force are no longer serving in their same positions.

Task Forces in Other States

We surveyed other states to determine whether they utilized a task force, or similar group, to address sexual assault kit processing or backlogs. Eleven of 15 states responded that a task force, or similar group, existed to address sexual assault kits. Of those, seven states responded the group still meets, as of May 1, 2024. The frequencies of the groups' meetings are:

2	Monthly meetings
2	Quarterly meetings
1	Bi-monthly meetings
1	Twice monthly meetings
1	Twice annually meetings

Seven of the responding states said its group (task force) did not slow implementation at all and two stated the group slowed implementation by a little. Only two states responded that the group slowed implementation by a lot. All 11 states responded that involving the group was beneficial or somewhat beneficial.

Members' Service on the Task Force

We contacted non-SLED members of the task force to determine the role they played on the task force and their ongoing involvement. We received responses from ten task force members. Only one respondent stated that there was constant communication with SLED, while the other respondents did not answer that they were involved in any part of implementation other than serving as a member of the task force. Another respondent stated that she was very involved, but SLED would not allow her to be involved in the actual implementation.

Two respondents commented on the necessity and helpfulness of their involvement on the task force. One respondent stated SLED under-utilized her ability to disseminate information to stakeholders in her area. Another respondent stated she felt that constant communication with SLED allowed her to disseminate information to local agencies. With most respondents having limited involvement, it seems the task force was not imperative to the success of implementing the sexual assault kit tracking system.

Purpose of the Task Force

We reviewed the proposal document for the purpose of the task force, which was created in February 2020, five months prior to the creation of the task force in July 2020. A SLED official also stated that the intent of the task force was to get input from stakeholders during the planning stages.

According to the proposal, the purpose of the task force was to address the following responsibilities:

- Document the location of all untested sexual assault kits in South Carolina.
- Provide legislative recommendations to ensure every kit is tested in a timely manner.
- Determine the benefits of outsourcing analyses.
- Develop statewide protocols.
- Explore funding options.
- Recommend a statewide tracking system for sexual assault kits.

From our review of meeting notes, the frequency of task force meetings, and information provided by task force members, the task force failed to accomplish what it was organized to do.

SLED's Communication with Stakeholders

SLED could have communicated better with stakeholders leading up to the Track-Kit system going live. SLED is the mandated operator of the tracking system under S.C. Code §23-3-1300. However, SLED has no oversight authority over the entities required to participate under the law, like local law enforcement agencies or medical facilities. As written, the law does not provide penalties for entities not participating in the system as required. We reviewed SLED's efforts to communicate system roll-out, training opportunities, and information to the required system users and stakeholder groups. We found:

- SLED relied primarily on email communication to disseminate information regarding the tracking system.
- Many emails sent to users were lost in spam folders or filtered out by security measures at the recipients' organizations.
- SLED has made minimal effort to ensure stakeholders are using the system.
- SLED only informed law enforcement agencies and medical facilities about tracking older kits during the roll-out webinars.
- SLED would not provide information sheets to users prior to the completed roll-out of all four regions.

We also found, however, that stakeholders who experienced issues with the system felt SLED generally responded timely and adequately.

Disseminating Information to Stakeholders

We asked SLED how information regarding system roll-out was disseminated to the stakeholders. Two SLED officials working directly with the Track-Kit system stated all communication was conducted via email. However, when we asked if any stakeholders had concerns, one of the SLED officials stated the concerns were mainly pertaining to emails getting blocked by security measures or lost in spam folders. The same SLED official stated many password set-up emails had to be reissued due to the amount of time between initially sending the email and notification from the user that no email was received.

To reach larger stakeholder groups, SLED utilized the Sheriffs' Association, Police Chiefs Association, and the South Carolina Hospital Association to send emails on SLED's behalf. To reach smaller stakeholder groups, such as prosecutors and laboratories, a SLED official sent emails to them directly. SLED took a reactive approach to communicating with stakeholders. Rather than directly contacting system users to ensure receipt, via phone calls or in-person visits, SLED waited for users to request assistance with accessing the system.

We asked SLED if any efforts had been made to ensure stakeholders are using the system, as required by state law. A SLED official stated “I’m pretty sure” there is a way, in Track-Kit, to monitor who is using the system.

We received a “walkthrough” of the system and were shown on each user portal, and in the policy center used by SLED, the feature allowing administrators to review user activity. Another SLED official stated the system allows for user activity review, so if SLED reviews the activity reports and sees that medical facilities have not been logging in, emails are sent to the medical facility to remind them to log in. As mentioned, just using email is not a reliable mode of communication.

When asked how stakeholders were informed of the requirement to track older kits, a SLED official told us that information was disseminated in the law enforcement and medical facility webinars. The official stated “it is on you [the stakeholder] to reach out to us [SLED]” to obtain the barcodes for the older kits. Without comprehensive information on the procedures for tracking older kits, law enforcement agencies and medical facilities may have kits on site that are not being tracked in the system.

Timing and Adequacy of Training Opportunities for Stakeholders

Timing

Two training opportunities were provided to stakeholders in each of the four regions in the week prior to the system going live in their region. The training opportunities were webinars hosted by the system vendor, InVita Healthcare Technologies (InVita). SLED provided recordings of the webinars for our review. The webinars contained information such as entering collection details of a new kit at a medical facility, accepting the kit from the medical facility to the law enforcement agency, submitting the kit to the lab, returning the kit to the law enforcement agency, and entering case review/closure details. Additionally, converting a kit from anonymous to non-anonymous was covered in the medical facility and law enforcement agency webinars. The webinars were 20–30 minutes and provided general information relevant to each stakeholder group.

We asked SLED if any users had reached out about missing training opportunities or requested more training. SLED officials stated there were “some” individuals who contacted them. One official stated that fewer than 20 individuals reached out for more training. Each of these SLED officials stated that the other was more involved in communication with stakeholders and would know more about people reaching out for additional training.

One SLED official stated if an individual reached out about missing his or her region's training, upcoming training for other regions was offered as a make-up option. If roll-out was complete, and all trainings had been missed, the webinars were recorded and made available in the help center on their user portal. In addition to the recorded webinars, each portal's help center contains frequently asked questions, user guides, and general user videos relevant to that portal. Officials stated the contract with InVita includes refresher trainings each year.

Adequacy

We surveyed system users from the local labs, law enforcement agencies, medical facilities, and SANEs to determine if adequate training was provided. Some users responded that adequate training was not provided prior to roll-out; however, most respondents felt the training was adequate.

We interviewed a stakeholder who expressed concerns about SLED's implementation of the system. We also reviewed email communications from February 2024 between stakeholders and SLED. In the interview and the email communications, we found that SLED would not provide information sheets on how to use the system. This stakeholder stated it seemed SLED was gate-keeping information that could help users. In the interview and email communication, it was stated that SLED would make the information sheets available in the help center of each portal after all regions had been rolled-out. Any user who may have missed training, or wanted a quick refresher, was unable to do so until after all regions had been rolled out. Additionally, if a medical facility user had not received training, but was providing care to a patient who needed to have a kit collected, there was no flowsheet available for immediate review.

In our survey of system users, we also inquired whether any issues had been experienced, and, if so, whether SLED responded timely and adequately if those issues were expressed to SLED. Respondents who expressed their concerns to SLED said SLED generally responded timely and adequately.

Recommendations

6. The S.C. State Law Enforcement Division should utilize other methods of communication, such as phone calls or in-person visits, rather than solely relying on email to disseminate information to stakeholders.
7. The S.C. State Law Enforcement Division should utilize the user activity review function in Track-Kit to determine which users are not accessing the system and contact those users to ensure there are no issues.
8. The S.C. State Law Enforcement Division should disseminate comprehensive information regarding the procedures for tracking older kits to all law enforcement agencies and medical facilities to ensure all kits are tracked in the system.

Outsourcing of Sexual Assault Kits

SLED's contract to outsource the testing of sexual assault kits (SAKs) does not comply with S.C. Code §23-3-1300. We reviewed the solicitation, its amendments and award documentation, and spoke with SLED employees. We found that SLED has not required the vendor to participate in the Track-Kit sexual assault kit tracking system.

S.C. Code §23-3-1300(B) states:

All medical facilities, law enforcement agencies, forensic laboratories, or other persons or entities that collect evidence for, or receive, store, *analyze* [emphasis added], maintain, or preserve sexual assault kits, must participate in the statewide sexual assault kit tracking system for the purpose of tracking the location and status of all sexual assault kits in their custody...

Under this statute, any entity analyzing SAKs must participate in the tracking system. A solicitation was issued on April 29, 2024 stating that SLED was seeking bids for the outsourced analysis of DNA sexual assault cases. The solicitation and its amendments did require maintenance of chain of custody documentation; however, neither the solicitation nor its amendments discussed Track-Kit or required the vendor to utilize Track-Kit. On June 27, 2024, Bode Cellmark Forensics, Inc. was awarded the contract.

When asked directly, a SLED employee confirmed the outsourcing vendor would not be required to use Track-Kit, survivors will not be notified that their SAKs or samples have been outsourced, and the survivor portal timeline will not show that the SAK has been outsourced. When asked why, the employee stated that the survivor timeline will show that a SAK was submitted to a laboratory and that the next update will be when processing is completed.

In addition to not complying with S.C. Code §23-3-1300(B) by not requiring the outsourcing vendor to participate, failing to notify survivors that their SAKs have been outsourced decreases transparency, negating the purpose of the tracking system. Further, outsourcing of a SAK may result in a longer processing time because of the need to transport kits to the outsourcing lab, of which a survivor should be notified.

Recommendations

9. The S.C. State Law Enforcement Division should immediately require that any vendor used to outsource DNA analysis of sexual assault kits to enroll in the sexual assault kit tracking system, in accordance with S.C. Code §23-3-1300(B).
10. The S.C. State Law Enforcement Division should immediately require that any vendor used to outsource DNA analysis of sexual assault kits to track the sexual assault kits it processes on behalf of the S.C. State Law Enforcement Division Forensics Laboratory in the tracking system, in accordance with S.C. Code §23-3-1300(B).

Improvements Needed to Administration of Sexual Assault Kit Tracking System

Inventory of Untested Sexual Assault Kits Needed

SLED cannot currently provide an accurate count of untested sexual assault kits (SAKs) statewide because it cannot confirm that all SAKs in South Carolina are tracked in Track-Kit. We reviewed a 2018 statewide survey of untested SAKs sent by SLED to law enforcement agencies, data in Track-Kit, training webinar videos issued by SLED regarding the tracking system, emails regarding implementation of the system, and interviewed SLED employees. We found:

- SLED cannot verify the number of untested SAKs statewide. For example, as of July 1, 2024, Track-Kit recorded 763 total kits in the system. However, as of October 2023, 1,987 kits pending testing were identified at SLED’s laboratory, alone.
- Little effort has been made by SLED to ensure that legacy kits predating implementation of the system are included in Track-Kit, making statewide data on untested kits in Track-Kit incomplete.
- Statewide data on untested kits in Track-Kit is also incomplete because, as of July 1, 2024, only 64% of law enforcement agencies and 50% of medical facilities had enrolled in the system.
- SLED conducted a statewide survey in 2018 that identified 1,853 untested kits at 114 law enforcement agencies; however, this number could not have been accurate for the entire state at that time as the survey responses represented only 39% of South Carolina law enforcement agencies.
- The 2018 survey data is also incomplete because SLED did not request responses from all entities that may house sexual assault kits, like medical facilities.
- By failing to directly contact unresponsive entities, SLED did not follow best practices to ensure answers to the 2018 survey were received.
- SLED does not plan to conduct another statewide survey of untested SAKs.

SLED's inaction to ensure all SAKs are accounted for statewide goes against the purpose of S.C. Code §23-3-1300, which states SLED is responsible for creating and operating the tracking system meant to contain the location and status of *all* sexual assault kits. The intent of the law is further demonstrated by the text of Act 134 of 2020, in which the General Assembly stated that all sexual assault kits in South Carolina should be tracked in the system, regardless of when they were collected.

Conducting a new inventory of all untested SAKs in the state could confirm the extent of the backlog of SAKs in South Carolina and guarantee every kit is added to Track-Kit. By doing so, SLED will not only be following the law, but also a nationally recognized best practice. With an accurate count of the number of SAKs awaiting testing, SLED can ensure all sexual assault evidence is accounted for, establish a benchmark against which the success of its efforts can be measured, and demonstrate to survivors that their cases are being taken seriously. The backlog cannot be eliminated without first identifying its full extent.

Tracking System Data Incomplete

SLED cannot currently confirm that all SAKs in South Carolina have been entered into Track-Kit. We reviewed data in Track-Kit, training webinar videos issued by SLED regarding the tracking system, emails regarding implementation of the system, and interviewed SLED employees. We found little effort has been made to ensure SAKs collected before implementation of the system, called legacy kits, are entered into Track-Kit.

We also found that statewide data on untested SAKs in Track-Kit cannot be accurate because not all law enforcement agencies or medical facilities were enrolled as of July 1, 2024. This is further demonstrated by the fact that, as of July 1, 2024, only 763 kits were recorded in Track-Kit. According to SLED's response to a FOIA request by a news agency, in October 2023, the number of untested kits was 1,987 at SLED's laboratory, alone. It is unlikely the number of untested kits decreased that significantly from October 2023 to July 2024. Without assurance that all legacy kits are included in the system, and without all required stakeholders enrolled in the system, the data on untested kits from Track-Kit cannot be considered an accurate representation of untested kits statewide.

Legacy Kit Requirement Not Communicated

SLED's communications with stakeholders were unclear regarding the requirement for legacy kits to be entered into the system. When we asked a SLED employee how law enforcement agencies or medical facilities were notified that they need to enter legacy kits into Track-Kit, and to provide any written documentation available, the employee stated it was communicated during webinars with stakeholders. Another employee independently stated the requirement was communicated during the webinars when asked.

We reviewed the webinar recordings and found that SLED told law enforcement agencies that SAKs collected before December 11, 2023 are considered legacy kits. SLED also stated during the webinar that SAKs already in progress at the laboratory would have barcodes added for the tracking system. However, at no point in the webinar was there communication that all legacy kits must be tracked in the system or that agencies must enter all legacy kits they may be storing into Track-Kit.

Further, while we did find communications within SLED instructing its own crime laboratory to enter legacy kits into the system, we found no other documentation of communication from SLED to stakeholders regarding the requirement that legacy kits be entered into Track-Kit. We asked a SLED employee whether SLED has done any follow up to make sure there are no older kits that are not being tracked. The employee stated SLED has never followed up and that SLED does not know what is out there, so there may be kits not enrolled in the system. Another employee, when asked the same question, stated it was the responsibility of the local agencies to reach out to SLED to get the legacy kits enrolled.

A lack of clear communication with stakeholders regarding the requirement that legacy kits be entered into Track-Kit may prevent stakeholders from ensuring all stored SAKs are in the system. This results in incomplete data in the tracking system regarding the number of untested kits in South Carolina.

Incomplete Stakeholder Enrollment in Track-Kit

Statewide data on untested kits in Track-Kit is also incomplete because not all law enforcement agencies and medical facilities are enrolled in the system. We reviewed user enrollment data in Track-Kit and found that only 64% of law enforcement agencies and 50% of medical facilities had enrolled as of July 1, 2024.

S.C. Code §23-3-1300(B) requires all entities that collect, receive, store, analyze, maintain, or preserve SAKs to participate in the tracking system. This mandate has not been met, as can be seen by the enrollment rates for law enforcement agencies and medical facilities. The need for an accurate count of untested SAKs underscores the importance of total participation by stakeholders as mandated by state law. The challenges associated with enforcing participation are discussed in *Stakeholder Participation in Track-Kit System* in our report.

If stakeholders do not participate in the system, then kits currently stored at those stakeholders' facilities are not included in the system's data. This results in incomplete data in the tracking system regarding the number of untested SAKs statewide.

SLED's 2018 Survey

SLED's 2018 statewide survey of untested SAKs did not provide an accurate number of untested SAKs statewide. We reviewed the methodology and results of the 2018 statewide survey. The survey identified 1,853 untested kits from 114 (39%) law enforcement agencies responding. It is unclear how many additional untested kits were stored at the 182 (61%) agencies that did not respond. Further, other entities that may house SAKs, like medical facilities, were not included in the survey.

SLED distributed the 2018 survey to all sheriffs' offices and police departments in South Carolina through the S.C. Sheriffs' Association and the S.C. Police Chiefs Association. SLED did not visit local agencies to get responses or count the number of untested kits. When asked what measures were taken to follow up with agencies that did not respond to the survey, a SLED employee stated the SLED Chief addressed the survey during conferences and business meetings in 2018 and 2019. This response does not indicate that efforts were made to target the specific agencies that did not respond through direct phone calls, emails, or other communications.

