

# Idaho's Sexual Assault Kit Initiative: The Effect of HB528 on Sexual Assault Clearance Rates

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The Biennial Report on Victimization & Victim Services is a series of papers on the state of victimization, response to victimization, impacts of crime on victims, and victim services in Idaho. The project is funded by the Idaho Council on DV & Victim Assistance. For more information on the project, watch the introductory video at <https://www.boisestate.edu/sps-criminaljustice/victimization/> or contact Dr. Lisa Growette Bostaph at [lisabostaph@boisestate.edu](mailto:lisabostaph@boisestate.edu).

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# Overview

In 2019, an estimated 212,230 people 12 years of age or older experienced more than 450,000 acts of sexual violence<sup>1</sup> in the U.S. (Morgan & Truman, 2020). The Centers for Disease Control (2010-2012) estimated that, in their lifetime, 41% of women and 19% of men in Idaho will experience an act of sexual violence (232,000 and 107,000 respectively), and 18% of women and 6% of men will suffer an attempted or completed forced penetration (Smith et al., 2017). Almost 2,000 non-consensual sex offenses, 636 rapes, 128 sodomies, 140 sexual assaults with an object, 1,070 fondling, 14 incest, and 78 statutory rape cases with a total of 4,008 victims were reported to Idaho policing agencies in 2019 (Idaho Statistical Analysis Center [ISAC], 2020a). According to Idaho's Youth Risk Behavior Survey (2019), over the past 10 years, on average, 8.5% of the state's high school students were forced into sexual intercourse; the Idaho Department of Education reports this statistic likely under-represents the actual proportion of adolescents experiencing sexual violence in Idaho (Idaho Department of Education, n.d.).

Across all sexual violence crimes in Idaho, almost three-fourths occur inside a residence and span the entire spectrum of victim-offender relationships (e.g., family member, intimate partner, friend, acquaintance) (ISAC, 2020a). A relatively small proportion of sexual violence is committed by strangers; among all reported rape, sodomy, sexual assault with an object, and fondling cases in 2019, less than 1% involved a stranger (ISAC, 2020b). Beyond the sexual assault itself, sexual violence victims in Idaho suffered a wide range of physical injuries from minor (e.g., bruising) to internal or other major injuries, broken bones, and unconsciousness. In 2019, 16% of victims of non-consensual sex offenses experienced physical injuries as did victims of rape (28%), sodomy (19%), sexual assault with a foreign object (16%), and fondling (7%) (ISAC, 2020a).

Yet, according to the National Crime Victimization Survey (NCVS), in 2019, roughly 34% of victims who experienced sexual violence reported to policing agencies (Morgan & Truman, 2020). Research has identified numerous reasons why victims of sexual violence do not report to local authorities: fear of blame, reprisal, publicity, or the criminal justice experience; embarrassment; belief that it is a personal matter; or that policing professionals would not believe and/or help them (Kilpatrick et al., 2007; Wolitzky-Taylor et al., 2010). Sexual violence is a serious crime with potentially devastating short and long term effects on victims. Close to one-third of women rape victims report symptoms of Post-Traumatic Stress Disorder (PTSD) after the assault and, compared to women who have never been a crime victim, are three times more likely to consider and 16 times more likely to attempt suicide (Kilpatrick, n.d.).

Given the serious nature of sexual violence crimes, specific responses have been developed over the years to enhance the criminal justice system's response when these crimes are reported. Much of this response has focused on increasing evidence collection and, with the development of DNA testing, specific attention has gone towards the collection of forensic evidence. The primary method of forensic data collection in sexual violence crimes is the sexual assault kit (SAK). SAK evidence can include victim clothing, hair samples, fingernail scrapings, and bodily fluid samples (e.g., semen, blood, or saliva). Specially-trained nurses, called Sexual Assault Nurse Examiners (SANE), or other qualified medical staff gather all of the available evidence for the SAK, an invasive and frequently lengthy procedure (Campbell et al., 2017; King, 2019). The completed SAK is then turned over to policing authorities who, in turn, are to submit the SAK to a crime lab for processing. SAK evidence can assist investigators by confirming a suspect's identity and corroborating a victim's statement. The importance of SAK evidence extends beyond the individual cases from which evidence is collected as DNA is stored in a national database (CODIS) and can be compared to

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<sup>1</sup> In this report, the term 'sexual violence' is used to encompass a broad base of sex crimes codified in Idaho (e.g., non-consensual sex offenses, rape, sodomy, sexual assault with a foreign object, fondling, lewd & lascivious conduct with a minor).

DNA samples from other cases, potentially clearing other unsolved crimes by identifying serial offenders (King, 2019; Strom & Hickman, 2016).

