The National Center for Victims of Crime is pleased to provide the slides used in our March 14, 2014 Webinar, “The Untested Rape Kit Crisis and Cold Case Sexual Assault Prosecutions.”

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The Untested Rape Kit Crisis and Cold Case Sexual Assault Prosecutions

Kym L. Worthy
Wayne County Prosecutor
Detroit, Michigan
Our Mission

To forge a national commitment to help victims of crime rebuild their lives.
National Center for Victims of Crime

- Advocacy to secure resources, rights, and protections for victims.
- Training and technical assistance.
Project goal:

- to ensure that communities have the tools to create a victim-sensitive approach to sexual assault kit backlog reduction.
OVW SAK Backlog TTA Project Overview

- Victim Roundtable and Interviews
  - Report available online
- Online Resource Library
  - Policies and protocols on notification
  - State and Federal laws, pending legislation
  - Reports and resources
- Provide Technical Assistance
- Webinar Series
Upcoming Webinar

- March 26th, 2:00 PM (EST). Enhancing Sexual Assault Investigations Through Culture Change: A Case Study with key members of the Houston Police Department including:
  - Assistant Chief Mary Lentschke
  - Lieutenant Shamara Garner
  - Emily Burton-Blank, Justice Advocate
  - Lieutenant Belinda Null
VictimsOfCrime.org/DNA
Thank you!

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2014 National Center for Crime Victims Webinar

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Wayne County Prosecutor,
Detroit, Michigan

March 14, 2014, 2:00 pm
The Untested Rape Kit Crisis and Cold Case Sexual Assault Prosecutions
Crime Statistics Sources


• Hereafter cited as NISVS (2010)
Anyone can be a victim of rape or sexual assault. But some are more at risk than others:

- Nearly 1 in 5 women has been raped in her lifetime.
- 1 in 71 men – or almost 1.6 million – have been raped during their lives.
- Women of all races are targeted, but some are more vulnerable than others:
  - 33.5% of multiracial women have been raped, as have 27% of American Indian and Alaska Native women, compared to 15% of Hispanic, 22% of Black, and 19% of White women.
- Most victims know their perpetrators: 51% of female victims were raped by a current or former intimate partner, and 41% were raped by an acquaintance. Stranger rape, in contrast, accounts for 14% of the total.
• Of men and boys, 52% report being raped by an acquaintance and 15% by a stranger.
• Repeat victimization is common: over a third of women who were raped as minors were also raped as adults.
• The majority of perpetrators are male: 98% of female and 93% of male rape survivors report that their assailants were male.
• Young people are especially at risk: nearly half of female survivors were raped before they were 18, and over one-quarter of male survivors were raped before they were 10.
Society’s Disposables

- Sex workers and substance abusers experience high rates of victimization
- Public outcry is not the same as when victim is not in one of these categories
- Cases can be difficult to prove
  - Credibility problems for victim
  - Transience can make it difficult to locate witnesses
  - Jurors’ biases reduce likelihood of conviction
Defendant: Shelly Andre Brooks

- August 2001: Body of Sandra Davis, 53, found beaten repeatedly in the head, sexually assaulted, dragged into a closet where she was left to die.
- January 2002: Body of Pamela Greer, 33, found in the same building, in the same condition.
- April 2002: Body of Marion Woods-Daniels, 36, was found sexually assaulted, her head bludgeoned with a brick.
- April 2002: Body of Rhonda Myles, 45, found in vacant building, sexually assaulted and beaten with leg of a chair.
- August 2002: 19 year old raped and released.
- November 2002: Body of Thelma Johnson, 30, found beaten to death and sexually assaulted.
- POLICE HOLD PRESS CONFERENCE WARNING OF SERIAL KILLER
Defendant: Shelly Andre Brooks

- October 2005: Body of Melissa Toston, 38, found in vacant garage, beaten with cement object and sexually assaulted.
- June 2006: Body of an unidentified woman found, cause of death strangulation and blunt force trauma to head
- July 2006: A victim, raped and beat into a coma, survives and identifies defendant