By not including all entities that may be storing sexual assault kits and by failing to follow up with agencies that did not respond, SLED did not conduct a thorough survey of untested SAKs in the state. Therefore, the results of the 2018 survey cannot be used as a definite count of SAKs awaiting testing at that time.

National Best Practices

A comprehensive inventory of all SAKs and an annual audit of sexual assault kits are recommended best practices by the National Institute of Justice, the Joyful Heart Foundation's End the Backlog Initiative (End the Backlog), and the Bureau of Justice Assistance's National Sexual Assault Kit Initiative (SAKI). The SAKI notes an inventory that relies only on a survey-based approach is not sufficient.

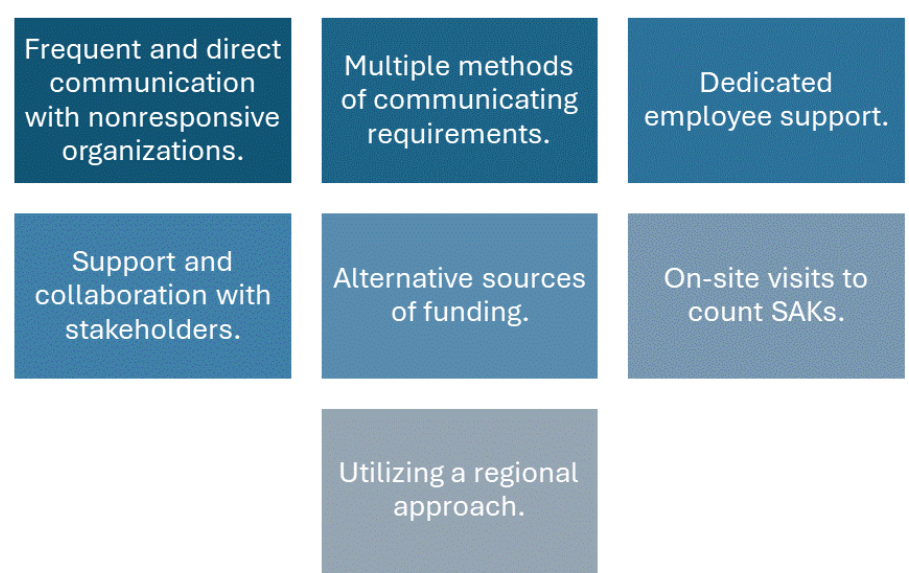
The SAKI states an electronic system, like South Carolina's tracking system, can be used to conduct the inventory, but if that database is not available, then a manual count will need to take place. S.C. Code §23-3-1300 aligns with this best practice by requiring semiannual reporting of the number of SAKs in the tracking system, including the number of SAKs where forensic analysis has been requested but not yet completed.

As South Carolina's tracking system data is incomplete, a manual count of untested SAKs is still needed to ensure accuracy. Conducting a one-time inventory of all untested SAKs in the state could confirm the extent of the backlog of SAKs in South Carolina and guarantee every kit is entered into Track-Kit. With assurance that all SAKs have been entered into Track-Kit, the semiannual reports can then be relied upon to provide an accurate picture of SAK processing statewide.

Examples from Other States

We reviewed inventories conducted by 25 other states and the City of Detroit and found successful inventories shared the characteristics identified in Figure 3.1. For this report, we consider a successful inventory to be one with a 90% response rate or one that was part of a jurisdiction's efforts where the backlog of untested SAKs has significantly decreased or been eliminated. For reference, SLED's 2018 statewide survey of untested SAKs had a response rate of 39%.

Figure 3.1: Characteristics of Successful Sexual Assault Kit Inventories



Source: LAC analysis.

North Carolina

In 2017, North Carolina conducted an inventory with 517 (92%) law enforcement agencies in the state responding. North Carolina declared its backlog of 11,858 untested SAKs to be eliminated in April 2024. To do so, the N.C. State Crime Laboratory employed contract employees to go to law enforcement agencies. Some law enforcement agencies in North Carolina reported their own numbers. Agencies that did not initially report were visited by the N.C. State Crime Laboratory’s contract employees, who sat side-by-side with them to type in data.

Kentucky

Kentucky conducted a survey that ultimately had a 100% response rate. In 2015, the Kentucky General Assembly passed a resolution requiring a count of untested SAKs statewide. A team of auditors and interns followed up with nonresponsive organizations through emails and calls to ensure every organization responded. Kentucky also conducted on-site visits to verify untested SAKs after it was discovered that a question on the survey may have been misunderstood by some respondents. This demonstrates the need to ensure that all terms are clearly defined in a survey.

Virginia

Virginia conducted a survey that ultimately had a 99% response rate, with only two agencies failing to respond. Virginia mandated all local and state law enforcement agencies conduct an inventory of their physical evidence recovery kits (PERKs), which are sexual assault kits, in 2014. Virginia employed the following strategies:

- Hosted a PERK inventory stakeholder meeting where stakeholders were presented with a draft inventory form and timeline and were able to give feedback before both were finalized.
- Published information about the PERK inventory on the Department of Forensic Science's website, including frequently asked questions, instructions, and a link to download the inventory form.
- Utilized the Virginia Sheriffs' Association and the Virginia Association of Chiefs of Police to notify law enforcement agencies of the availability of information, presented at conferences, and sent reminders about deadlines.
- Followed up after the deadline with the agencies that did not respond, including sending follow-up reminders through the Virginia Sheriffs' Association and the Virginia Association of Chiefs of Police. Individual heads of agencies were contacted directly once the number of non-responsive agencies decreased to fewer than 100, and staff made phone calls to agencies to encourage submission.

Wisconsin

Wisconsin completed a statewide inventory of untested SAKs with 100% participation in 2017. Wisconsin utilized grant funding from the federal Bureau of Justice Assistance's National Sexual Assault Kit Initiative (SAKI) to create a multidisciplinary team to inventory and track sexual assault kits. The state was divided into regions to conduct the inventory, which made the inventory more manageable. Two special agents were also hired to systematically contact the agencies that had not yet completed inventories. These agents also followed up with agencies where their inventory responses were incomplete or had data quality questions.

Applicability to South Carolina

We asked a SLED employee involved with the tracking system whether SLED anticipates conducting another statewide survey of untested SAKs. The employee responded there have not been any discussions of conducting another survey and there would be reluctance to do it again. The employee stated employee turnover and the time and effort involved in compiling the data would be significant barriers to the survey.

However, conducting a new inventory following national best practices and the examples of other states would confirm the extent of the backlog of SAKs in South Carolina and guarantee every kit is entered into Track-Kit in compliance with S.C. Code §23-3-1300. While SLED utilized multiple methods of communication through its contacts with the S.C. Sheriffs' Association and the S.C. Police Chiefs Association in its 2018 survey, greater effort to directly contact nonresponsive organizations should be taken to ensure a higher response rate is achieved.

Utilizing dedicated employee support, collaboration with stakeholders, alternative sources of funding, on-site visits to count SAKs, and a regional approach could result in a more successful and accurate inventory of untested SAKs statewide. With verification that every SAK is entered into the tracking system, the semiannual reports provided by SLED can then be relied upon to show the true status of SAK processing in South Carolina. This will provide greater transparency to survivors and increase public trust.

Recommendations

11. The S.C. State Law Enforcement Division should comply with the provisions of S.C. Code §23-3-1300 and Act 134 of 2020, which state the S.C. State Law Enforcement Division is responsible for operating a statewide sexual assault tracking system in which all sexual assault kits are tracked, regardless of when they were collected.
12. The S.C. State Law Enforcement Division should clearly communicate, in writing, to law enforcement agencies, medical facilities, and all other entities that may be in possession of sexual assault kits, that all sexual assault kits, including those collected prior to implementation of the tracking system, must be enrolled in the tracking system.
13. The S.C. General Assembly should amend state law to mandate completion of a one-time statewide inventory of untested sexual assault kits to ensure all sexual assault kits are entered into the tracking system in accordance with S.C. Code §23-3-1300.
14. The S.C. State Law Enforcement Division should conduct a one-time inventory of all entities that may be in possession of sexual assault kits, including law enforcement agencies and medical facilities, to determine the number of untested sexual assault kits statewide and to ensure all sexual assault kits are included in the tracking system in accordance with S.C. Code §23-3-1300.

15. The S.C. State Law Enforcement Division should work directly with entities that do not respond to the inventory to ensure a response is received.
16. The S.C. State Law Enforcement Division should conduct site visits to entities participating in the inventory to verify the number of untested sexual assault kits reported is accurate and all sexual assault kits are entered into the tracking system in accordance with S.C. Code §23-3-1300.

Additions to State Law and SLED Policy Needed

Significant additions to state law and SLED’s policies are needed to address the handling of sexual assault kits (SAKs) in South Carolina and to make the system more efficient. We reviewed state law, SLED crime statistics, Track-Kit data, other states’ requirements, national best practices, and interviewed SLED employees. We found:

- There are no required time frames for SAK processing in South Carolina law or SLED policy.
- South Carolina is not in alignment with national best practices and is one of only six states without a required time frame for *any* stage of SAK processing.
- SAK processing times are considerably longer, on average, in South Carolina than the time frames required by the majority of other states, the National Institute of Justice’s National Best Practices for Sexual Assault Kits, and the Joyful Heart Foundation’s End the Backlog Initiative recommendations.
- Anonymous SAKs in South Carolina may be destroyed after one year of storage, despite there being no statute of limitations for sexual assault offenses (except those involving a spouse).
- South Carolina is not in alignment with national best practices or the requirements of the majority of other states regarding storage times for anonymous SAKs.
- From 2002 through 2022 (the last year data was available), arrests for sexual assault were significantly lower in number compared to the number of sexual assault offenses reported.
- Children and teenagers are disproportionately affected by sexual assault in South Carolina, with 52% of victims from 2002 through 2022 under the age of 18—a total of 27,758 children and teenagers.

South Carolina sexual assault statistics and Track-Kit data show that the current system of investigating sexual assault offenses is inefficient. In the absence of mandated processing and storage times, justice is being delayed or denied for victims, many of whom are under the age of 18. Further compounding the issue is the lack of participation by all law enforcement agencies and medical facilities in the tracking system.

While changes are needed to state law, SLED, as mandated operator of the sexual assault kit tracking system under S.C. Code §23-3-1300(A), could, at a minimum, develop policies addressing the changes needed. Without action, it is likely the backlog of SAKs in the state will continue to grow.

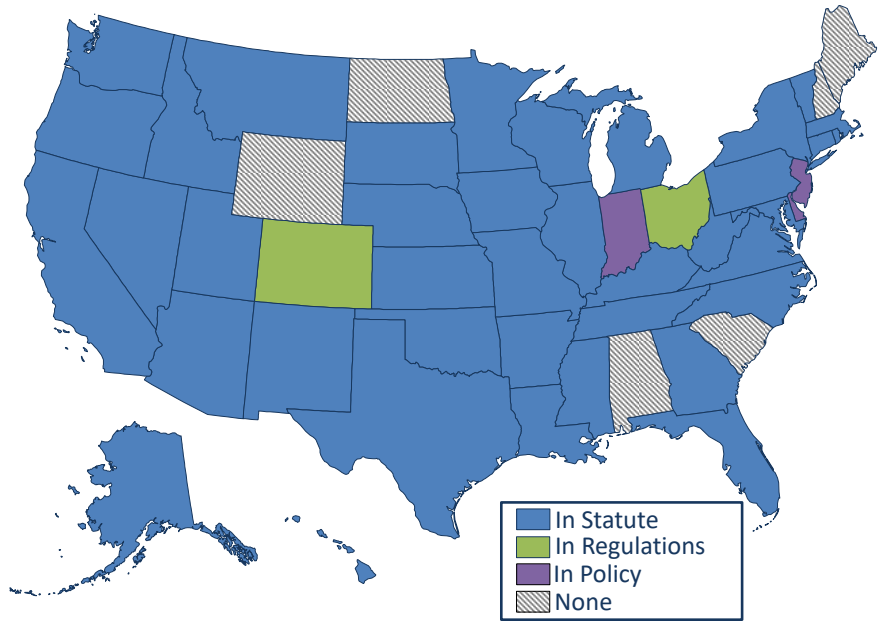
Sexual Assault Kit Processing Times

There are no required time frames for processing SAKs in South Carolina law or SLED policy. We reviewed national best practices, the laws and policies of all other states, South Carolina state law, SLED manuals, and Track-Kit reports as of July 1, 2024. We found that South Carolina is not in alignment with recognized best practices and is one of only six states without a required time frame for any stage of SAK processing. According to Track-Kit reporting data, processing times for SAKs in South Carolina are considerably slower than what is recommended or required nationwide.

National Best Practices

The National Institute of Justice's (NIJ's) National Best Practices for Sexual Assault Kits and the Joyful Heart Foundation's End the Backlog Initiative (End the Backlog) both recommend that states establish time frames (also referred to as turnaround times) for SAK processing. Additionally, 44 states have required time frames in state statutes, regulations, or policies for at least one stage of SAK processing.

Figure 3.2: States with Statutes, Regulations, or Policies Requiring Time Frames for Any Stage of SAK Processing



Source: LAC analysis of other states' statutes, regulations, and policies.

As demonstrated in Figure 3.2, South Carolina is one of just six states without a statute, regulation, or policy requiring specific time frames for *any* stage of SAK processing. Nationwide, the majority of states with a statute, regulation, or policy require one or more of the following:

- Notification of a law enforcement agency that a SAK has been collected within 24 hours or less.
- Pickup or possession of the SAK by a law enforcement agency within five days or less.
- Delivery of the SAK to a forensic laboratory within 30 days or less.
- Analysis of the SAK to be completed within 90 days or less.

Both the NIJ and End the Backlog state notification of a law enforcement agency should occur within 24 hours, pick up of a SAK from a medical facility should occur within 3 business days, and submission to a laboratory should occur within 7 business days. Additionally, End the Backlog recommends that analysis of a SAK be completed within 30 days of receipt at the laboratory.

When asked whether a mandated time frame would be helpful, a SLED official stated it would be good for South Carolina, but that resources would need to be provided to assist with the time frame before establishing a deadline. The official also stated there is no hard deadline for agencies to accept evidence in Track-Kit, and there is no certain number of days by which a medical facility must log in a kit. The official noted that each hospital sets its own policy, but the sooner, the better.

Statewide SAK Processing Times as of July 1, 2024

We reviewed information available in Track-Kit as of July 1, 2024. As of that date, 763 SAKs were registered in the Track-Kit system. Since only 64% of law enforcement agencies and 50% of medical facilities were participating in the system at that time, this number is likely lower than the actual number of untested SAKs statewide. This issue is further discussed in *Inventory of Untested Sexual Assault Kits Needed* in our report.

A comparison of South Carolina average and maximum processing times with other states' standards, the NIJ's best practices, and the recommendations of End the Backlog can be found in Table 3.3. Note that South Carolina's average and maximum length of time a SAK has been waiting for pickup by a law enforcement agency (LEA) from a medical facility represents SAKs that were still waiting for pickup at medical facilities as of July 1, 2024.

Table 3.3: Time Frame Comparisons between South Carolina Averages and Maximums as of July 1, 2024, Other States' Requirements, NIJ's Best Practices, and End the Backlog Recommendations

SAK PROCESSING STAGE	SOUTH CAROLINA		MAJORITY OF OTHER STATES' REQUIREMENTS	NIJ'S BEST PRACTICES	END THE BACKLOG RECOMMENDATIONS
	AVERAGE NUMBER OF DAYS	MAXIMUM NUMBER OF DAYS			
Length of time waiting for pickup by an LEA from a medical facility	49 days	198 days	Within 5 days or less	As soon as possible but ideally no later than 3 business days	Within 3 business days of notification
Length of time from pick up by LEA from a medical facility to delivery to a forensic laboratory	32 days	1,340 days	Within 30 days or less	As soon as possible but ideally no later than 7 business days	Within 7 days of pick up from the medical facility
Length of time from receipt at a laboratory to completed forensic analysis	457 days	2,087 days	Within 90 days or less	---	Within 30 days of receipt at laboratory

NOTE: LEA stands for law enforcement agency.

* The NIJ's National Best Practices for Sexual Assault Kits does not have a recommended time frame for analysis at the laboratory.

Source: LAC analysis of Track-Kit data, other states' statutes, regulations, and policies, NIJ's National Best Practices for Sexual Assault Kits, and End the Backlog recommendations.