In the late 1990s, national attention turned to the discovery of potentially hundreds of thousands of untested SAKs sitting in policing agencies' evidence lockers or at crime labs still awaiting processing across the country (King, 2019). Multiple explanations have been offered for this lack of SAK testing, for example victims' requests to not send the kit for testing; investigators' perceptions that SAK results would not further the case due to the timeliness of the potential analysis, only the consensual nature of the sexual contact was contested, or the influence of biases about victims or sex crimes; and concerns about crime lab testing capacity, possibly resulting in policing agencies prioritizing kits for testing (Campbell et al., 2017; King, 2019; Strom & Hickman, 2016).

Federal legislation began addressing the backlog of SAKs in 2013 with the Sexual Assault Forensic Evidence Reporting Act (SAFER). The Idaho State Police Forensic Services (ISPFS) was one of the first entities in the state to bring attention to the issue of untested SAKs. Between September 2014 and December 2016, 582 previously unsubmitted or untested SAKs were processed by either ISPFS or the FBI laboratory. At that point, 541 unsubmitted SAKs remained (Gamette, 2016). Since 2016, Idaho signed into law a series of bills regarding SAK testing and retention, the payment of medical examinations, and victim notification. In 2016, the first piece of legislation mandating SAK testing passed the Idaho legislature and was signed into law. House Bill No. 528 required the testing of most SAKs, except in circumstances where the victim requests the kit not be tested, the case is not being actively investigated as a crime, or it has been deemed unfounded, as well as new auditing and reporting metrics for any SAK not sent for testing (Idaho State Legislature, 2016). One year later, House Bill No. 146 addressed concerns regarding a victim's ability to pay for a medical examination, victim notification rights, and the amount of time policing agencies are required to retain sexual assault kits (Idaho State Legislature, 2017). In 2018, House Bill No. 429 amended crime victim compensation rules to include the full payment of sexual assault medical examinations under specific guidelines (Idaho State Legislature, 2018). And, in 2019, House Bill 116 restricted exceptions to mandatory SAK testing to only instances where a victim submits an anonymous kit or where the crime is unfounded, thus finally achieving a "Test-All" status (Idaho State Legislature, 2019). As mandated by law, the ISPFS is required to provide a legislative report regarding the collection and testing of SAKs. In the first three years of ISPFS reporting, an average of 465 SAKs were collected, 493 submitted, and 389 tested. As of 2019, policing agencies averaged 37 days to submit a SAK with ISPFS' analysis completed within 109 days (ISPFS, 2017, 2018, 2019).

Numerous studies have found positive effects on arrest outcomes related to the testing of previously untested SAKs and "test all" initiatives (Campbell et al., 2020; Davis & Wells, 2019; Lovell et al., 2018; Wells et al., 2019). However, these studies have focused primarily on follow-up from CODIS hits (matches in the federal database) as opposed to test-all's effects on standard sexual assault case processing. Campbell & Wells (2014), in their study of four jurisdictions, reported that the New York Police Department's arrest rate increased from 40% to 70% after mandatory SAK testing was implemented. In Menaker et al.'s (2016) study, adult sexual assault investigators agreed that, compared to other physical evidence, SAK evidence was most essential to case processing, but not when compared to victim credibility. Overall, the researchers concluded that SAKs have limited utility during sexual assault investigations, but do offer a way to confirm suspects, corroborate victim statements, and prove sexual contact did occur.

## The purpose

This is the first in a series of reports examining the effects of Idaho's sexual assault kit legislation on sexual violence crime in the state. This initial report is a baseline study of the possible effects of the 2016 statute (HB528), the first to require the testing of many SAKs, on case clearance in policing

investigations. Subsequent studies will examine case disposition for those cases that entered the criminal court system as well as potential effects of the other SAKI pieces of legislation. Because multiple years of data are needed to establish both trends and confidence in any identified effects of the SAKI statute and changes, the current study will be repeated with additional cases and a broader time frame in 2022. Any noted effects here should be seen as preliminary.

# The Study

In this document, ‘SAK’ stands for a sexual assault kit, containing physical and biological evidence that is sometimes collected by medical personnel following a sexual assault; ‘crime lab’ is the Idaho State Police Forensic Services, the primary SAK testing facility in the state; ‘policing agency’ refers to the police departments and sheriffs’ offices from which we requested incident reports and investigative material; ‘policing professionals’ include any sworn officer, deputy, or investigator; ‘Pre-HB528’ refers to the one year prior to the initial 2016 SAK testing provisions going into effect (7/01/2015-06/30/2016); and ‘Post-HB528’ refers to the one year after the initial 2016 SAK testing provisions went into effect (07/01/2016-06/30/2017).

