

MINNESOTA DEPARTMENT OF PUBLIC SAFETY BUREAU OF CRIMINAL APPREHENSION

SEXUAL ASSAULT EXAMINATION KIT (SAK) TESTING AND STORAGE FREQUENTLY ASKED QUESTIONS

March 3, 2021

<https://dps.mn.gov/divisions/bca/bca-divisions/forensic-science/Pages/sexual-assault-kit-information.aspx>

What is the difference between a Restricted kit and an Unrestricted kit?

Per **MN Statute §299C.106**

- Restricted SAK means a kit that does not have an accompanying release form signed by the patient authorizing law enforcement to submit for forensic testing.
- Unrestricted SAK kit means a kit that has an accompanying release form signed by the patient allowing law enforcement to submit for forensic testing.

What release form is needed?

- A Sexual Assault Evidence Testing and Storage Consent Form is the uniform consent form developed per **MN Statute §299C.106**. This document should be provided by the hospital to the patient at the time of the sexual assault examination. It gives the patient the option of authorizing, in writing, the release of the kit to law enforcement. Each facility may have additional/alternate forms that accomplish the same thing but the use of the uniform consent form is recommended and will eventually become mandatory.

Do we have to use the BCA Sexual Assault Evidence Testing and Storage Consent Form?

- Because this form contains the necessary information for proper handling of the SAK whether Restricted or Unrestricted, it is preferred this form is completed for each submission for testing or storage. We acknowledge that medical facilities may already have forms in place as part of their processes and may even have additional required forms but the goal is to have a standardized form in use for the entire state. We recognize a need for transition to this new form and will not refuse any kit without the BCA form but may need additional follow up if not all necessary information is received with submitted SAKs.

What SAKs need to be sent to the BCA?

- Starting January 1, 2021, ALL Unrestricted SAKs are required to be submitted to a forensic laboratory for testing. The Bureau of Criminal Apprehension Forensic Science Services (BCA FSS) qualifies as one of these forensic laboratories.
- Also starting January 1, 2021, ALL Restricted SAKs are required to be submitted to the BCA for storage.

What do we do with SAKs collected prior to January 1, 2021?

- If the SAK is Unrestricted and was collected between August 1, 2018 and January 1, 2021, the SAK should be submitted to a forensic Laboratory for testing unless the investigator and county attorney document that the SAK would not provide any evidentiary value to the investigation.
- If the kit is Unrestricted and was collected before August 1, 2018 and requires forensic testing, the SAK should be submitted to a forensic laboratory.
- If the SAK is Restricted and collected before January 1, 2021, the BCA should be contacted to determine the best location for storage.



Who is responsible for getting Restricted kits to the BCA?

- The process for transporting kits to the BCA will depend on the jurisdiction and where the examination occurred. Each SAK has a pre-addressed mailing sleeve that can be used for direct shipping to the BCA. See below for other submission options. Medical facilities may also have arrangements with local law enforcement for transport of the kits to the BCA.

Can Restricted SAKs be submitted directly to the BCA?

- Yes, SAKs can be submitted directly from medical facilities. Options for transmission of the SAK include submission in person at BCA or sending the SAK(s) by mail or delivery service. If the Restricted SAK is being transported to the BCA by the law enforcement agency, the kits must be clearly marked as "Restricted" to ensure proper routing.

What paperwork is needed for Restricted SAKs to be accepted at BCA?

The BCA will require two documents.

- A Sexual Assault Evidence Testing and Storage Consent Form which is a document provided by the hospital to the patient at the time of the sexual assault examination that gives the patient the option of authorizing, in writing, the release of the kit to law enforcement.
- A Restricted Kit Submission Form will need to be included with each SAK submitted to the BCA for storage. This Restricted Kit Submission Form will act as a receipt and a copy will be returned to the submitting medical facility or law enforcement agency as indicated on the form.

Do I also need to send in blood and urine kits collected during the exam if the SAK is Restricted?

- Yes, blood and urine kits will be stored along with the SAK, barcoded and be included on the receipt.

How quickly does the SAK need to be sent to BCA for either testing or storage?

- Within 60 days of a hospital preparing a Restricted SAK, it shall be submitted to the Bureau of Criminal Apprehension (BCA) for storage.
- The law enforcement agency must retrieve an Unrestricted SAK from the medical facility within ten days of receiving notice that the SAK is available for transfer. Within 60 days of receiving an Unrestricted SAK, law enforcement agencies shall submit the SAK for testing to a forensic laboratory.

How long does BCA keep the Restricted SAKs in storage?

- Current legislation requires the BCA to store all Restricted SAKs for a minimum of 30 months. Plans for additional storage options are currently being discussed.

What should I do with extra evidence?

- BCA recognizes the value of secondary evidence in sexual assault cases but does not have the capacity to store any additional evidence (clothing, bedding etc.) at this time. It is up to local jurisdictions, medical facilities, and SANE programs to continue following their current process or develop a process to preserve these items, if feasible.

How confidential is the patient information if they provide names etc.?

- The BCA has dedicated staff and secure logging and tracking systems to maintain identifying patient information as private data pursuant to **Minn. Stat. §13.82, Subd. 17(b)**.

What is the process if the patient wants to change their mind about testing?

- If the patient changes their mind and wants to have their SAK tested, they will need to notify law enforcement who will contact the medical facility for information regarding the Restricted SAK. Law enforcement will then provide BCA with the appropriate SAK information utilizing the BCA Evidence Submission Form (**FSS-F-EI-1003**) and proof of patient consent for testing on the Sexual Assault Evidence Testing and Storage Consent Form. If a patient changes their mind about testing already underway, please contact the BCA immediately at 651-793-2900.

Does the patient need to provide their name for their Restricted SAK to be stored?

- No. But if no identifying information is provided with a Restricted SAK, a unique medical facility identifier **MUST** be included on the Submission form. Enough information must be provided with this SAK to allow tracking purposes and for potential conversion to Unrestricted status.

What unique identifier do I need to use if the patient does not want to provide their name?

- Any hospital identifier or ICR from law enforcement will be appropriate as long as that number provides a way of tracking back to the appropriate SAK collected for the patient. We will also utilize date collected, county of incident as additional identifying information.

What if the assault happened in a state other than MN?

- If the exam was performed and SAK collected in MN and is to be stored as Restricted, the Restricted SAK can be sent to BCA for storage. If the Unrestricted SAK is to be tested, the SAK should be sent to the state where the incident will be investigated.

What if the assault occurred in MN but the exam occurred in a state other than MN?

- If the exam was performed and SAK collected in a state other than MN, and is to be stored as Restricted, the Restricted SAK can be sent to BCA for storage or stored following the other state's procedures. If the Unrestricted SAK is to be tested, the SAK must be sent to the BCA for testing.

How can I get SAKs to BCA if I don't want to mail them?

SAKs can be delivered in person at the following locations:

ST. PAUL LOCATION
MN Bureau of Criminal Apprehension
1430 Maryland Ave. E.
St. Paul, MN 55106
EVIDENCE INTAKE (not the Public Entrance)

BEMIDJI LOCATION
MN Bureau of Criminal Apprehension
3700 N. Norris Ct. NW
Bemidji, MN 56601

ST. CLOUD LOCATION – WEDNESDAYS 9-3PM ONLY
MN Bureau of Criminal Apprehension
St. Cloud Police Department
101 11th Ave. N
St. Cloud, MN 56303
Please call ahead
Phone: 320-249-2689