As of July 1, 2024, only 110 (14%) of 763 kits in Track-Kit had completed forensic analysis. This forensic analysis took an average of 457 days, as demonstrated in Table 3.3, with the longest a laboratory in the state took to process a SAK being 2,087 days. According to Track-Kit, SLED's forensics laboratory took an average of 550 days to complete forensic analysis for a SAK—longer than the statewide average of 457 days.

There were 174 SAKs in the system identified as unprocessed SAKs in possession of a law enforcement agency at that time. Of those kits, the average number of days those SAKs had been in law enforcement possession without forensic analysis being completed was 268 days. This figure does not include the 6% of unprocessed SAKs where the law enforcement agency elected to skip laboratory processing.

Overall, the data demonstrates that required time frames for SAK processing are needed in South Carolina. Without time frames required by statute, regulation, or policy, there is no standard against which medical facilities, law enforcement agencies, and laboratories can be held. This, in turn, can increase the backlog of SAKs waiting for testing, and delay justice for survivors of sexual assault.

Definitions Not Provided

In Track-Kit, law enforcement agencies are required to state the reason a SAK was not submitted to a laboratory when the law enforcement agency chooses to skip lab processing. As of July 1, 2024, Track-Kit reported that SAKs had not been submitted for laboratory processing for the following reasons:

- The case was administratively closed by the law enforcement agency.
- The crime was unfounded/no crime was committed.
- There was a lack of probable cause.
- There was a lack of victim cooperation.
- The SAK is for storage only.
- The case was unfounded/no crime was committed.
- The victim did not wish to press charges.
- The victim recanted.

We asked SLED employees to define “administratively closed” and were told the term was specific to whichever agency was using it, and it could be that at the time there was insufficient evidence. We also asked whether there was a guide with definitions for terminology used in the system, like “administratively closed.” We were told there is none. Without a definition for terms like “administratively closed” or “for storage only,” the reason for requiring why laboratory processing is being skipped is effectively negated, as there is no explanation truly provided.

Sexual Assault Kit Storage Protocols

Anonymous SAKs may be destroyed after one year in South Carolina, despite there being no statute of limitations for sexual assault related charges (except those involving a spouse). We reviewed the South Carolina Sexual Assault Protocol distributed by the S.C. Office of the Attorney General, the requirements of other states, and national best practices. We found that this one-year time frame is shorter than the requirements set by 37 other states, the time frame recommended by the NIJ as a best practice, and standards set by the federal Sexual Assault Survivors’ Rights Act.

Anonymous SAKs may be collected when an adult victim declines law enforcement involvement. The SAK is then held in case the victim chooses to report the assault to law enforcement. The S.C. Office of the Attorney General’s Sexual Assault Protocol, 2nd edition, states:

Sexual Assault Evidence Collection Kits where the identity of the victim is unknown must be kept secure and chain of custody must be preserved for a period of one (1) year (365 days) from the date of collection.

If the victim does not elect to initiate a law enforcement investigation within 11 months, a victim advocate will notify the victim of the expiration of the storage period. These requirements are not codified in state law. Except for instances where the victim is a spouse (and a report must be made in 30 days), no criminal statute of limitations exists in South Carolina for sexual assault.

National best practices for storage of anonymous SAKs are outlined in Table 3.4. The federal Sexual Assault Survivors’ Rights Act, the NIJ’s National Best Practices for Sexual Assault Kits, and End the Backlog’s recommendations all identify 20 years or the length of the statute of limitations as the ideal length of time for storage of an anonymous (also referred to as unreported) SAK.

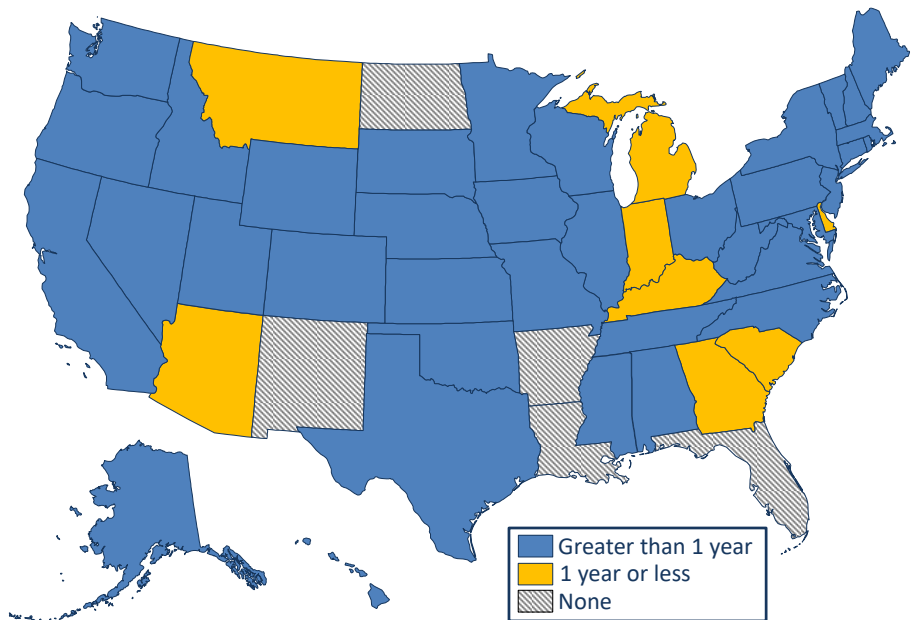
Table 3.4: Best Practices for Anonymous SAK Storage

SOUTH CAROLINA'S SEXUAL ASSAULT PROTOCOL	FEDERAL SEXUAL ASSAULT SURVIVORS' RIGHTS ACT	NIJ'S NATIONAL BEST PRACTICES FOR SEXUAL ASSAULT KITS	END THE BACKLOG RECOMMENDATIONS
SAKs where the identity of the victim is unknown must be kept secure and chain of custody must be preserved for a period of 1 year from the date of collection.	SAKs should be preserved without charge for the maximum applicable statute of limitations or 20 years , whichever is shorter.	Unreported (anonymous) SAKs should be retained for at least the statute of limitations or a maximum of 20 years .	Anonymous SAKs should be retained and stored for 20 years or the length of the statute of limitations , whichever is longer.

Source: LAC analysis using the noted information.

Nationwide, there are 37 states with statutes, regulations, or policies requiring retention times for anonymous or unreported SAKs that are longer than South Carolina's. This is demonstrated in Figure 3.5.

Figure 3.5: Required Retention Times in State Statutes, Regulations, or Policies



Source: LAC analysis of other states' statutes, regulations, and policies.

Storage of SAKs Associated with a Reported Crime

S.C. Code §17-28-320 mandates that all physical evidence and biological material related to the conviction or adjudication of a person for spousal sexual battery; criminal sexual conduct in the first, second, and third degrees; criminal sexual conduct with a minor; and sexual misconduct with an inmate, patient, or offender must be preserved until the person is released from incarceration, dies while incarcerated, or is executed for the offense. If the person is convicted or adjudicated on a guilty or nolo contendere plea, the physical evidence and biological material must be preserved for seven years from the date of sentencing, or until the person is released from incarceration, dies while incarcerated, or is executed for the offense, whichever comes first.

S.C. Code §17-28-320 would not apply to anonymous SAKs as they are unreported and therefore neither investigated nor part of any charges that would result in conviction or adjudication. However, this law would apply to sexual assault evidence in cases that have resulted in the conviction or adjudication of an individual. Despite this, the statute is not specific to SAKs and does not address the storage of SAKs in situations where investigations have not yet occurred or SAKs that have been affected by the backlog of evidence awaiting processing.

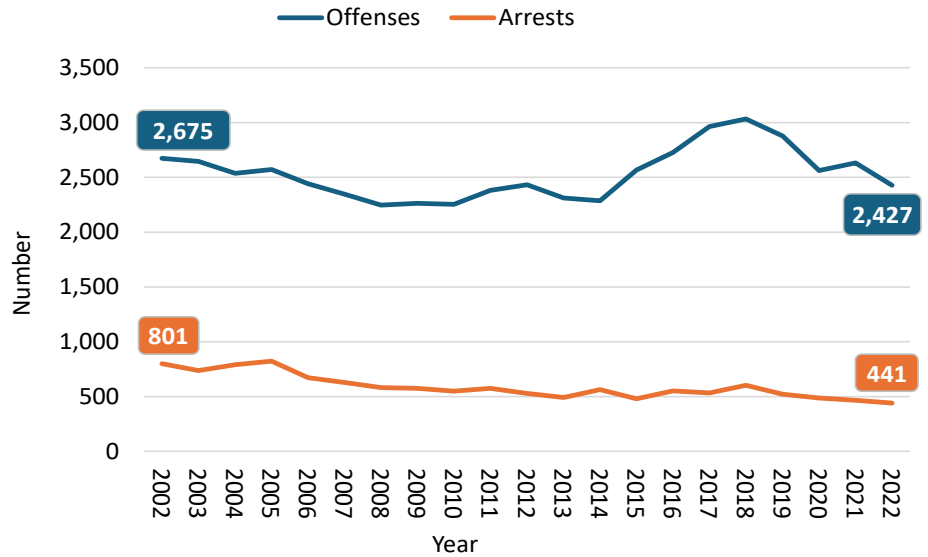
Like with anonymous SAKs, the federal Sexual Assault Survivors' Rights Act grants victims the right to have their SAKs preserved, without charge, for the maximum applicable statute of limitations or 20 years, whichever is shorter. The NIJ's National Best Practices for Sexual Assault Kits recommends that evidence from uncharged or unsolved reported cases be preserved for 50 years or the length of the statute of limitations, whichever is greater. End the Backlog also recommends that SAKs associated with a reported crime that is uncharged or unsolved are retained and stored for 50 years or the length of the statute of limitations, whichever is longer. As stated earlier, no criminal statute of limitations exists in South Carolina for sexual assault, except for instances where the victim is a legal spouse of the offender (and a report must be made in 30 days).

Sexual Assault Statistics as of 2022

We reviewed statewide data available through SLED's public crime statistics website. We found that arrests for sexual assault offenses are significantly lower than the number of sexual offenses reported by SLED for the 20 years from 2002 through 2022. The rate of arrests has also decreased, from 801 arrests (representing 30% of the offenses reported) in 2002 to 441 arrests (representing 18% of the offenses reported) in 2022. As of July 31, 2024, 2022 was the last year for which data was available on SLED's website.

Children and teenagers are disproportionately affected by sexual assault in South Carolina. From 2002 through 2022, 52% of victims were under the age of 18—a total of 27,758 children and teenagers.

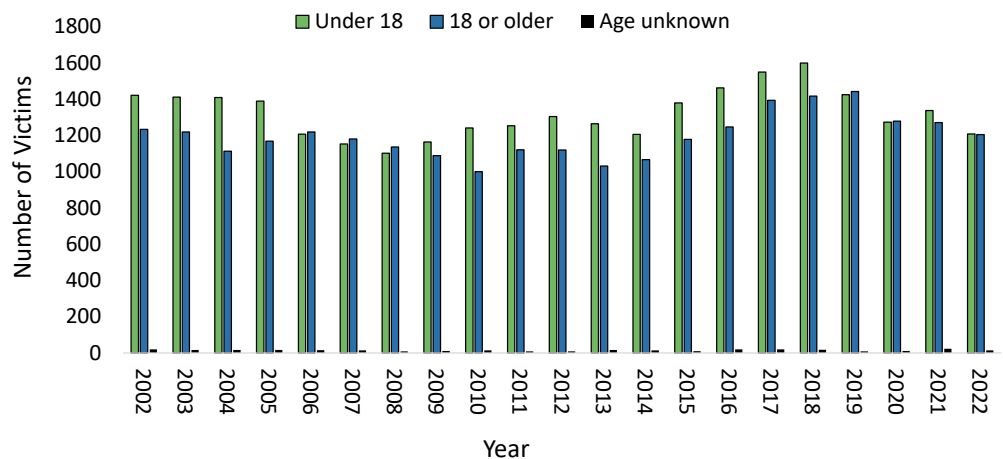
Chart 3.6: Sexual Assault Offenses and Arrests, 2002 – 2022



NOTE: Sexual assault offense and arrest data includes only the data reported by SLED for forcible rape, forcible sodomy, and sexual assault with an object.

Source: LAC analysis of SLED data.

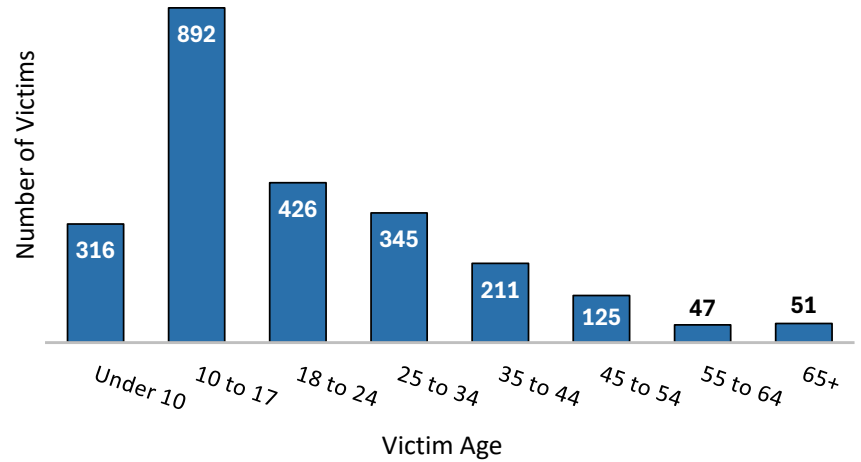
Chart 3.7: Age of Victim, Sexual Assault Offenses, 2002 – 2022



NOTE: Sexual assault victim age data includes only the data reported by SLED for forcible rape, forcible sodomy, and sexual assault with an object.

Source: LAC analysis of SLED data.

Chart 3.8: Age of Victim, Sexual Assault Offenses, 2022 Only



NOTE: Sexual assault victim age data includes only the data reported by SLED for forcible rape, forcible sodomy, and sexual assault with an object.

Source: LAC analysis of SLED data.

We asked a SLED official why the number of arrests was lower than the number of offenses reported, and why the number of arrests has decreased over time. The official stated SLED cannot speak to the correlation of the number of arrests for sexual assault offenses compared to the number of offenses reported. The official also stated that SLED cannot speak to the reason for the number of arrests of any kind over any period of time. When asked if a backlog of SAKs was contributing to the low and decreased arrests, SLED responded that “there is absolutely no data to support [the] suggestion that there is a correlation between a backlog of sexual assault kit testing and a purported reduction in arrests for sexual assaults.”

This information emphasizes the importance of additional reforms to address sexual assault in South Carolina. The tracking system represents an important first step; however, further efforts are needed to ensure sexual assault investigations are resolved rapidly. To do so will not only ensure that offenders are apprehended as quickly as possible, but that victims, many of whom are under the age of 18, are given the justice they deserve.

Recommendations

17. The S.C. General Assembly should amend state law to require time frames for the stages of sexual assault kit processing, including, but not limited to, pick up of the sexual assault kit from the medical facility by the law enforcement agency, delivery of the sexual assault kit from the law enforcement agency to the forensics laboratory, and analysis of the contents of the sexual assault kit by the forensics laboratory.
18. If state law is not amended as outlined above, the S.C. State Law Enforcement Division should promulgate regulations to establish required time frames for the stages of sexual assault kit processing, including, but not limited to, pick up of the sexual assault kit from the medical facility by the law enforcement agency, delivery of the sexual assault kit from the law enforcement agency to the forensics laboratory, and analysis of the contents of the sexual assault kit by the forensics laboratory.
19. The S.C. State Law Enforcement Division, as mandated operator of the sexual assault kit tracking system under S.C. Code §23-3-1300(A), should require that all reported sexual assault kits are picked up by the law enforcement agency and enrolled in the tracking system as soon as possible, but no later than three business days from collection of the samples.
20. The S.C. State Law Enforcement Division, as mandated operator of the sexual assault kit tracking system under S.C. Code §23-3-1300(A), should require that all reported sexual assault kits are delivered by the law enforcement agency to the forensics laboratory as soon as possible, but no later than seven business days from receipt of the evidence by the law enforcement agency.
21. The S.C. State Law Enforcement Division, as mandated operator of the sexual assault kit tracking system under S.C. Code §23-3-1300(A), should require that all forensic analysis of a sexual assault kit be completed as soon as possible, but no later than 30 business days from receipt of the sexual assault kit at the laboratory.
22. The S.C. State Law Enforcement Division, as mandated operator of the sexual assault kit tracking system under S.C. Code 23-3-1300(A), should immediately develop and distribute definitions and guidelines for all terminology used in the tracking system to describe reasons why a sexual assault kit will not be sent to a laboratory.