In fall 2019, we introduced the impending study at both the Idaho Chiefs of Police (ICOPA) and Idaho Sheriff Association state conferences and through the widespread release of a video introduction to the Biennial Reports project. This provided us with an opportunity to explain the purpose of the study, notify them of a potential request for data, and answer any questions.

We received approval for this study from the Institutional Review Board at Boise State University (BSU) in November 2019. In January 2020, the state crime lab provided us with a spreadsheet of all SAKs received by the lab since their work on addressing the SAK backlog began in 2014, both those analyzed by the state crime lab and those submitted to the FBI laboratory. The spreadsheet included the reported crime date, the crime type, dates the lab received the kit and completed analysis, serial kit numbers for the FBI analyses, and the name of the policing agency associated with the crime. The SAK data were into two separate sampling frames according to lab submission date which created Pre-HB528 (submission in the year prior to the 2016 statute) and a Post-HB528 (submissions in the year after the 2016 statute) groups. We used systematic random sampling to select 70 cases for this initial study; each policing agency was limited to a maximum of six cases in the sample.

As the process of selecting cases began, so did the COVID pandemic, and, given that we only had the type of crime and completed analyses dates, but no report number, policing agencies were going to have to do some work to identify the correct cases. Thus, we chose to wait until the initial wave of COVID cases subsided before launching our data collection process, resulting in a three-month delay to the study. Chiefs and sheriffs were contacted via email regarding the selected cases and our request for the associated police reports as well as a similar case (in terms of crime type and reported date) that did not have a SAK for comparison. All participating agencies were given confidentiality for their participation, so only aggregate-level data will be used in this report as our focus was not on the specific agencies that agreed to provide reports, but rather what, if any, initial effect did the 2016 SAKI legislation (HB528) have on sexual violence crime investigations across the state. Not all policing agencies were willing to participate and, when that occurred, we conducted additional random sampling to replace those missing cases<sup>2</sup>. Twenty-three policing agencies from around the state did provide us with requested reports. Upon receiving the case(s), up to 115 different pieces of information per report were coded (no personally identifiable information was collected), totaling over 7,000 data points.

Once this phase of data entry was complete, we again contacted the participating policing leaders asking for the email addresses of primary responding officers/deputies and investigators from our sample of reports as well as all current sex crimes investigators. All but

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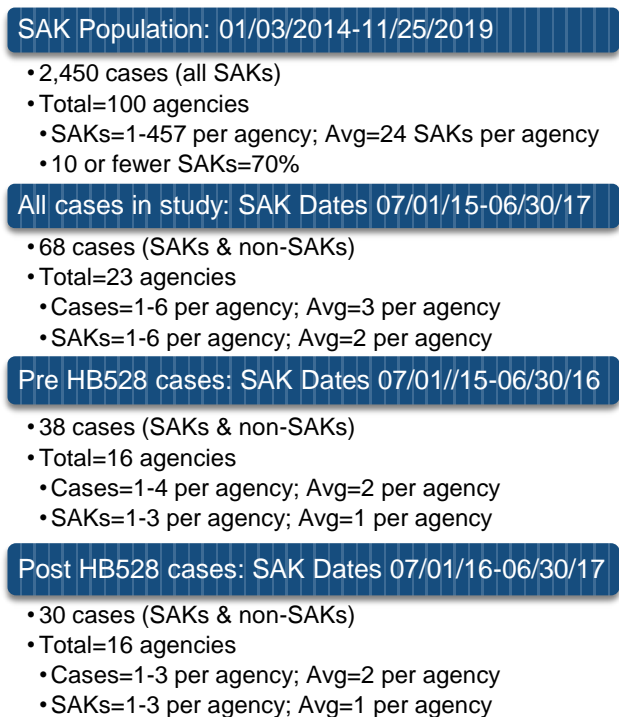
<sup>2</sup> Thirty policing agencies chose not to participate. One policing agency was willing to participate over the objection of the county prosecutor’s office who subsequently redacted almost the entire contents from the reports, except for the sentences pertaining to the sexual assault kits. The reports remained in the sample, although they represent most of the missing data in the study.

six of the participating policing agencies provided us with the requested email addresses. Invitation emails were sent to 55 policing professionals requesting that they complete a survey regarding their perspectives on sexual assault investigations<sup>3</sup>. The portion of the survey results discussed in this report were derived from survey instruments developed by Menaker et al (2017) and Campbell et al (2014).