- *All murder victims had been black, involved in prostitution, and with a history of drug abuse*
When sexual assaults are reported, the victim is routinely advised to have a Sexual Assault Examination so that a Kit can be collected.
After a Sexual Assault
(in the absence of SANE programs)

- Hospital waiting room
- Public place
- Long waits, Process often takes up to 3 hours
- Untrained doctor/staff
- Frequently not fluent in preferred language
- Must give detailed statement
- Expensive (prior to law mandating free exam)
Rape Kit Collection

- Head and pubic combing
- Vaginal, oral and rectal swabs
- Pulled hair samples from head and pubic area
- Preserve clothing for testing
- A forensic sexual assault examination can last from 4-10 hours and is physically and emotionally draining
One forgotten kit  = one forgotten victim = ONE TOO MANY
10 Forgotten kits is an outrage
100 Forgotten Kits is an ABOMINATION
11,304 Forgotten Kits is a Crisis Beyond Comprehension
400,000 kits are estimated to be languishing in police storage facilities around the country
That many victims would fill up Michigan Stadium ("The Big House") four times.
Untested SAKs in Detroit

On August 17, 2009, representatives from the Wayne County Prosecutor’s Office (WCPO), and the Michigan State Police (MSP) toured a Detroit Police Department (DPD) property storage room located at 5140 Riopelle Street in Detroit.
Detroit

- During that tour 11,304 SAKs dating back to the 1980’s were discovered
- In 2013, Another 37 were found in the DPD property room, for a total of 11,341 SAKs
- The vast majority had never been submitted to either the Detroit Police Crime Lab or Michigan State Police Forensics Lab for DNA analysis
How did this happen?
Defendant: Joshua Brooks

- January 19, 2004
- Victim was going to see a “drag show” with a girlfriend.
- Girlfriend didn’t show up.
- Victim sat in her car and called her boyfriend, as he was about to board a plane coming home from Spain.
- While on the phone, a masked gunman appeared at her car window.
Defendant: Joshua Brooks

• Brooks ordered her out of the car and told her to give up her money.
• Brooks made her lie on her back and “patted her down”
• Made her roll over and put a gloved hand in her vagina.
• Made her get on her knees and he removed her tampon.
• Brooks forced victim to perform fellatio, fled on foot.
Defendant: Joshua Brooks

• Victim immediately contacted front door security and they contacted police.

• Police responded, noted
  – Footprints in the snow around victim’s car
  – Used tampon near her car
  – Victim’s clothing was wet where she had to lie and kneel in the snow

• Victim taken to Sex Crimes Unit

• Victim taken to hospital for SAK
Defendant: Joshua Brooks follow up

- SAK discovered untested in 2013
- Brooks had gone on to commit a Home Invasion/Assault with Intent to Murder in May 2004 and was committed as a ward of the state as a Juvenile.
- Brooks committed an Assault with Intent to Commit Armed Robbery in 2009, sentenced to 4 ½ - 20 years in prison.
- He was scheduled to be released when he was charged with our NIJ-SAK case, sentenced 12-30 years in prison.
Looking for Answers and Taking Action

• On September 8, 2009, Wayne County Prosecutor Kym L. Worthy sent a letter to former Detroit Police Chief Warren Evans raising concern over the department’s inaction regarding recently-discovered SAKs.

• Prosecutor Worthy’s letter launched a massive effort to determine how thousands of rape kits could have been ignored over the course of more than 25 years.
Action Research Project (ARP)

• Wayne County Prosecutor Kym L. Worthy initiated a collaborative community partnership to study all untested SAKs.

• In April of 2011, the WCPO was one of only two jurisdictions in the country to receive a prestigious 30-month award in the amount of $1.5 million from the National Institute of Justice to determine the scope of the problem of unsubmitted SAKs and the resources required to address the problem.
ARP

• One of the primary goals of the project is to produce transportable lessons and strategies to help other jurisdictions that discover untested SAKs in their communities.