23. The S.C. General Assembly should amend state law to require that all anonymous sexual assault kits be maintained by the appropriate law enforcement agency for at least 20 years.
24. If state law is not amended, the S.C. State Law Enforcement Division should promulgate regulations requiring that anonymous sexual assault kits be maintained by the appropriate law enforcement agency for at least 20 years.
25. The S.C. State Law Enforcement Division, as mandated operator of the sexual assault kit tracking system under S.C. Code §23-3-1300(A), should issue guidance requiring anonymous sexual assault kits to be maintained by the appropriate law enforcement agency for at least 20 years.
26. The S.C. General Assembly should amend state law to require that sexual assault kits associated with uncharged or unsolved reported crimes be maintained for at least 50 years.
27. If state law is not amended, the S.C. State Law Enforcement Division should promulgate regulations requiring that sexual assault kits associated with uncharged or unsolved reported crimes be maintained for at least 50 years.
28. The S.C. State Law Enforcement Division, as mandated operator of the sexual assault kit tracking system under S.C. Code §23-3-1300(A), should issue guidance requiring that sexual assault kits associated with uncharged or unsolved reported crimes be maintained for at least 50 years.

Tracking System Guidelines

SLED has not established comprehensive policy guidelines as the mandated operator of the statewide sexual assault kit (SAK) tracking system. We reviewed the SLED website, operational manuals of SLED departments involved with the tracking system, SAK tracking system guidelines from other state agencies' websites, and materials distributed by SLED to law enforcement, hospitals, and other system stakeholders.

According to S.C. Code §23-3-1300(G), SLED must establish guidelines for protecting victims' information in the SAK tracking system. The vendor of the Track-Kit system, InVita Healthcare Technologies, affirms that the system does not gather or store survivors' personally identifiable information, as the kits are specifically identified in the system solely by barcode number. While the law does not require SLED to develop other guidelines for the South Carolina SAK tracking system or users, we found such guidelines would be beneficial and would increase transparency.

Tracking System Instructions and SLED Operating Manuals

We reviewed SLED documentation provided to stakeholders during the implementation phase of the Track-Kit system. This documentation included links to interactive user manuals on the Track-Kit website and frequently asked question sheets. While these Track-Kit materials are instructional resources for intended users, they do not provide specific guidelines, rules, or recommendations for the South Carolina tracking system other than instructions for medical facilities on procuring additional kits from the distributor.

When asked whether there is a comprehensive manual for the statewide SAK tracking system beyond instructional materials, a SLED official indicated she was not aware of any additional guidelines in development.

In addition, we reviewed current operation manuals for relevant departments at SLED involved in the SAK tracking system. The implemented manuals lacked specific directives about SAK tracking or the Track-Kit system. In June 2024, SLED supplied a draft version of an appendix to the DNA casework operations manual that included information on Track-Kit. The status of the formal inclusion of this revision within the DNA casework manual remains unclear.

Tracking System Information on the SLED Website

We examined the accessibility of SAK information on the SLED website, focusing on guidelines and resources established for tracking system users. We found links to the Track-Kit portal, sexual assault evidence collection forms, and Track-Kit information sheets outlining the main functions of each user. The Track-Kit information sheets provide instructions for entering, transferring, and tracking SAKs within the system, tailored to individual user roles. However, we could not find state-specific guidelines or objectives, such as recommended time frames for SAK transfers or testing.

While SLED does offer Track-Kit's instructional materials and individual information sheets, the agency website does not have comprehensive guidelines or resources. A SLED official acknowledged the lack of accessible information on the website is an area that needs improvement and stated that the agency could make more information available online.

SAK Resources and Guidelines in Other States

In our review of other state agencies, we discovered resources that could benefit SLED if incorporated into the guidelines for the South Carolina SAK tracking system. Upon analyzing the practices of states such as Georgia, Idaho, North Carolina, and Virginia, we identified the following state-specific resources:

- Dedicated webpages with comprehensive SAK tracking system information, including details of the state statutory requirements and procedures.
- Direct access to videos and manuals from the agencies' websites to aid in understanding and utilizing the SAK tracking system effectively.
- Web links to state resources for individuals who have experienced sexual assault or undergone SAK collection services.
- Frequently asked questions and statewide user manuals for entering, tracking, and processing SAKs, enabling users to navigate the system efficiently and accurately.

A comparison with other states indicates potential limitations in the support provided by SLED. It would be beneficial for SLED to distribute materials from Track-Kit along with state-specific guidelines, resources, and recommendations for South Carolina users. Creating a user-friendly webpage and a comprehensive statewide manual outlining suggested timelines for individuals responsible for handling the collection, processing, and testing of kits could improve accountability and minimize errors that could hinder the tracking process for survivors.

Recommendation

29. The S.C. State Law Enforcement Division should update the agency website to incorporate comprehensive state-specific resources, guidelines, and information to improve the usability of the sexual assault kit tracking system.

Sexual Assault Kit Tracking Dashboard

SLED's website does not have a webpage or dashboard dedicated to hosting public information on the tracking and processing of sexual assault kits (SAKs). We reviewed SLED's website, SAK tracking webpages and dashboards created by agencies in other states, and grant funding awarded to other state agencies to support SAK tracking and reporting efforts.

SLED Sexual Assault Reporting

SLED presents crime data collected from the S.C. Incident-Based Reporting System ("Reporting System") via TOPS (Theme Oriented Public Site). The Reporting System, administered by SLED, is a statewide system designed to compile data from law enforcement incident reports. In TOPS, users can search for crime statistics by jurisdiction, year, and category. Although statewide sexual offense data is available in TOPS, information on sexual assault kit tracking, the number of untested kits, or the overall statewide system (Track-Kit) is not included. As of July 2024, the latest accessible year for viewing statewide crime statistics is 2022, before the Track-Kit system went live.

S.C. Code §23-3-1300(E) requires SLED to submit a SAK tracking system report to the General Assembly twice a year, and the January 31, 2024 report is available on the SLED newsroom webpage; however, as of October 7, 2024, the August 1, 2024 report was not online. Although the law does not require SLED to have a public dashboard or webpage dedicated to reporting on SAKs, we found that a dashboard would be beneficial to increase transparency.

We asked a SLED official about the possible creation of a dashboard, and the official confirmed the agency plans to establish one to enhance accountability and engagement among stakeholders required to participate in the statewide tracking system. Additionally, the official stated the lack of accessible information online is a recognized weakness of SLED, and there is a need to improve on systems used to distribute information for public consumption.

Public Reporting in Other States

While reviewing the websites of other state agencies that publicly report on sexual assault kits, we found themes that may be beneficial for SLED to incorporate in a dashboard or on a webpage.

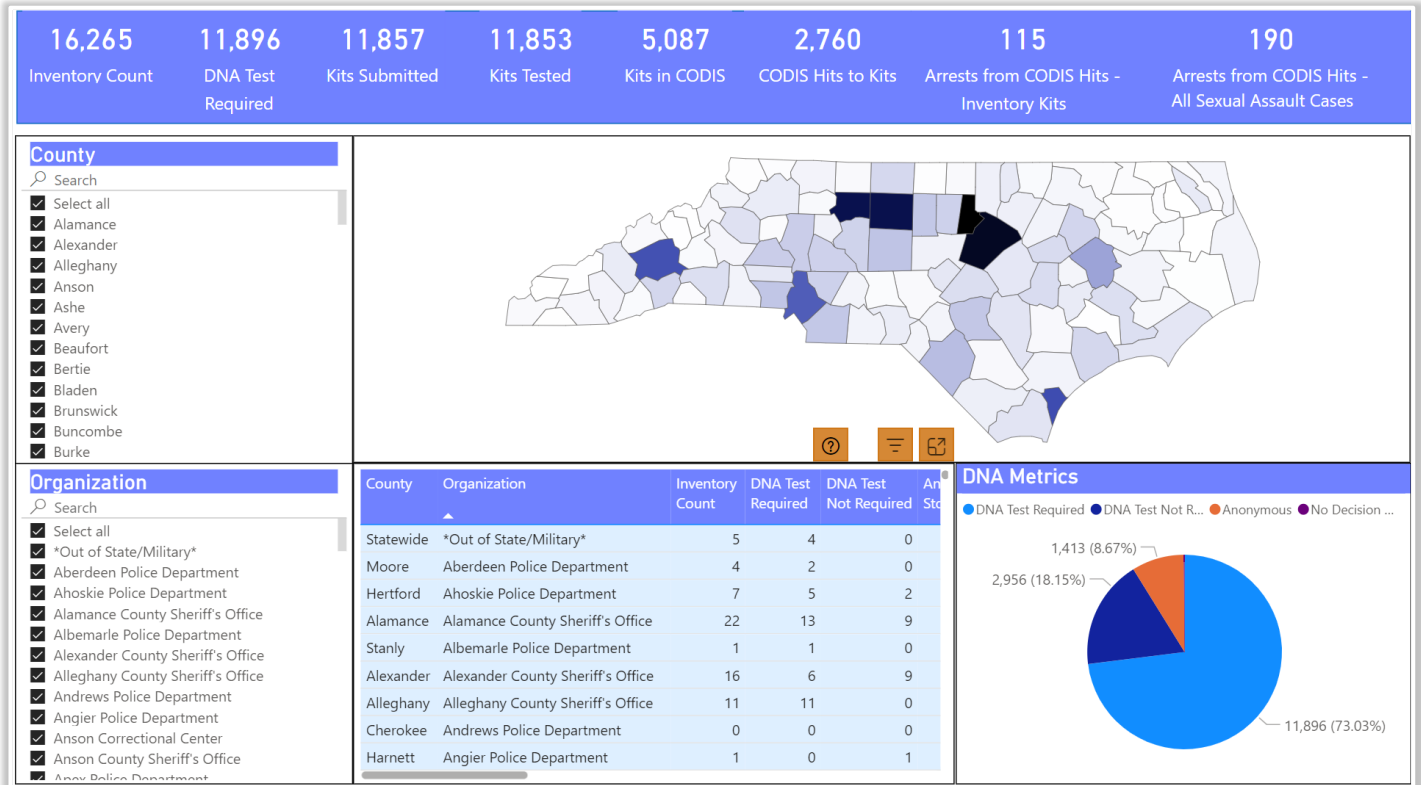
MINNESOTA

The Minnesota Bureau of Criminal Apprehension reports the number of SAKs collected by the state in a chart published to the website every 60 days. The reported information includes the total number of SAKs submitted, kits in possession of the labs, SAKs analyzed, kits pending or awaiting testing, and restricted SAKs (that will not be tested) in possession of the laboratory.

NORTH CAROLINA

The N.C. Department of Justice's website provides detailed information on sexual assault kit tracking. This includes a public dashboard, updated daily, which allows users to filter data by county and law enforcement agency. The dashboard webpage includes a pie chart graph with DNA metrics, such as matches from the Combined DNA Index System as well as user tips and definitions of terms used by the agency.

Figure 3.9: North Carolina's Sexual Assault Kit Tracking Dashboard



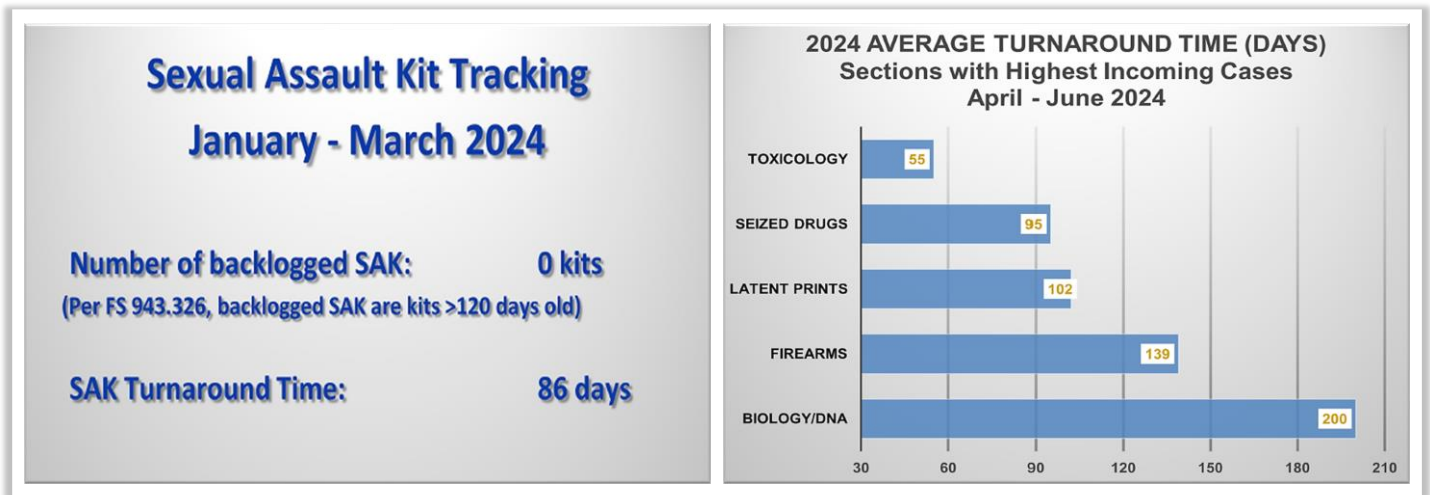
Source: North Carolina Department of Justice.

FLORIDA

The Florida Department of Law Enforcement (FDLE) Forensic Services publishes infographics, updated quarterly, on the average turnaround time for SAKs and the number of backlogged kits.

The FDLE also publishes a report every 60 days on SAKs that includes the total number of SAKs possessed, kits awaiting testing, kits requiring DNA or other analyses, kits submitted for lab analysis, kits analyzed, new kits received in the latest reporting period, and kits for which prosecution is barred within 12 months.

Figure 3.10: Florida's Sexual Assault Kit Tracking Data



Source: Florida Department of Law Enforcement.

TEXAS

The Texas Department of Public Safety crime laboratory set up a sexual assault evidence tracking program webpage to include Track-Kit information, late submission notification forms for participating agencies, annual tracking system reports, and tracking system newsletters.

The latest report, published in December 2023, uses Track-Kit data to determine the number of unsubmitted and unanalyzed kits in the state. The newsletter, last updated in January 2024, includes survivor and facility Track-Kit participation data, kit collections by month, legislative updates, and agency contact information.

WASHINGTON

The Washington State Patrol's crime lab is required to produce a biannual report on sexual assault kits in the statewide tracking system. The latest reporting, presented in table format, details data from February 2023 to July 2023, and includes the number of kits collected, analyzed, and pending analysis. It also provides figures for the backlog of kits and historical total number of kits in the system, sorted by each participating law enforcement agency.

In our review of other states, we found some agencies publish SAK data sorted by the jurisdiction or responsible law enforcement agency. Creating a public dashboard that allows users to filter data by county or law enforcement agency may be helpful to encourage active participation in the statewide sexual assault tracking system.

Federal Grant Funding Available

The Bureau of Justice Assistance's National Sexual Assault Kit Initiative (SAKI) program provides federal grant funding to support the collection, testing, and reporting of sexual assault kits. Over 30 state agencies have received grants from SAKI to address various challenges associated with managing sexual assault kits. Notably, agencies in North Carolina and Washington have leveraged SAKI funds to develop online resources, including dashboards, to report and provide public access to information during the processing of sexual assault kits.

We asked a SLED official if federal grant assistance was considered to help with any cost in creating a public-facing dashboard. The official stated he was unaware of any grant opportunities being pursued by SLED. However, the official suggested the creation and maintenance of a sexual assault kit dashboard could likely be supported through existing agency appropriations.

Recommendations

30. The S.C. State Law Enforcement Division should create a public-facing dashboard to report statistics on the collection of sexual assault kits in the state, by jurisdiction or responsible law enforcement agency, to facilitate transparency.
31. If the S.C. State Law Enforcement Division is unable to allocate existing funds to the development of a public-facing dashboard, the agency should explore alternative funding sources, such as the Sexual Assault Kit Initiative federal grant.

Sexual Assault Nurse Examiners (SANEs)

During our review of the statewide SAK tracking system, we were made aware of Sexual Assault Nurse Examiners (SANEs). We evaluated the number of SANEs in the state and determined there is an insufficient number to cover the needs of all South Carolinians. We found:

- The number of SANEs in South Carolina has decreased in the last three months.
- Not all hospitals in South Carolina have a SANE available for patients.
- Some hospitals turn away sexual assault patients because a SANE is not available.
- There is no state law requiring hospitals to perform sexual assault forensic exams.
- The S.C. Board of Nursing is not involved in the certification and/or administration of the SANE certification.

