

SEXUAL ASSAULT KIT (SAK) DISCARD GUIDANCE

Prior to discarding any sexual assault kit, please confer with the prosecuting authority¹ to confirm that the full sentence has been served.

***** All SAKs that do not have victim consent for testing must be held for the maximum applicable statute of limitations. *****

Anonymous SAKs where the offense cannot be determined must be retained for the statute of limitations applicable to rape, the most severe potential offense.

Please use this chart to help inform your agency's decision as to whether a SAK is eligible to be discarded.

Crime Category	CASE STATUS			
	Open ²	Unfounded ³ / No Further Investigation	Charges Filed	Adjudicated
Homicide Offenses with Sexual Component	Retain SAK indefinitely	Dispose upon receipt of authorization by the prosecuting authority ¹	Retain SAK indefinitely	Retain SAK until full sentence is served
Sexual Offenses	Retain SAK for the length of the statute of limitations	Dispose upon receipt of authorization by the prosecuting authority ¹	Retain SAK pending adjudication	Retain SAK until full sentence is served

Please Note: If there is a CODIS Hit, this will reopen the statute of limitations for one (1) year.

¹ The "prosecuting authority" refers to either the District Attorney, Office of the Attorney General, or U.S. Attorney's Office.

² Open cases also include cases in which investigative leads have been exhausted or in which someone was found not guilty after criminal proceedings and additional suspects have not yet been identified or charged.

³ According to the FBI's Uniform Crime Report (UCR) guidelines, an offense can be cleared as unfounded when "a complaint is determined, through investigation, that no offense occurred nor was attempted." The UCR guidelines indicate that unfounded cases should include crime reports that are either false or baseless. These classifications can be further defined as follows:

- **Unfounded, False:** a report can only be determined to be false if the evidence from the investigation establishes that the crime was not completed or attempted.
 - In order to classify a report as false there must be an investigation that factually proves that a criminal offense neither occurred nor was attempted.
- **Unfounded, Baseless:** a reported sexual assault that does not meet the elements of a crime, felony or misdemeanor.
- The following are examples in which a case may **NOT** be classified as unfounded or baseless:
 - Insufficient evidence to prove sexual assault happened;
 - Identity of the suspect is known;
 - Suspect admitted to sex with the victim, but maintained that it was consensual;
 - Suspicions that a report is false;
 - Victim changes their account of events;
 - Victim declines to participate further in the investigation or becomes unresponsive to outreach efforts;
 - The District Attorney's Office determined that a crime had been committed, but declined prosecution.