• Titled the “National Institute of Justice Sexual Assault Kit Action Research Project” (NIJ SAK ARP), the project commenced in April 2011 and ran through September 2013.
ARP

• “Action Research”
• One of the project’s primary goals was to examine why the problem of untested SAKs in police storage developed
• Culture of victim-blaming and disbelief that discouraged victims from filing police reports and resulted in cases being closed with little or no investigation
Defendant: Billy Bingham

- July 23, 2005: Twelve year old male victim was pumping gas at a local service station to make money.
- Defendant offered him the chance to do odd jobs for cash.
- Victim got into Bingham’s van and went to his house.
- At the house, Bingham sodomized the child forced him to perform fellatio and performed fellatio on the child.
Defendant: Billy Bingham

• Bingham tied the child up and left him in the house while he drove other children to “their mother’s house.”
• Bingham returned and took the child back into his van and dumped him about a block from his home.
• Child immediately reported the assault to his mother who called the police
• Child was taken to the hospital for SAK
Defendant: Billy Bingham

- Child pointed out the house where he had been assaulted to police.
- Police and hospital personnel noted rope burns on wrists, cut lip, and anal discharge.
- Five months later, protective services investigated when child told a teacher about the assault.
- Protective services also sent a report to police.
Defendant: Billy Bingham

• In 2013, CODIS hit came back to a sex offender living at the address the victim had pointed out in 2005.

• Victim more than willing to cooperate, related experiencing trauma every time her drove past house where assault occurred. Now the parent of a 1 year old son.

• Bingham had been previously convicted (in 1990) for molesting a 5 year old.

• Sentenced in September 2013 to 40-80 years in prison.
Additional Reasons Kits Were Not Tested

• Lack of a formal policy and protocol for testing
• Reduction in law enforcement staffing levels
• High turnover in law enforcement leadership (there have been 5 Chiefs just in the 5 years since the kits were discovered)
• Lack of professional training for law enforcement
Victim Notification

• When should victim be notified?
  – Before testing?
  – When DNA reveals a match?
  – If no match is found?

• How should victim be notified?
  – Letter?
  – Phone call?
  – In person?
Possible Approaches to Backlog

- Do nothing, worry about new cases only
- Test only kits from cases that can be prosecuted
- Test all kits for research purposes only
- Test all kits and INVESTIGATE all kits as cases for prosecution, including the use of older cases to show pattern and identity
Defendant: Reginald Holland

- 3-20-02: Defendant pled to attempt B&E; DNA sample was ordered
- 1-29-12: Defendant sexually assaulted Victim #4
- But NIJ project identified:
  - October 2005: sexually assaulted victim #1
  - June 2009: sexually assaulted victim #2
  - October 2009: sexually assaulted victim #3
- 1-22-14: Defendant found guilty of assaulting Victim #4, victims #1 & #2 testified at that trial
- If the 10/05 had been tested, other rapes may have been prevented
Sexual Assault Offender Statistics

• Rapists assault between seven and 11 victims, on average.
• Offenders tend to have very lengthy offending careers, beginning in adolescence and often spanning decades
• By the time they are apprehended, if they are apprehended, they have often victimized scores of individuals
**Defendant: Gabriel Cooper**