Overview of SANEs in South Carolina

SANEs are a subset of Forensic Nurse Examiners (FNE). A SANE is certified by the International Association of Forensic Nurses (IAFN). According to its website, the IAFN is the leader in all sexual assault and forensic education, training, leadership, and resources. SANE-certified nurses are specifically trained to work with sexual assault patients. An FNE is trained to work with sexual assault patients and other traumas, such as human trafficking and elder abuse. While highly recommended, being certified as a SANE is not required to conduct sexual assault forensic exams in South Carolina. However, SANEs benefit victims, hospitals, emergency room physicians, and non-SANE nurses. Law enforcement and prosecutors could also benefit from the improved quality of evidence collection and documentation.

To become a SANE, nurses must have a minimum of a registered nursing license, or its equivalent, and complete a two-part training program—didactic (instructive) course and clinical education. We found that South Carolina has two IAFN-approved SANE courses, one at the Medical University of South Carolina and the second at Prisma Health Richland. There is only one approved critical skills training opportunity available in our state, at Prisma Health Richland.

There are two types of SANE certifications—SANE-A for adolescent and adult patients and SANE-P for pediatric patients. Some nurses are certified as both a SANE-A and a SANE-P. We reviewed IAFN’s directory of SANE certified nurses in South Carolina and found the number has decreased, possibly due to the cost and time associated with recertification. Table 3.11 details our review.

**Table 3.11: Certified SANEs
in South Carolina,
May 2024 – July 2024**

AS OF DATE	TOTAL SANES	SANE-As	SANE-PS
May 21, 2024	48	44	19
June 20, 2024	43*	38	20
July 24, 2024	43	38	20

* Six of the previous SANEs were no longer listed, and one new SANE was included.

Source: International Association of Forensic Nurses.

We also reviewed the number of IAFN-recognized SANE programs in our state and found there are 11 programs, 8 of which are hospitals or hospital systems. We interviewed a SANE and were told that not all hospitals have a SANE available to treat sexual assault patients. We were also told some hospitals in the state will turn a sexual assault patient away, or send them to another hospital, because a SANE was not available; however, as mentioned, SANE certification is not required to provide services. According to the South Carolina Sexual Assault Protocol, issued by the S.C. Office of the Attorney General, a sexual assault evidence collection kit is to be performed by an emergency room physician or SANE, if available. When a patient is unable to access care in her area, she may not seek care elsewhere, especially if there is limited access to transportation.

The National Best Practices for Sexual Assault Kits stated that research suggests jurisdictions that use SANEs to conduct sexual assault forensic exams contribute to higher prosecution and conviction rates. The best practices concluded that victims of sexual assault should be able to receive a forensic exam by a trained medical professional to obtain necessary medical treatment and appropriately preserve any potential evidence. Additionally, trained medical providers are the best option for collecting evidence from sexual assault victims and suspects; samples obtained from the human body should be collected by SANEs or other clinicians with specific education and experience in conducting forensic exams.

We reviewed South Carolina laws to determine if hospitals are required to perform sexual assault forensic exams and found there is no such requirement. A 2015 Kentucky audit special report on untested sexual assault kits stated hospitals in Kentucky are not required by law to have SANEs, but hospitals that provide emergency services are required to perform sexual assault forensic examinations if a victim presents to that hospital. Without having this requirement in South Carolina, hospitals in our state can, and do, legally deny services to victims of sexual assault.

Increasing SANE Coverage in South Carolina

There is an insufficient number of SANEs to meet the needs of the state. We were told by a SLED official that South Carolina would like more SANEs and some counties do not have them at all. Another SLED official stated medical facilities need more assistance which would result in a difference in [kit] collection capability. Additionally, main concerns discussed in the Victims/Victim Advocates, IT, and Hospitals/SANE Nurses subcommittees of the Sexual Assault Kit Tracking Task Force were the:

- Number of medical facilities with no SANE staff.
- Need for SANE nurses in South Carolina is critical.
- Lack of SANE staff in hospitals.

There are two mobile, regional programs where SANEs will provide services to several hospitals in their areas. These programs allow nurses to serve patients at hospitals where they are not directly employed. For example, Prisma Health Midlands has a mobile, regional program covering six area hospitals. A participating hospital, in the mobile, regional program, pays the salary, or a portion of it, for a SANE to serve its patients. In an interview with a South Carolina certified SANE, we were told the mobile, regional program is the most efficient because each hospital is not having to pay for training and certifications of SANEs; the funding for the regional program is based on volume and required response.

We surveyed medical facility staff and SANEs and found most respondents do not think there are enough SANEs to meet the needs of the state. Of the 16 medical facility staff respondents to our survey, 13 (81.25%) responded there are not enough SANEs. We asked the medical facility staff how many more SANEs were needed at their facilities; the average response was 4–5 additional SANEs.

Of the 12 SANEs who responded to our survey, 9 (75%) stated there are not enough SANEs to meet the needs of the state. One respondent stated, “hospitals do not want to pay for the services of FNEs/SANEs.” In an interview with a SANE in South Carolina, this same sentiment was conveyed, and it was stated that “hospitals do not feel it is important,” and “they don’t think sexual assault exams are profitable.” Additionally, the 2015 Kentucky audit special report found there is little incentive for hospitals to pay for SANE certification as it does not provide any credit towards hospital accreditations.

In order to increase the number of SANEs in North Carolina, the North Carolina General Assembly allocated \$1.5 million, in its FY 22-23 budget, to Fayetteville State University to develop and implement a SANE program. The Fayetteville State University Nursing School opened its 12-day program in December 2022.

Since 2019, 11 states have enacted legislation related to SANE certification, including Florida and Virginia. The enacted legislation includes establishing SANE programs, defining a SANE, and coordinating SANE training programs.

S.C. Department of Labor, Licensing and Regulation's Board of Nursing

We contacted the S.C. Department of Labor, Licensing and Regulation's Board of Nursing to determine its involvement in the certification and/or administration of SANE-certified nurses. We were told by a board official that the board does not issue a specific certification or license for SANEs. As mentioned, SANEs are certified by the IAFN. We were also told the board has not specifically addressed whether a nurse must be certified as a SANE to conduct a forensic medical exam. Additionally, the nursing board does not have any information on the number of SANEs in the state. In North Carolina, SANEs are certified and approved through the N.C. Board of Nursing. Additionally, the Kentucky Board of Nursing also issues the SANE credentials to nurses in its state.

Recommendations

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32. The S.C. General Assembly should amend state law to require hospitals providing emergency services to perform sexual assault forensic examinations if a patient presents at that facility.
 33. The S.C. General Assembly should allocate state funds to develop and implement a nursing program for Sexual Assault Nurse Examiners to facilitate increasing the number of certified Sexual Assault Nurse Examiners in the state.
 34. The S.C. General Assembly should amend state law to require the S.C. Department of Labor, Licensing and Regulation's Board of Nursing add Sexual Assault Nurse Examiner as a certification under its purview.

Other States' Sexual Assault Kit Processes

Survey Results

The LAC survey of other states' sexual assault kit (SAK) processes was conducted between April 17, 2024 and May 1, 2022, using SurveyMonkey. We sent a survey to states known to be using the Track-Kit system and to South Carolina's neighboring Southeastern states regardless of whether they were using a SAK tracking system. Our survey had a response rate of 63%—24 states were contacted and ultimately 15 states completed the survey, 7 did not complete a survey, and 2 requested not to participate. Respondents were informed that individual responses would not be shared; therefore, open-ended responses have been summarized and referenced throughout the report to preserve anonymity for those who participated.

The survey was designed using question logic to direct respondents to specific questions based on their responses. This resulted in some questions with low response counts, as they only applied to a limited number of participants. Questions are provided below with response percentages and response counts.

1. Which state do you work for?		
ANSWERS		
Alaska	Louisiana	North Dakota
Arkansas	Massachusetts	Tennessee
Florida	Michigan	Texas
Georgia	Minnesota	Virginia
Iowa	North Carolina	Wisconsin
TOTAL		15

2. Has your state conducted a statewide survey to determine the number of untested sexual assault kits?		
ANSWER CHOICES	RESPONSES	
Yes	80.00%	12
No	20.00%	3
TOTAL		15

3. How many surveys regarding untested sexual assault kits have been conducted?	
ANSWER CHOICES	
Open-ended responses only	
TOTAL	12

4. What year was a survey regarding untested sexual assault kits last conducted?	
ANSWER CHOICES	
Open-ended responses only	
TOTAL	12

5. How was the last survey regarding untested sexual assault kits conducted? For example: in person, by mail, etc.		
ANSWER CHOICES		
Open-ended responses only		
TOTAL		12

6. How many untested sexual assault kits were identified at the conclusion of the last survey?		
ANSWER CHOICES		
Open-ended responses only		
TOTAL		12

7. As of today, how many untested sexual assault kits remain in your state?		
ANSWER CHOICES		
Open-ended responses only		
TOTAL		12

8. How many laboratories in your state are used for sexual assault kit testing?		
ANSWER CHOICES		
Open-ended responses only		
TOTAL		15

9. Are sexual assault kits outsourced to any of the following for testing? Select all that apply.		
ANSWER CHOICES	RESPONSES	
No sexual assault kits are outsourced for testing	26.67%	4
Private in-state laboratories	13.33%	2
Private out-of-state laboratories	66.67%	10
Out-of-state laboratories associated with another state or local government or law enforcement agency	0.00%	0
Other (please specify)	6.67%	1
TOTAL		15

10. Does your state require sexual assault kits to be processed within a specific time frame?		
ANSWER CHOICES	RESPONSES	
Yes	66.67%	10
No	33.33%	5
TOTAL		15

11. How soon after collection are sexual assault kits required to be processed in your state?		
ANSWER CHOICES	RESPONSES	
Within one week	0.00%	0
One week to less than four weeks	0.00%	0
One month to less than two months	10.00%	1
Two months to less than three months	20.00%	2
Other (please specify)	70.00%	7
TOTAL		10

12. Is this requirement enforced by law, regulation, or policy? Please explain and provide a citation to the law, regulation, or policy, if applicable. If not enforced by law, regulation, or policy, please write "N/A".		
ANSWER CHOICES	RESPONSES	
Open-Ended Responses Only		
TOTAL		10

13. Does your state report sexual assault kit processing information to the public through an online dashboard?		
ANSWER CHOICES	RESPONSES	
Yes	26.67%	4
No	73.33%	11
TOTAL		15

14. Does the dashboard show data broken down by individual law enforcement agency?		
ANSWER CHOICES	RESPONSES	
Yes	75.00%	3
No	25.00%	1
TOTAL		4

15. Does the dashboard report the length of time or average length of time for processing sexual assault kits?		
ANSWER CHOICES	RESPONSES	
Yes	25.00%	1
No	75.00%	3
TOTAL		4

16. Does the dashboard report the number of sexual assault kits awaiting processing?		
ANSWER CHOICES	RESPONSES	
Yes	100.00%	4
No	0.00%	0
TOTAL		4

17. How frequently is the dashboard data updated?		
ANSWER CHOICES	RESPONSES	
Monthly	0.00%	0
Quarterly	0.00%	0
Twice a year	0.00%	0
Annually	25.00%	1
Other (please specify)	75.00%	3
TOTAL		4

18. Is the dashboard receiving data from a sexual assault kit tracking software?		
ANSWER CHOICES	RESPONSES	
Yes	50.00%	2
No	50.00%	2
TOTAL		4

19. Is your state currently tracking sexual assault kits using a sexual assault kit tracking software?		
ANSWER CHOICES	RESPONSES	
Yes	93.33%	14
Our state is currently in the process of implementing a sexual assault kit tracking software but it is currently not in use	6.67%	1
No	0.00%	0
Other (please specify)	0.00%	0
TOTAL		15

20. Please explain why your state is not tracking sexual assault kits through a tracking software.		
ANSWER CHOICES	RESPONSES	
No responses		
TOTAL		0

21. Do you anticipate your state tracking sexual assault kits through a tracking software in the future?		
ANSWER CHOICES	RESPONSES	
No responses		
TOTAL		0

22. By what date do you anticipate a sexual assault kit tracking system to be implemented?	
ANSWER CHOICES	
Open-ended responses only	
TOTAL	1

23. In what stage of the implementation is your state?		
ANSWER CHOICES	RESPONSES	
Developing a solicitation or a request for proposals	0.00%	0
Collecting bids from vendors	0.00%	0
Negotiating a contract with a vendor	0.00%	0
Developing a system with a vendor	0.00%	0
Rolling out a system statewide	100.00%	1
Other (please specify)	0.00%	0
TOTAL		1

24. Which sexual assault kit tracking software has your state selected?		
ANSWER CHOICES	RESPONSES	
InVita Track-Kit	60.00%	9
Sockeye	0.00%	0
Forensic Advantage	13.33%	2
Idaho Kit Tracking System	13.33%	2
Sexual Assault Management System (SAMS)	0.00%	0
Other (please specify)	13.33%	2
TOTAL		15

25. Why was this software selected? Please be specific in your explanation.	
ANSWER CHOICES	
Open-ended responses only	
TOTAL	15

26. Which agency in your state is responsible for the sexual assault kit tracking system?	
ANSWER CHOICES	
Open-ended responses only	
TOTAL	15

27. When did your state begin researching sexual assault kit tracking systems?		
ANSWER CHOICES		
Open-ended responses only		
TOTAL		15

28. Do your state laws, regulations, or other policies mandate tracking of sexual assault kits?		
ANSWER CHOICES		RESPONSES
Yes	93.33%	14
No	6.67%	1
Other (please specify)	0.00%	0
TOTAL		15

29. What led to your state implementing/beginning to implement a sexual assault kit tracking system?		
ANSWER CHOICES		
Open-ended responses only		
TOTAL		1

30. How long did it take to procure a sexual assault kit tracking system in your state?		
ANSWER CHOICES		RESPONSES
We did not need to procure a system	0.00%	0
Less than six months	100.00%	1
Six months to less than a year	0.00%	0
A year to less than two years	0.00%	0
Two years to less than three years	0.00%	0
Three years or more	0.00%	0
We are still procuring a system	0.00%	0
TOTAL		1

31. How long did it take after the software was procured for the system to be implemented statewide?		
ANSWER CHOICES		RESPONSES
We did not need to procure a system	0.00%	0
Less than six months	0.00%	0
Six months to less than a year	0.00%	0
A year to less than two years	0.00%	0
Two years to less than three years	100.00%	1
Three years or more	0.00%	0
We are still procuring a system	0.00%	0
TOTAL		1

32. Overall, how long did the entire process take for the system to be implemented and in-use statewide?		
ANSWER CHOICES	RESPONSES	
We did not need to procure a system	0.00%	0
Less than six months	0.00%	0
Six months to less than a year	0.00%	0
A year to less than two years	0.00%	0
Two years to less than three years	100.00%	1
Three years or more	0.00%	0
We are still procuring a system	0.00%	0
TOTAL		1

33. How much customization of the tracking software was needed/will be needed by your state?		
ANSWER CHOICES	RESPONSES	
A lot	100.00%	1
A moderate amount	0.00%	0
A little	0.00%	0
None at all	0.00%	0
TOTAL		1

34. Please provide a citation to the law, regulation, or policy mandating tracking of sexual assault kits.		
ANSWER CHOICES		
Open-ended responses only		
TOTAL		14

35. In what year was this law/regulation/policy passed?		
ANSWER CHOICES		
Open-ended responses only		
TOTAL		14

36. Why was this law/regulation/policy implemented?		
ANSWER CHOICES		
Open-ended responses only		
TOTAL		14

37. How long did it take after the law/regulation/policy was passed for a software to be procured?		
ANSWER CHOICES	RESPONSES	
We did not need to procure a system	14.29%	2
Less than six months	42.86%	6
Six months to less than a year	14.29%	2
A year to less than two years	28.57%	4
Two years to less than three years	0.00%	0
Three years or more	0.00%	0
We are still procuring a system	0.00%	0
TOTAL		14

38. How long did it take after the software was procured for the system to be implemented statewide?		
ANSWER CHOICES	RESPONSES	
We did not need to procure a system	0.00%	0
Less than six months	14.29%	2
Six months to less than a year	21.43%	3
A year to less than two years	57.14%	8
Two years to less than three years	7.14%	1
Three years or more	0.00%	0
We are still procuring a system	0.00%	0
TOTAL		14

39. Overall, how long did the entire process take for the system to be implemented and in-use statewide?		
ANSWER CHOICES	RESPONSES	
We are still in the process of implementing a system	0.00%	0
Less than six months	14.29%	2
Six months to less than a year	35.71%	5
A year to less than two years	14.29%	2
Two years to less than three years	14.29%	2
Three years or more	21.43%	3
TOTAL		14

40. How much customization of the tracking software was needed/will be needed by your state?		
ANSWER CHOICES	RESPONSES	
A lot	21.43%	3
A moderate amount	28.57%	4
A little	42.86%	6
None at all	7.14%	1
TOTAL		14

41. Which groups in your state are currently or will be required to utilize the tracking system? Select all that apply.		
ANSWER CHOICES	RESPONSES	
Local police departments	100.00%	15
Sheriff's offices/departments	86.67%	13
Laboratories	100.00%	15
Medical facilities	100.00%	15
Prosecutors	26.67%	4
None of the above	0.00%	0
Other (please specify)	20.00%	3
TOTAL		15

42. Is the requirement for these groups to participate in law/regulation/policy?		
ANSWER CHOICES	RESPONSES	
There is no requirement in our state	6.67%	1
Yes	80.00%	12
No	6.67%	1
Other (please specify)	6.67%	1
TOTAL		15

43. Please provide a citation to the applicable law, regulation, or policy.		
ANSWER CHOICES		
Open-ended responses only		
TOTAL		12

44. How does/will your state enforce participation in the sexual assault kit tracking system? For example: incentives through funding, penalties through use of fines, etc. Please write "N/A" if your state does not require participation.		
ANSWER CHOICES		
Open-ended responses only		
TOTAL		15

45. Are or will victims/survivors be able to access the tracking system to see the status of their sexual assault kits?		
ANSWER CHOICES	RESPONSES	
Yes	100.00%	15
No	0.00%	0
Other (please specify)	0.00%	0
TOTAL		15

46. Are or will victim advocates be able to access the tracking system to see the status of sexual assault kits?		
ANSWER CHOICES	RESPONSES	
Yes	40.00%	6
No	33.33%	5
Other (please specify)	26.67%	4
TOTAL		15

47. How does/will your state protect personally identifiable information or personal health information in the tracking system?		
ANSWER CHOICES		
Open-ended responses only		
TOTAL		15

48. Does your state currently have or has your state had in the past a task force, committee, commission, or similar group of stakeholders to address sexual assault kit processing or backlogs?		
ANSWER CHOICES	RESPONSES	
Yes	73.33%	11
No	26.67%	4
TOTAL		15

49. What is/was the name of your state's task force/committee/commission/other group?		
ANSWER CHOICES		
Open-ended responses only		
TOTAL		11

50. Does this task force/committee/commission/other group still meet?		
ANSWER CHOICES	RESPONSES	
Yes	63.64%	7
No	36.36%	4
TOTAL		11

51. How frequently does or did the task force/committee/commission/other group meet?		
ANSWER CHOICES	RESPONSES	
Monthly	27.27%	3
Quarterly	27.27%	3
Yearly	0.00%	0
Other (please specify)	45.45%	5
TOTAL		11

52. What stakeholders are or were represented on your state's task force/committee/commission/other group? Select all that apply.		
ANSWER CHOICES	RESPONSES	
State law enforcement agencies	72.73%	8
Local police departments	90.91%	10
Sheriff's offices/departments	72.73%	8
Medical facilities	81.82%	9
Laboratories	72.73%	8
Prosecutors	90.91%	10
Victim advocacy groups	90.91%	10
Victims/survivors	27.27%	3
None of the above	0.00%	0
Other (please specify)	36.36%	4
TOTAL		11

53. How much, if at all, did the involvement of multiple stakeholders slow the implementation of a sexual assault kit tracking system in your state?		
ANSWER CHOICES	RESPONSES	
A lot	18.18%	2
A moderate amount	0.00%	0
A little	18.18%	2
None at all	63.64%	7
TOTAL		11

54. How beneficial to the process was involving the task force/committee/commission/other group?		
ANSWER CHOICES	RESPONSES	
Beneficial	81.82%	9
Somewhat beneficial	18.18%	2
Less beneficial	0.00%	0
Not beneficial	0.00%	0
TOTAL		11

55. What funding challenges, if any, were there/are there to implementing a sexual assault kit tracking system?		
ANSWER CHOICES		
Open-ended responses only		
TOTAL		15

56. Did your state receive state appropriated funds to cover any costs of implementing a sexual assault kit tracking system?		
ANSWER CHOICES	RESPONSES	
Yes	40.00%	6
No	60.00%	9
TOTAL		15

57. Did your state utilize Sexual Assault Kit Initiative (SAKI) grant funding to cover any costs of implementing a sexual assault kit tracking system?		
ANSWER CHOICES	RESPONSES	
Yes	33.33%	5
No	66.67%	10
TOTAL		15

58. For what purposes was the SAKI funding used in your state? For example: implementation, recurring costs of system maintenance, etc.		
ANSWER CHOICES		
Open-ended responses only		
TOTAL		5

59. Did you partner with any other stakeholder groups or state agencies to apply for funding?		
ANSWER CHOICES	RESPONSES	
Yes	60.00%	3
No	40.00%	2
TOTAL		5

60. With which agency or entity did you partner with to apply for funding and why?		
ANSWER CHOICES		
Open-ended responses only		
TOTAL		3

61. Other than funding challenges, what challenges has your state faced in implementing a sexual assault kit tracking system and why?		
ANSWER CHOICES		
Open-ended responses only		
TOTAL		15

62. Do you feel that your state's needs have been met/will be met by the sexual assault kit tracking system selected?

ANSWER CHOICES

Open-ended responses only

TOTAL	15
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63. Please share anything else you would like to about sexual assault kit tracking in your state.

ANSWER CHOICES

Open-ended responses only

TOTAL	12
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Law Enforcement Survey Results

The LAC survey of South Carolina law enforcement agencies was conducted between May 20, 2024 and June 5, 2024 using SurveyMonkey. A total of 281 survey invitations were sent. We received a total of 88 responses (31.3%). The survey was conducted anonymously, and the open-ended responses have been summarized and referenced throughout the report to preserve anonymity for law enforcement who participated.

1. Has your department enrolled in the statewide sexual assault kit tracking system (Track-Kit) administered by SLED?		
ANSWER CHOICES	RESPONSES	
Yes	76.14%	67
No (please explain why not):	23.86%	21
	answered question	88
	skipped question	0

2. Did your department staff receive adequate training from SLED on how to use Track-Kit before the system went live?		
ANSWER CHOICES	RESPONSES	
Yes	61.45%	51
No (please explain):	38.55%	32
	answered question	83
	skipped question	5

3. Has your department used Track-Kit since the system went live?		
ANSWER CHOICES	RESPONSES	
Yes	33.73%	28
No	66.27%	55
	answered question	83
	skipped question	5

4. Has your department faced any issues while using Track-Kit?		
ANSWER CHOICES	RESPONSES	
Yes (please describe what issues occurred):	9.76%	8
No	46.34%	38
N/A	43.90%	36
	answered question	82
	skipped question	6

5. If you reached out to SLED regarding an issue, did SLED respond in a timely manner with an adequate response?		
ANSWER CHOICES	RESPONSES	
Yes	25.61%	21
No (please explain):	2.44%	2
N/A	71.95%	59
	answered question	82
	skipped question	6

6. What is the current number of untested sexual assault kits housed by your department as of May 1, 2024?		
ANSWER CHOICES	RESPONSES	
Open-ended responses only		80
	answered question	80
	skipped question	8

7. Of these sexual assault kits, how many untested kits are anonymous? ("Anonymous" refers to a situation where the survivor has declined law enforcement involvement but opted to have a medical forensic evaluation and evidence collection.)		
ANSWER CHOICES	RESPONSES	
Open-ended responses only		80
	answered question	80
	skipped question	8

8. Please share any additional comments about SLED's training, roll-out of the Track-Kit system, and/or responsiveness to any issues:		
ANSWER CHOICES	RESPONSES	
Open-ended responses only		32
	answered question	32
	skipped question	56

9. (OPTIONAL) If you are willing to let us (LAC) contact you regarding your responses, please provide your name, email, and phone number below:		
ANSWER CHOICES	RESPONSES	
Open-ended responses only		45
	answered question	45
	skipped question	43

DNA Laboratories' Survey Results

The LAC survey of South Carolina DNA laboratories was conducted between May 20, 2024 and June 3, 2024 using SurveyMonkey. A total of 5 survey invitations were sent and we received a total of 5 responses (100%). The survey was conducted anonymously, and the open-ended responses have been summarized and referenced throughout the report to preserve anonymity for those who participated.

1. Has your laboratory enrolled in the statewide sexual assault kit tracking system (Track-Kit) administered by SLED?		
ANSWER CHOICES	RESPONSES	
Yes	100.0%	5
No (please explain why not):	0.00%	0
		answered question
		5
		skipped question
		0

2. Did your laboratory staff receive adequate training from SLED on how to use Track-Kit before the system went live?		
ANSWER CHOICES	RESPONSES	
Yes	80.00%	4
No (please explain):	20.00%	1
		answered question
		5
		skipped question
		0

3. Has your laboratory used Track-Kit since the system went live?		
ANSWER CHOICES	RESPONSES	
Yes	80.00%	4
No	20.00%	1
		answered question
		5
		skipped question
		0

4. Has your laboratory faced any issues while using Track-Kit?		
ANSWER CHOICES	RESPONSES	
Yes (please describe what issues occurred):	40.00%	2
No	40.00%	2
N/A	20.00%	1
		answered question
		5
		skipped question
		0

5. If you reached out to SLED regarding an issue, did SLED respond in a timely manner with an adequate response?		
ANSWER CHOICES	RESPONSES	
Yes	60.00%	3
No (please explain):	0.00%	0
N/A	40.00%	2
answered question		5
skipped question		0

6. What is the current number of untested sexual assault kits housed by your laboratory as of May 1, 2024?	
ANSWER CHOICES	RESPONSES
Open-ended responses only	5
answered question	
5	
skipped question	
0	

7. Of these sexual assault kits, how many untested kits are anonymous? ("Anonymous" refers to a situation where the survivor has declined law enforcement involvement but opted to have a medical forensic evaluation and evidence collection.)	
ANSWER CHOICES	RESPONSES
Open-ended responses only	5
answered question	
5	
skipped question	
0	

8. What is the average number of days for processing sexual assault kits in your laboratory?	
ANSWER CHOICES	RESPONSES
Open-ended responses only	5
answered question	
5	
skipped question	
0	

9. Please share any additional comments about SLED's training, roll-out of the Track-Kit system, and/or responsiveness to any issues:	
ANSWER CHOICES	RESPONSES
Open-ended responses only	1
<i>answered question</i>	1
<i>skipped question</i>	4

10. (OPTIONAL) If you are willing to let us (LAC) contact you regarding your responses, please provide your name, email, and phone number below:	
ANSWER CHOICES	RESPONSES
Open-ended responses only	3
<i>answered question</i>	3
<i>skipped question</i>	2

Medical Facilities' Survey Results

The LAC survey of South Carolina medical facilities was conducted between May 24, 2024 and June 20, 2024, using SurveyMonkey. An estimated total of 466 survey invitations were sent by the South Carolina Hospital Association on behalf of the LAC. We received a total of 22 responses (4.7%). The survey was conducted anonymously, and the open-ended responses have been summarized and referenced throughout the report to preserve anonymity for those who participated.

1. Has your facility enrolled in the statewide sexual assault kit tracking system (Track-Kit) administered by SLED?		
ANSWER CHOICES	RESPONSES	
Yes	77.27%	17
No (please explain why not):	22.73%	5
		answered question
		22

2. Did your facility receive adequate training from SLED on how to use Track-Kit before the system went live?		
ANSWER CHOICES	RESPONSES	
Yes	40.00%	8
No (please explain):	60.00%	12
		answered question
		20
		skipped question
		2

3. Has your facility used Track-Kit since the system went live?		
ANSWER CHOICES	RESPONSES	
Yes	68.42%	13
No	31.58%	6
		answered question
		19
		skipped question
		3

4. Have any staff at your facility faced issues while using Track-Kit?		
ANSWER CHOICES	RESPONSES	
Yes (please describe what issues occurred):	22.22%	4
No	44.44%	8
N/A	33.33%	6
		answered question
		18
		skipped question
		4

5. If you reached out to SLED regarding an issue, did SLED respond in a timely manner with an adequate response?		
ANSWER CHOICES	RESPONSES	
Yes	27.78%	5
No (please explain):	5.56%	1
N/A	66.67%	12
answered question		18
skipped question		4

6. What is the current number of untested sexual assault kits housed by your facility as of May 1, 2024?		
ANSWER CHOICES	RESPONSES	
Open-ended responses only		16
answered question		16
skipped question		6

7. Of these sexual assault kits, how many are waiting for collection by law enforcement?		
ANSWER CHOICES	RESPONSES	
Open-ended responses only		16
answered question		16
skipped question		6

8. Of these, what is the total number of anonymous sexual assault kits? ("Anonymous" refers to a situation where the survivor has declined law enforcement involvement but opted to have a medical forensic evaluation and evidence collection.)		
ANSWER CHOICES	RESPONSES	
Open-ended responses only		16
answered question		16
skipped question		6

9. Does your facility employ and/or have access to Sexual Assault Nurse Examiners (SANEs)?		
ANSWER CHOICES	RESPONSES	
Yes, we employ SANEs on staff	43.75%	7
Yes, we have access to SANES	18.75%	3
No	37.50%	6
answered question		16
skipped question		6

10. If your facility employs and/or has access to SANEs, is the number available sufficient to meet your facility's needs?		
ANSWER CHOICES	RESPONSES	
Yes	18.75%	3
No	81.25%	13
<i>answered question</i>		16
<i>skipped question</i>		6

11. Please share any additional comments about SLED's training, roll-out of the Track-Kit system, and/or responsiveness to any issues:		
ANSWER CHOICES	RESPONSES	
Open-ended responses only		7
<i>answered question</i>		7
<i>skipped question</i>		15

12. (OPTIONAL) If you are willing to let us (LAC) contact you regarding your responses, please provide your name, email, and phone number below:		
ANSWER CHOICES	RESPONSES	
Open-ended responses only		7
<i>answered question</i>		7
<i>skipped question</i>		15

Appendix D
Medical Facilities' Survey Results

Sexual Assault Nurse Examiner Survey Results

The LAC survey of South Carolina's certified Sexual Assault Nurse Examiners (SANEs) was conducted between June 24, 2024 and July 9, 2024 using SurveyMonkey. A total of 43 survey invitations were sent and we received a total of 12 responses (27.9%). The survey was conducted anonymously, and the open-ended responses have been summarized and referenced throughout the report to preserve anonymity for those who participated.

1. What type of certification as a Sexual Assault Nurse Examiner do you have?		
ANSWER CHOICES	RESPONSES	
Adult/Adolescent SANE (SANE-A)	41.67%	5
Pediatric/Adolescent SANE (SANE-P)	0.00%	0
Dual Certification (SANE-A and SANE-P)	58.33%	7
<i>answered question</i>		12
<i>skipped question</i>		0

2. Does your job require you to travel to different medical facilities to collect sexual assault forensic exam kits?		
ANSWER CHOICES	RESPONSES	
Yes	83.33%	10
No	16.67%	2
<i>answered question</i>		12
<i>skipped question</i>		0

3. Are you enrolled as a user in the statewide sexual assault kit tracking system (Track-Kit) administered by SLED?		
ANSWER CHOICES	RESPONSES	
Yes	100.00%	12
No (please explain why not):	0.00%	0
<i>answered question</i>		12
<i>skipped question</i>		0

4. Have you used Track-Kit since the system went live?		
ANSWER CHOICES	RESPONSES	
Yes	100.00%	12
No	0.00%	0
<i>answered question</i>		12
<i>skipped question</i>		0

5. Did you receive adequate training from SLED on how to use Track-Kit before the system went live?		
ANSWER CHOICES	RESPONSES	
Yes	50.00%	6
No (please explain):	50.00%	6
answered question		12
skipped question		0

6. Have you faced any issues while using Track-Kit?		
ANSWER CHOICES	RESPONSES	
Yes (please describe what issues occurred):	50.00%	6
No	50.00%	6
Not currently enrolled	0.00%	0
answered question		12
skipped question		0

7. If you reached out to SLED regarding an issue, did SLED respond in a timely manner with an adequate response?		
ANSWER CHOICES	RESPONSES	
Yes	41.67%	5
No (please explain):	8.33%	1
N/A	50.00%	6
answered question		12
skipped question		0

8. Do you believe that there are enough Sexual Assault Nurse Examine (SANEs) available to meet the needs of the entire state?		
ANSWER CHOICES	RESPONSES	
Yes	25.00%	3
No (please explain):	75.00%	9
answered question		12
skipped question		0

9. Please share any additional comments about SLED's training, roll-out of the Track-Kit system, and/or responsiveness to any issues:	
ANSWER CHOICES	RESPONSES
Open-ended responses only	10
<i>answered question</i>	10
<i>skipped question</i>	2

10. (OPTIONAL) If you are willing to let us (LAC) contact you regarding your responses, please provide your name, email, and phone number:	
ANSWER CHOICES	RESPONSES
Open-ended responses only	5
<i>answered question</i>	5
<i>skipped question</i>	7

Appendix E
Sexual Assault Nurse Examiner Survey Results

S.C. Code §23-3-1300

CHAPTER 3
South Carolina Law Enforcement Division

ARTICLE 15
Statewide Sexual Assault Kit Tracking System

SECTION 23-3-1300. Statewide sexual assault kit tracking system; creation; requirements; reports; confidentiality.