*The Cost of Lost Opportunities*

<table>
<thead>
<tr>
<th>Offense Date</th>
<th>Charge</th>
<th>Outcome</th>
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<tbody>
<tr>
<td>10/14/01</td>
<td>Flee &amp; Elude</td>
<td>2 years Prob</td>
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<tr>
<td>6/4/02</td>
<td>SEXUAL ASSAULT</td>
<td>UNTESTED KIT</td>
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<td>3/11/03</td>
<td>RCSP</td>
<td>2 years Prob</td>
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<td>9/4/03</td>
<td>RCSP</td>
<td>10 mo-5 years</td>
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<tr>
<td>11/30/04</td>
<td>Flee &amp; Elude</td>
<td>14 mo-10 years</td>
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<td>11/30/04</td>
<td>RCSP</td>
<td>1-5 years</td>
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<td>1/2005</td>
<td>AWIM</td>
<td>Dismissed</td>
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<tr>
<td>8/5/06</td>
<td>RCSP</td>
<td>1-5 years</td>
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<td>12/29/08</td>
<td>RCSP</td>
<td>1 ½ - 5 years</td>
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<td>2011</td>
<td>CSC 1, Kidnap</td>
<td>Dismissed</td>
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<tr>
<td>9/26/12</td>
<td>CSC 1,2 Kidnap</td>
<td>30-75 years</td>
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<tr>
<td>12/29/12</td>
<td>CSC 1, Kidnap</td>
<td>30-75 years</td>
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<td>1/7/13</td>
<td>CSC 1, RA, FA, FF</td>
<td>32-77 years</td>
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<tr>
<td>1/14/13</td>
<td>CSC 1, RA, FA, FF</td>
<td>32-77 years</td>
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**Victim raped outside store in 2002**

**Gabriel Cooper’s DNA was in CODIS in 2004**

*If you think testing kits is expensive, think about how much it costs to lose the opportunity to prevent crimes from happening.*
DNA Analysis of Detroit Kits

• The National Institute of Justice provided funding to test 1,600 of the 11,341 SAKs.
• This was in addition to the 400 kits that were tested with funding provided by the Office on Violence Against Women.
• In June 2013, Governor Rick Snyder and Attorney General Bill Schuette announced that $4 million of money obtained in an unrelated federal settlement would be allocated to analyze 8,000 of the remaining untested kits.
It is not enough to simply test the kits

• Cases must be investigated
• Charges must be brought
• Cases must be prosecuted
DNA Analysis of Detroit Kits, con’t.

• In 2013, the Wayne County Prosecutor’s Office partnered with the Detroit Crime Commission, a nonprofit 501(c)(3) to form the Detroit Rape Kit Crisis Initiative.

• The mission of the Initiative is:
  – To raise awareness and funds sufficient to test all remaining kits, and
  – To ensure that every case is investigated and prosecuted to the fullest extent of the law.
DNA Analysis of Detroit Kits, con’t.

- In October 2013, the WCPO learned that it had been awarded funding from the Department of Justice Office on Violence Against Women (DOJ, OVW) in the amount of $855,000 to support a Cold Case Sexual Assault Unit.
- Additional funding sources for the WCPO Cold Case Unit to investigate and prosecute are being pursued.
- The WCPO is also initiating legislation to ensure that no kit remains untested in the State of Michigan and that all kits are tested going forward.
Results to Date

• To date, all 1,600 kits that will undergo testing as part of the project have been identified and sent to either the MSP (who will outsource the kits to a private lab for testing) or to Marshall University

• As of January 15, 2014, 1,531 of those SAKs have undergone testing and technical review:
Results from 1,531 tested

- 710 CODIS eligible profiles (45% of all kits)
- There have been 402 “offender hits” meaning that the DNA profile matched the profile of a known offender.

- There have been 24 “case-to-case” or “forensic” hits, meaning that the DNA profile matched the profile of an unidentified offender listed in CODIS for another offense.
More results

- There have been 78 offender and forensic hits (meaning the profile matched an offender listed in CODIS who has committed multiple sexual assault crimes).
- 29 “Twins” (hits to another of the original batch), and 2 “Triplets” (hits to two other of the original batch)
- Overall, getting hits on 26% of all kits tested.
CODIS Hits from WCPO Sexual Assault Kits
CODIS Hits from WCPO Sexual Assault Kits
And more results…

<table>
<thead>
<tr>
<th>To date, there have been hits to twenty jurisdictions besides Michigan</th>
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<tr>
<td>• Ohio</td>
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<td>• Illinois</td>
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<td>• North Carolina</td>
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<td>• Indiana</td>
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If all kits are tested and testing continues to yield the same rate of CODIS hits, we can expect it to generate almost 3,000 cases that will require investigation and prosecution.