(A) The State Law Enforcement Division (SLED) shall create and operate a statewide sexual assault kit tracking system. SLED may contract with state or nonstate entities including, but not limited to, private software and technology providers, for the creation, operation, and maintenance of the system.

(B) All medical facilities, law enforcement agencies, forensic laboratories, or other persons or entities that collect evidence for, or receive, store, analyze, maintain, or preserve sexual assault kits, must participate in the statewide sexual assault kit tracking system for the purpose of tracking the location and status of all sexual assault kits in their custody. Participation must begin according to the implementation schedule established by SLED.

(C) The statewide sexual assault kit tracking system must:

(1) track the location and status of sexual assault kits throughout the criminal justice process, including the initial collection in examinations performed at medical facilities, receipt and storage at law enforcement agencies, receipt and analysis at forensic laboratories, and storage and any destruction after completion of analysis;

(2) allow participating entities who have custody of sexual assault kits to update and track the status and location of the kits;

(3) allow victims of sexual assault to anonymously track or receive updates regarding the status of their sexual assault kits; and

(4) use electronic or other technologies which allow for continuous access.

(D) SLED may use a phased implementation process in order to launch the system and facilitate entry and use of the system for entities required to participate pursuant to subsection (B). SLED may phase in initial participation according to region, volume, or other appropriate classifications. All entities must participate fully in the system no later than June 1, 2022. SLED shall submit a report on the current status and plan for launching the system, including the plan for phased implementation, to the House and Senate Judiciary committees and the Governor by January 1, 2021.

(E) SLED shall submit a semiannual report on the statewide sexual assault kit tracking system to the House and Senate Judiciary committees and the Governor. SLED may publish the current report on its website. The first report is due July 31, 2022, and subsequent reports are due January thirty-first and July thirty-first of each year. The report must include the:

(1) total number of sexual assault kits in the system statewide and by jurisdiction;

(2) total and semiannual number of sexual assault kits where forensic analysis has been completed statewide and by jurisdiction;

(3) number of sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(4) total and semiannual number of sexual assault kits where forensic analysis has been requested but not completed statewide and by jurisdiction;

(5) average and median length of time for sexual assault kits to be submitted for forensic analysis after being added to the system, including separate sets of data for all sexual assault kits in the system statewide and by jurisdiction and for sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(6) average and median length of time for forensic analysis to be completed on sexual assault kits after being submitted for analysis, including separate sets of data for all sexual assault kits in the system statewide and by jurisdiction and for sexual assault kits added to the system in the reporting period statewide and by jurisdiction;

(7) total and semiannual number of sexual assault kits destroyed or removed from the system statewide and by jurisdiction;

(8) total number of sexual assault kits, statewide and by jurisdiction, where forensic analysis has not been completed and six months or more have passed since those sexual assault kits were added to the system; and

(9) total number of sexual assault kits, statewide and by jurisdiction, where forensic analysis has not been completed and one year or more has passed since those sexual assault kits were added to the system.

(F) For the purpose of reports under subsection (E), a sexual assault kit must be assigned to the jurisdiction associated with the law enforcement agency anticipated to receive the sexual assault kit or otherwise in custody of the sexual assault kit.

(G) SLED shall establish guidelines to ensure that the statewide sexual assault kit tracking system protects victim information from disclosure to nonparticipating entities. Except as otherwise required for reporting under subsection (E), information maintained in the statewide sexual assault kit tracking system is confidential and not a public record as defined in Section 30-4-20(C).

HISTORY: 2020 Act No. 134 (H.3309), Section 1, eff May 14, 2020.

Agency Comments

Appendix G
Agency Comments



South Carolina Law Enforcement Division

P.O. Box 21398
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29221-1398

Henry D. McMaster, Governor
Mark A. Keel, Chief

Tel: (803) 737-9000

October 29, 2024

Director K. Earle Powell
Legislative Audit Council
1331 Elmwood Avenue, Suite 315
Columbia, South Carolina 29201

Re: SLED Response to Legislative Audit Council's ("LAC") Report

Dear Director Powell:

As Chief of SLED, and on behalf of the many dedicated men and women who worked to implement a Sexual Assault Kit Tracking System in South Carolina, I am deeply disappointed by the countless misrepresentations set forth in the LAC's Report, titled *A Review of the Statewide Sexual Assault Kit Tracking System by the S.C. State Law Enforcement Division (SLED)* ("Report"). It is clear that the LAC has not presented an objective Report that properly evaluates SLED's statewide implementation of the sexual assault kit tracking system in South Carolina ("SAK"/"SAKTS"). With hindsight, this appears to have been inevitable. Notably, when the first meeting took place between SLED and the LAC on February 27, 2024, LAC staff almost immediately stated how knowledgeable they were about sexual assault kits and the implementation process, despite not yet having interviewed a single SLED employee or SLED having submitted and the LAC having received a single response to any of the numerous inquiries that followed. This sentiment is reflected in the Report, as the LAC appears to have disregarded important information in order to paint a seemingly predetermined and flawed narrative of SLED's performance, ultimately mistakenly indicating that implementation was in large part a failure rather than a resounding success for the State of South Carolina and the Sexual Assault Survivor community. Regardless, SLED appreciates the opportunity to provide important rebuttals and responses, which are largely based upon information that was made available to the LAC throughout this process.

SLED's Implementation of Sexual Assault Kit Tracking System

SLED has been completely transparent since Act 134 (H. 3309) was signed into law on May 19, 2020, which was, of course, during the height of the COVID-19 Pandemic. To that end, SLED has consistently noted that certain obstacles would have to be overcome to implement a statewide SAKTS. Specifically, at the time this law went into effect, there was a lack of dedicated funding, additional employees, or any resources of any kind allocated to facilitate implementation. In addition, SLED was not afforded input regarding a reasonable implementation deadline or input as to any specifics of what resources would be needed for implementation. It is noteworthy that a Fiscal Impact was generated on November 20, 2020, which stated that "[t]his bill requires SLED to create a sexual assault kit tracking system. The agency reports that it has



An Accredited Law Enforcement Agency



solicited a number of quotes on the development of such a system that range from \$250,000 to more than \$500,000. SLED indicates that the number of end users needing to access the system, which is currently unknown, will affect the overall cost of development. Therefore, the expenditure impact of the bill on the agency's General Funds is undetermined." *See Attachment 1 (Fiscal Impact H. 3309, November 20, 2020)*. SLED noted these concerns in the SAK System Implementation Report submitted on January 4, 2021. *See Attachment 2 (SAKTS Implementation Report, January 4, 2021)*. Regardless, SLED recognizes its vital role as an assisting agency throughout the State of South Carolina, and in addition to an internal SAKTS working group, SLED immediately created a statewide sexual assault kit tracking task force (SAKTF) to ensure that a realistic and workable implementation plan was generated to most effectively meet the stated intent of S.C. Code Ann. § 23-3-1300, which is to "to further empower survivors with information, assist law enforcement with investigations and crime prevention, and create transparency and foster public trust."

Unfortunately, it appears that the LAC has failed to recognize the importance of cooperation and collaboration with key stakeholders throughout the state to implement a statewide SAKTS. However, as discussed below and throughout this response, SLED most certainly appreciates and acknowledges the critical need for input and collaboration from the various stakeholder groups since these groups represent the various end users whose input and involvement was vital towards successful implementation of the tracking system. Accordingly, SLED concluded its implementation report by saying that SLED would continue to work with the SAKTF toward a phased implementation with the goal of achieving full compliance by the June 1, 2022, deadline. SLED continued to acknowledge the numerous steps taken toward implementation in its semiannual reports provided to the Governor's Office, the House Judiciary Committee and the Senate Judiciary Committee. Notably, throughout these reports, SLED was fully transparent with the progress made toward full statewide implementation in 2024. *See Attachment 3 (SAKTS Semiannual Reports)*.

On the first page of the LAC Report there is a "Timeline of Key Dates in SAK Tracking System Implementation Process". However, this timeline creates the false perception that SLED took no beneficial or meaningful actions towards the implementation of the SAKTS for substantial periods of time throughout the 3½ year implementation process. To that end, the LAC's timeline identifies only arbitrarily defined "key dates" in the implementation process. This is simply not reflective of the effort SLED made during this process. Accordingly, SLED has generated an accurate and more complete timeline of this process, including what SLED believes fully denotes all of the key dates and actions taken. *See Attachment 4 (SLED Timeline of Key Dates)*. Below is synopsis of SLED's implementation activity from 2020 to 2024.

Governor McMaster signed H.3309 into law on May 14, 2020, and the law went into effect immediately. On May 20, 2020, SLED convened an internal SAKTS working group to begin discussing this important legislation and formulate a statewide task force. Follow up meetings of SLED's internal working group took place on May 22nd and on June 1st. Subsequently, on July 13th, I invited numerous stakeholders to join and participate in SLED's SAK Task Force. *See Attachment 5 (Chief Keel Invitation to SAKTF)*. Having been the Chief of SLED since 2011, I know first-hand the importance of involving our partners and stakeholders.

Thereafter, another SLED internal working group meeting took place on August 12th. And, the first SAKTF meeting occurred on September 3, 2020. While the initial meeting involved all of the stakeholders, it was quickly determined that smaller subcommittees would be the most prudent way to ensure that all represented groups had ample opportunity to weigh in and discuss

the unique needs of each representative member of the task force. Notably, SLED followed the working subcommittee structure used effectively by the General Assembly every legislative session. Subcommittees are often incredibly effective tools to facilitate targeted discussion by individual stakeholders in a manner that minimizes the burden on all other task force members.

On November 4, SLED hosted a virtual subcommittee meeting for input from local DNA laboratories. Later that same day, SLED hosted another working meeting with representatives with local law enforcement departments, including representatives from sheriff's offices and municipal agencies. On November 9th, SLED hosted a subcommittee meeting comprised of representatives of the various Medical Facilities along with other representatives from the statewide Forensic Nurse Examiner (FNE) program. On November 10th, SLED hosted a subcommittee meeting for the SLED Information Technology (IT) department and various end users to discuss technical aspects of configurability and functionality of a tracking system, and on November 12th, SLED hosted another meeting with Survivor/Victim Advocate Groups. Notably, all of these meetings and working sessions predated SLED's first mandatory report regarding its implementation plan. *See Attachment 2 (SAKTS Implementation Report, January 4, 2021).*

However, curiously, the LAC Report's timeline makes little reference to any of the work performed throughout 2021. This oversight presents a false and misleading narrative. It is noteworthy that during the time period from March through September of 2021, SLED performed the very actions discussed and noted in the implementation report, which was to identify and secure funding and to evaluate various methods of procuring a system. It is noteworthy that even as far back as 2017, SLED had participated in tracking system demonstrations by various vendors so as to evaluate possible options. During this period of system evaluations that lasted through 2020, SLED learned that there were two tracking systems being promoted as "free". However, as with many things, free is not free and SLED discovered that implementing most of these "free" systems actually require the payment of initial system set-up fees. Furthermore, many of these systems required additional costs for maintenance and technical support. For example, direct communication with one vendor revealed the following additional costs: one-time set up fee for Cloud at \$15,000 - \$20,000; hosting maintenance/support fee at \$70,000 - \$150,000 per year; enhancements based on state specific legislation, preferences, etc. at \$125.00 per hour. *See Attachment 6 (SLED Email Summarizing Conversations with John Sohner from HMB).*

Ultimately, given the actual costs involved in the procurement of a SAK tracking system, SLED determined that Request for Proposal (RFP) was the best way forward to comply with South Carolina Procurement Law while satisfying the requirements of S.C. Code Ann. § 23-3-1300. The RFP approach allowed SLED to procure a reputable and established system that would meet the unique requirements of South Carolina. During the month of September 2021, SLED drafted the RFP and, on October 1, 2021, a purchase order was entered through State Procurement. On October 8, 2021, the purchase order, system specifications, and approved IT plan was sent to the Materials and Management Office (MMO). From this point on until the end of 2021, SLED met with MMO on numerous occasions for finalization of the solicitation.

On January 24, 2022, the Solicitation for an SAK Tracking System was posted by MMO. At this point, the solicitation was largely subject to State procurement laws and processes, and was largely out of SLED's direct control. In March 2022, the SAKTF was provided with an update on the procurement process. The Report states that in April of 2022 a notice was issued stating the award posting date was "extended until further notice." The LAC inaccurately concluded that this delay was the fault of SLED without verifying this information. Rather, it was due to MMO needing additional time to sort through issues. *See Attachment 7 (Email with*

Brittany Sloan). Between March and July, SLED’s designated evaluation team worked with MMO to review and score the various vendor proposals. On July 26, 2022, SLED entered into a contract with InVita Healthcare Technologies, Inc., to implement the Track-Kit™ system in South Carolina. Following the kickoff meeting with InVita in September, another SAKTF meeting was held on October 24th to update stakeholders on the progress of the vendor award and to inform all of the stakeholders of upcoming training. SLED and InVita hosted “Knowledge Transfer Sessions” (KTS) with medical facilities, law enforcement, survivors and advocate groups, and county DNA laboratory personnel, for each of the stakeholder group’s respective portals. These various meetings occurred on October 25th, 26th, 27th, and 28th. *See Attachment 8 (SLED Emails regarding KTS).*

In January of 2023, SLED continued Knowledge Transfer Sessions with prosecutors and SLED policy center administrators. From February through June, InVita conducted its formal “system design” to ensure that Track-Kit™ satisfied the specific needs and requirements of South Carolina and S.C. Code Ann. § 23-3-1300. Notably, this system design specifically accounted for the specific issues learned during the various subcommittee group meetings. On June 8th, SLED accepted the InVita system specifications and began the final process toward a pilot roll out of Track-Kit™. On August 7th, SLED began weekly meetings with InVita to monitor progress of system implementation and to address any outstanding issues or concerns. System testing and quality assurance took place over the next few months, and on October 2nd, SLED provided the SAKTF with an update on the instructions for the “go-live” process. Throughout this process and until statewide implementation on February 20, 2024, SLED hosted 31 training opportunities for all end user groups, 20 of which were virtual and 11 were in-person. *See Attachment 9 (SAKTS Training Calendars).* Additionally, SLED’s contract with InVita allows for annual training and registered users have access to training documentation and video resources in their respective portal. It is also noteworthy that once Track-Kit™ was procured, SLED submitted a non-recurring request in the FY23-24 budget seeking \$139,549 for “SAK Tracking System yearly licensing and Tech Support Fees”. *See Attachment 10 (FY23-24 Budget Request).*

As this timeline represents, SLED diligently worked to implement the requirements set forth in S.C. Code Ann. § 23-3-1300. While SLED acknowledges that it did not meet the arbitrary deadline imposed in the statute, SLED is informed and believes that the efforts taken to achieve implementation were necessary and proper. Simply put, SLED would not sacrifice thoroughness, legality, and diligence for speed in the SAK Tracking implementation process.

RESPONSES TO OTHER KEY ISSUES RAISED IN REPORT

SLED DID NOT ADEQUATELY COMMUNICATE WITH STAKEHOLDERS

The LAC states the following: SLED relied primarily on email communication to disseminate information regarding the SAKTS and that SLED has made minimal effort to ensure that stakeholders are using the system. SLED emphatically disputes this assumption. Although SLED did utilize email as one means of communication, there were multiple interactions with stakeholders via Teams meetings, WebEx live trainings, phone calls, and in-person training and interactions. These communications are supported by documentation initially provided in Responses to the LAC audit. It is also worth noting this took place during the COVID-19 Pandemic and measures were taken at all times to ensure the safety of the stakeholders and SLED staff.