This will be in addition to the 300-350 new cases reviewed annually by the six members of the WCPO Sexual Assault Team.
As of January 9, 2014

- Investigations have been initiated on 50 CODIS hits
- Warrants have been issued on 13 cases
  - Convictions obtained on 5
  - Remainder pending
- All but one victim has been located.
Defendant: Eric Wilkes, serial rapist

January 25, 2012: Wilkes approached victim in liquor store and offered to sell her drugs, sexually assaulted her. After the rape, she followed him and identified him. His DNA matched the following crime reports:

- June 21, 2006: Assailant claimed to be undercover officer to get deaf victim into his car, raped her
- May 4, 2011: Victim found dead in alley, nude from waist down with trauma to face, raped
- August 14, 2011: Assailant grabbed victim by bicep and threatened with gun, raped her
- August 25, 2011: Assailant pulled up in a car and forced victim into car at gunpoint, raped her
- December 13, 2011: Assailant approached victim coming out of gas station and told her that her friend had died, raped her.
What is Necessary to Successfully Prosecute Cold Sexual Assault Cases

• All kits must be tested
• Prosecutor’s Office Cold Case Unit
  – Investigators
  – Advocates
  – Prosecutors
• Victim Centered
• Trauma Informed
• Offender Focused
Cold Case *Investigators*

- Victim interactions with police are often negative
  - Rape victims are often actively discouraged by police to make a report, are told by police personnel that what happened to them isn’t serious enough to pursue, are blamed for the assault, and are often accused of false reporting (Campbell 2005; Campbell & Raja, 2005; Campbell et al., 2001; Greeson & Campbell, 2001; Human Rights Watch, 2013; Ullman, 2010). Victims report high levels of dissatisfaction with their interactions with police (Monroe et al., 2005) and frequently note that police were cold, insensitive, and lacked compassion and concern for their well-being (Campbell et al., 2012; Maier, 2008; Patterson, 2011a,b).

- To date, research has not yet identified successful programs for changing the *law enforcement* response to sexual assault.
  - A recent NIJ-funded multi-site study found that on average, 86% of sexual assaults reported to law enforcement were NOT referred to prosecutors for consideration of charges (Campbell, Townsend, Bybee, Shaw, & Markowitz, 2013).
Cold Case **Victim Advocates**

- Serious psychological fallout from sexual assault and law enforcement interaction
- Advocates provide support and information
- Community based advocates help to maintain a victim-centered approach to case management
Cold Case *Prosecutors*

- Emerging research suggests that specialized prosecution units are an effective strategy for engaging victims in the criminal justice system and supporting victims’ recoveries.
- Units are staffed by prosecutors with expertise/interest in working exclusively (or nearly exclusively) on sexual assault cases (Beichner & Spohn, 2005; Hemmens, Brody, & Spohn, 2012; Holder, 1996).
Benefits of Cold Case Units

• Prosecutors develop a better understanding of community and legal resources available to victims and are better able to link survivors to specific services.

• Allow victims to become more comfortable with the process as they do not have to tell their story repeatedly and have the opportunity to develop trust and rapport with their prosecutor.

• Too few studies to draw conclusions about impact on case outcomes/prosecution rates.

• Beichner & Spohn, 2005
Lessons from Wayne County Pilot Victim Notification Protocol

• When victim centered/trauma informed protocol is used;
  – Most victims **DO NOT** have strong negative reactions to being contacted
  – Most victims **DO** decide to have continued contact with the criminal justice system

• More research needs to be done, more work with specific victim groups
  – Victims aged 16-24 at time of assault
  – Victims of crimes that occurred 9+ years ago
  – Victims of known offenders
Thank you!
Please fill out our evaluation!

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