As Chief of SLED, I routinely speak with the Police Chiefs, Sheriffs, and Prosecutors. Since the passage of this legislation, I have often discussed SLED's implementation plan and the importance of training and user enrollment at conferences and other gatherings across the state. Additionally, this was also addressed in SLED's quarterly Newsletter, which is used as a tool to provide important information to our law enforcement partners across the state. Finally, SLED Regional Captains also directly contacted Sheriffs and Police Chief's across South Carolina as implementation deadlines approached to encourage enrollment and participation in the SAKTS.

SLED USE OF GRANTS RELATED TO SAKs

As subject matter experts on this topic, SLED is informed and believes that Sexual Assault Kit Initiative (SAKI) grants are designed for local and county government bodies – not statewide laboratories. Specifically, the overall purpose of SAKI funding is to not only fund the analysis of unsubmitted sexual assault kits, but to also evaluate investigative practices, victim support services, fund training, address cold cases, etc. SLED is unwilling to seek grant funds designed for other purposes and other entities. Rather, SLED has utilized Capacity Enhancement for Backlog Reduction (CEBR) grants since 2005, which are specifically designed to address backlogs. Notably, SLED has utilized CEBR grants to fund overtime for the in-house analysis of sexual assault kits and upcoming outsourcing of the analysis of sexual assault kits. Additionally, SLED sought and received confirmation in 2023 from the Bureau of Justice Assistance (BJA) stating that if sexual assault kits at the laboratory were officially submitted for testing and this is delayed because of laboratory backlogs, then CEBR funding should be used. If the sexual assault kits are purely being stored at the laboratory without official testing requests, then analysis would qualify for SAKI funding. However, SLED does not serve as long-term storage for local law enforcement agencies and is informed and believes that CEBR grants – not SAKI grants are appropriate. *See Attachment 11 (BJA Correspondence)*. SLED has and will continue to properly use available federal grant funding to address backlogs.

LEGACY KITS

Legacy kits are sexual assault kits that were either collected or manufactured prior to the implementation of Track-Kit™. These kits do not possess the barcodes necessary to track them in Track-Kit™. Also, medical facilities may have unutilized kits that were manufactured and circulated before implementation in their uncollected inventories. Similarly, law enforcement agencies may have kits that were collected, but remain untested and in their unsubmitted evidence storage. Local DNA laboratories may also have untested kits in their backlogs that have not been barcoded. Once Track-Kit™ was implemented, medical facilities, law enforcement agencies, and local DNA laboratories were notified and asked to provide a count of the number of sexual assault kits in their respective possession that required Track-Kit™ barcode stickers. The necessary materials to bar code these kits were sent to all organizations that requested them. Internally, SLED Forensic Services Laboratory personnel barcode legacy kits when they are submitted for analysis by a law enforcement agency, if they do not already possess a Track-Kit™ barcode sticker. Additionally, DNA Casework Department personnel will barcode legacy kits when they are prepared for analysis, if they do not already possess a Track-Kit™ barcode sticker. However, SLED has and will continue to prioritize testing sexual assault kits and barcoding them in this manner and is informed and believes that this is the most effective way to reduce testing backlogs. Simply put, SLED would have to further delay testing to barcode all legacy kits in SLED's possession.

SLED RESPONSE TO LAC SURVEY

The LAC’s “survey” was so flawed that it fails to provide helpful information in any regard. Notably, while chastising SLED for only utilizing email for communication in certain respects, the LAC used SurveyMonkey®, distributed via email, to assess the effectiveness of Track-Kit™. It is unknown to SLED whether the LAC verified if any of the surveys sent to stakeholders were lost in spam folders or filtered out by security measures at the recipient’s organizations as there is simply no mention of that anywhere in the report. The LAC also failed to disclose whether they followed up with all of the stakeholders who did not respond. Although the LAC received 127 total responses across all stakeholder groups, only 101 indicated in their survey that they were registered users. Currently there are 2,040 registered users in Track-Kit™, to include 137 users of the prosecutor portal, none of which were surveyed by the LAC. Therefore, the LAC only received responses from approximately 4.9 % of registered Track-Kit™ users and based their Track-Kit™ audit conclusions and recommendations on an invalid and unfair representation of registered Track Kit™ users. Utilizing information from less than 5% of actual users as representative information for the entire system is simply inappropriate. SLED would note the following additional issues with this survey:

Law Enforcement Agency (LEA)

- The LAC failed to survey all 334 active LEAs in South Carolina. Accordingly, all of the statistical representations related to LEAs are inaccurate.
- For example, on Page 6, the LAC surveyed 281 LEAs, and received 88 responses, which the LAC reported as approximately 31% participation. This is only representative of 26% of the total LEAs in South Carolina.
- On Pages 75-76 (Appendix B), the LAC reports that 88 LEA responses were received. The Table for LEA survey results indicates questions were inconsistently answered and various questions were randomly skipped. This certainly affects the reporting.
- In addition, there is no indication that the LAC distributed the survey to any SLED Agents in any of the 4 SLED Regional offices or any SLED Agents in the Special Victims Unit.
- Notably, there are currently **1,488** registered LEA users in Track-Kit™, which based on 88 responses that the LAC received, equates to LAC relying on a sample data set representing approximately 5.9% of LEA users registered in Track-Kit™.

Forensic DNA Laboratories

- On Page 7, the LAC reports that it surveyed a representative from each of the five forensic laboratories in South Carolina. However, the LAC indicated they excluded SLED’s forensic lab, which comprises essential staff in Evidence Control, DNA Casework, and SLED Crime Scene who are trained, registered Track-Kit™ users positioned to utilize Track-Kit™ on a daily basis. Notably, SLED is the largest user of the system in the forensic DNA laboratory portal, yet it had no input in the survey.
- There are currently **83** registered laboratory users in Track-Kit™; therefore, the LAC failed to include information from 93% of laboratory users in the survey. Therefore, the sample data set is simply not reflective of registered laboratory users.
- On Page 7, the LAC reports that one staff member surveyed received training “after” the go-live date. The LAC failed to specify if the 1 respondent who received training “after” the go-live date “failed to attend” in-person laboratory specific training or “failed to register” for the Make-Up Laboratory webinar session that was offered. All local DNA laboratory staff were offered in-person “non-Region specific” training by InVita on December 7, 2023, and again December 8, 2023, at SLED. These trainings were offered and conducted before any Regions went live. However, this survey fails to accurately

note why training was not received or whether SLED was made aware of any potential conflict with those dates by that individual user.

- On Page 79 Appendix C indicates Question # 9 was skipped by 4 respondents (80%) and Question #10 was skipped by 2 respondents (40%). Therefore, data is incomplete.

Medical Facilities (MF)

- On Page 7, LAC reports that the South Carolina Hospital Association (SCHA) distributed the survey link to medical facilities and hospital staff, initially sending 217 invitations to hospital leaders followed by a second invitation to 249 leaders, for a total of 466 invitations. LAC received 22 of 466 (approximately 5%) responses. The LAC failed to disclose whether duplicate invitations were sent. There is also no explanation as to whether the second invitation was sent to 249 “new” leader contacts or if the second invitation was sent to only 32 “new” leader contacts. The sample data set for MFs is also not well defined. Furthermore, the LAC does not disclose whether their survey was sent to the same Medical Facility representatives that SLED collaborated with during system set up, training, and implementation; or if any of the **332** Track-Kit™ users currently registered were included as respondents.
- On Page 7, the LAC also inexplicably states that an approximate 5% survey response rate from medical facility respondents provided “valuable insights”. This is flawed.
- On Pages 81-84 (Appendix D) the survey indicates that not all 22 respondents answered all 12 questions and 11 of the 12 questions varied by being skipped by 2-15 of the respondents. These discrepancies affect the usefulness of the survey.
- On Page 7, the LAC reports that fewer than half of MFs received sufficient training “before” go-live dates, while some respondents received training “after” the go-live date. The LAC failed to specify whether the respondents who received training “after” the go-live date, “failed to attend” in-person MF specific training or “failed to register” for MF specific webinars that were offered. SLED not only communicated through the SCHA (as did the LAC) regarding MF training opportunities, but also took additional opportunities to communicate through virtual meetings with the Forensic Nurse Examiners (FNE) Task Force and with individual medical/SANE staff at the medical facilities to ensure participation was maximized.
- On Page 7, the LAC reports that most of the survey respondents “did not” contact SLED regarding any issues. SLED asserts that it cannot attempt to resolve Track-Kit™ issues for medical facilities that do not seek assistance and can’t fix problems or issues that it is unaware of. SLED further notes that the lack of contact further substantiates that the MF survey does not provide “valuable insights”.

SANEs

- On Page 8, the LAC reports they surveyed 43 SANEs, with only 12 responding, representing nearly 28% of survey recipients. The LAC does not disclose whether all 43 SANEs received the survey, nor whether the LAC survey was sent to any of the same SANE representatives that SLED collaborated with during system set up, training, and implementation. Furthermore, 12 responses equate to approximately 3.6% of the **332** MF Track-Kit™ users (including SANEs) currently registered.
- On Page 8, the LAC reports that half of the respondents said they did not receive sufficient training from SLED before the system rollout. From their sample data set, half equates to a total of 6 individuals. There are currently **332** registered MF users; 6 users from this registered group (including SANEs) equates to 1.8% of the users. The LAC failed to specify of the half who did not receive sufficient training from SLED before the system rollout, how many of those respondents “failed to attend” in-person MF (SANE) specific

training or “failed to register” for MF (SANE) specific webinars that were offered. SLED not only communicated through the SCHA (as did the LAC) regarding MF (SANE) training opportunities, but also took additional opportunities to communicate through virtual meetings with the Forensic Nurse Examiners (FNE) Task Force and with individual medical/SANE staff at the medical facilities to ensure participation was maximized.

- Finally, on Pages 85-88 (Appendix E) the Table indicates not all 12 respondents answered all 10 questions and Question #9 was skipped by 2 respondents and Question #10 was skipped by 7 respondents. Therefore, the data is incomplete.

SLED asserts that the LAC survey reflected in Appendices A, B, C, D and E was fatally flawed. The surveys were designed using open-ended responses using undefined terms like “adequate” and then the LAC summarized the responses throughout the report. Simply put, utilizing a “summary” of responses to questions with undefined terms and interpreted by non-subject matter experts does not yield an accurate representation of content. In addition, the LAC did not mention each specific go-live date for the four regions. They only provided the date range and the survey question about “training before the system went live” did not specify if it was the overall go-live date on December 11, 2023, or the region-specific go-live date. If the question was for the December go-live date, there is no separate question if the respondent received training before or after their region’s go-live date.

In conclusion, while stakeholder feedback is extremely valuable and appreciated, the subset of respondents who participated in the LAC surveys is not a fair, statistical representation of the current registered Track-Kit™ users. Therefore, inequitable percentage weights were given to unfavorable responses, thus failing to provide a fair and objective evaluation of how SLED has implemented and complied with the requirements of S.C. Code §23-3-1300 regarding the sexual assault kit tracking system, which was a primary audit objective of the LAC.

SLED RESPONSES TO “IMPROVEMENTS NEEDED” SECTION

The Report states that the following improvements are needed:

SLED CANNOT VERIFY THE NUMBER OF UNTESTED SAKS STATEWIDE

Response: S.C. Code Ann. § 23-3-1300 does not require SLED to verify the number of untested SAKs nor has SLED been provided any resources to accomplish this task. Rather, as discussed above, SLED continues to fully implement S.C. Code Ann. § 23-3-1300 and is addressing unlogged legacy kits in what SLED is informed and believes is the most efficient and effective manner.

SLED’S CONTRACT TO OUTSOURCE SAK TESTING DOES NOT COMPLY WITH STATE LAW

Response: Contrary to the LAC’s findings, the outsourcing of sexual assault kits for testing does comply with the intent of this legislation. SLED’s interpretation of the legislation is that forensic DNA laboratories in South Carolina accept the responsibility for the tracking status of a sexual assault kit from the time it is received at the laboratory to the time analysis is deemed complete. This information is accessible to the survivor through the survivor portal. According to InVita, there is no differentiation made in the survivor portal timeline between the local DNA laboratory and the private DNA laboratory that may possess the kit for analysis. Track-Kit™ is not intended

to be a chain of custody record. All documentation regarding outsourcing will be maintained in the internal case record and available for discovery purposes.

SLED HAS NOT ESTABLISHED COMPREHENSIVE GUIDELINES AS THE MANDATED OPERATOR FOR THE STATEWIDE SAK TRACKING SYSTEM AND SLED DOES NOT HAVE A WEBPAGE OR DASHBOARD DEDICATED TO HOSTING PUBLIC INFORMATION ON THE TRACKING AND PROCESSING OF SAKs

Response: Registered Track-Kit™ users have access to detailed guidance documents and training videos for users through the Help Center on its website in the respective portals. *See* <https://www.sled.sc.gov/track-kit>. In addition, S.C. Code Ann. § 23-3-1300(G) mandates only that “SLED shall establish guidelines to ensure that the statewide sexual assault kit tracking system protects victim information from disclosure to nonparticipating entities.” SLED would note that a publicly accessible website dashboard is not required. SLED complies with S.C. Code Ann. § 23-31-1300 and provides semiannual reports with all appropriate data fields, fully satisfying the legislation. *See Attachment 3 (SAKTS Semiannual Reports)*. SLED will always strive to achieve best practices and will continue to evaluate appropriate means on how to make information available while continuing to protect the confidentiality of victim information on its website.

THERE IS AN INSUFFICIENT NUMBER OF SEXUAL ASSAULT NURSE EXAMINERS (SANEs) TO COVER THE NEEDS OF ALL SOUTH CAROLINA

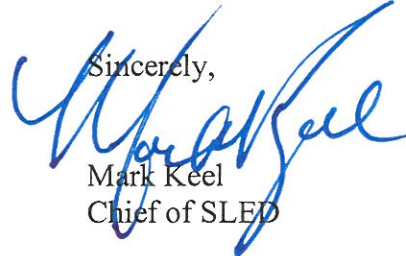
Response: SLED does not employ or have any role in SANE certification so this finding appears to be outside the scope of this audit and SLED’s purview. Nevertheless, SLED agrees that survivors would benefit from more SANEs throughout South Carolina. Additionally, SLED would note that it has staff that serve as members on the South Carolina Forensic Nurse Examiner (FNE) Task Force and will continue to participate and collaborate with these important partners.

ADDITIONS TO STATE LAW AND SLED POLICY ARE NEEDED TO ADDRESS THE HANDLING OF SAKs AND MAKE PROCESSING MORE EFFICIENT

Response: SLED Forensic Services Laboratory personnel continue to triage submissions of violent crime cases, to include sexual assaults, and assign available resources to prioritize analysis and reporting. At present, SLED has 2,358 SAKs that have not yet been tested. Out of those, 23.6% (556) involve a known subject, 53.6% (1,264) involve an acquaintance, 11.1% (261) involve a stranger, and 11.7% (277) do not have information sufficient to allow for a classification into one of the aforementioned categories. Specifically for sexual assault cases, those involving minors, vulnerable individuals, an unknown subject, or high degree of violence will be prioritized for analysis. Additionally, sexual assault cases with upcoming court dates are prioritized as well. As such, legislation or policy that mandates timeframes for the testing of SAKs removes law enforcement’s ability to utilize discretion and effectively process kits in a manner consistent with the administration of justice.

CONCLUSION

For the reasons set forth above, SLED is pleased to report that it has successfully implemented Track-Kit™ statewide and in doing so, accomplished the stated intent of S.C. Code Ann. § 23-3-1300, which is to “further empower survivors with information, assist law enforcement with investigations and crime prevention, and create transparency and foster public trust.”

Sincerely,

Mark Keel
Chief of SLED

Attachment List

- Attachment 1 (Fiscal Impact H. 3309, November 20, 2020)
- Attachment 2 (SAKTS Implementation Report, January 4, 2021)
- Attachment 3 (SAKTS Semiannual Reports)
- Attachment 4 (SLED Timeline of Key Dates)
- Attachment 5 (Chief Keel Invitation to SAKTF)
- Attachment 6 (SLED Email Summarizing Conversations with John Sohner from HMB).
- Attachment 7 (Email with Brittany Sloan)
- Attachment 8 (SLED Emails regarding KTS)
- Attachment 9 (SAKTS Training Calendars)
- Attachment 10 (FY23-24 Budget Request)
- Attachment 11 (BJA Correspondence)

Due to size limitations, all attachments referenced within this response are available from SLED upon request. Please submit any such request to Executive Affairs Director Ryan Alphin at ralphin@sled.sc.gov.

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