The findings presented here are not representative of all sexual violence crimes, policing agencies, or policing professionals in the state, however they do represent a wide range of sexual violence reporting and policing agencies in Idaho. Also, it is important to bear in mind that these reports span a number of years and, during that time, new knowledge and training became available to decrease the negative effects of reporting on victims of sexual assault, potentially increase victim cooperation, and improve clearance rates. Finally, victims of sexual violence are often subjected to victim blaming by others and in ways not experienced by victims of other crime types. Common methods of victim blaming are to hold the victim responsible for being raped because of their actions prior to sexual violence (e.g., ‘you put yourself in that situation, so what did you expect?’) or for a perceived failure to prevent the assault (e.g., ‘why didn’t you fight back? I would have fought to the death.’). Yet, this same blame is rarely affixed to robbery victims (e.g., ‘you were at a bar drinking, you should have known you would be robbed.’; ‘why didn’t you tackle him? I wouldn’t let anyone take my wallet.’). While there has been an increase in criminal justice system knowledge about trauma effects on victims and improved practices in response, these do little to reduce the stigma and victim blaming by society still widely experienced by survivors of sexual violence. That societal response is likely just as, if not more, influential to a victim’s decision to report and proceed through the criminal

justice process. We cannot account for those effects in this report. However, knowing victims’ pre-violence activities can be important to investigations and understanding victims’ responses during violent acts may provide relevant information about evidence collection and identifying suspects. Given that, we discuss pre-victimization activities and victims’ responses during the crimes with the important caveat that the only person responsible for a violent act is the one who commits it and certainly not the victim who suffers it.

**FIGURE 1. STUDY GROUPS**



## The reports

Our sample was drawn from the population of SAKs submitted to the crime lab between 01/30/2014 and 11/30/2019 (Figure 1). The dates in Figure 1 represent the time frames when SAKs were submitted for each group. One hundred agencies were represented across the SAK population. On average, agencies submitted 24 SAKs during this time

period; however, 70% of all agencies submitted 10 or fewer SAKs, indicating a concentration of

<sup>3</sup> We also asked a series of questions about officer wellness and, for those who were involved in cases from our sample, there were case-specific questions as well. Neither of these question blocks are included in this report. Those blocks were a compilation of questions from instruments developed by Novak et al (2020) and King & Patterson (2020).

higher numbers of SAKs among a few agencies in the state. Almost one quarter of the SAKs were submitted prior to HB528 going into effect (07/01/2016). The Pre-HB528 represents the cases with SAKs submitted in the year prior to the statute change (12.1% of population), plus non-SAK cases reported during this same time. The Post-HB528 time period includes cases with SAKs submitted in the year after the statute change (16% of population), plus non-SAK cases reported during this time. In our sample, 23 policing agencies contributed an average of three cases of which two were SAK cases with 16 policing agencies represented in each of the groups (Pre-HB528 and Post-HB528) and almost one third of agencies appeared in both groups (Figure 1).

**TABLE 1. SAK CHARACTERISTICS BY GROUP**

<b>Characteristics</b>	<b>SAK Population</b>	<b>All Cases in Sample</b>	<b>Pre-HB528 Cases</b>	<b>Post-HB528 Cases</b>
SAK cases	2,450[100%]	48[71%]	26[68%]	22[73%]
Reported crime date range	02/23/1982-11/15/2019	09/01/2004-06/05/2017	09/01/2004-05/29/2016	08/15/2007-06/05/2017
Crime lab analyzed	75%	83%	81%	86%
Report to lab (average [median] days)	984[144]	500[38]	494[33]	509[62]
Lab to analysis (average [median] days)	170[112]	196[116]	171[104]	221[168]
Crime at submission <sup>4</sup>	71% (Rape)	70% (Rape)	80% (Rape)	59% (Rape)

As seen in Table 1, there were similar proportions of SAK cases across the full sample and both subsamples. As expected, the SAK population has a broader range of reported crime dates with decreasing ranges for the subsamples, given the different time periods associated with each, and an overwhelming majority of SAKs in all four groups were analyzed by the state crime lab (as opposed to the FBI). The increased average number of days from the reported crime date to lab receipt of the SAK in the population compared to the full sample and subsamples (as well as the posttest sample to the full and pretest samples) is likely due to the submission of older SAKs as a result of the state crime labs efforts and the HB528 statute change. The increased analysis time for the Post-HB528 group is also probably driven by the volume of SAKs received by the lab once it took effect. The Post-HB528 group has a comparatively lower proportion of rape cases compared to other sexual violence crimes.

## The victims and suspects

Due to privacy constraints on the release of some personal information in police reports, what we know about the victims, and at times suspects, in our sample of sexual violence crimes is limited. Victim and suspect race, ethnicity, and exact age was missing (redacted) in 50%-75% of reports. Almost all victims were female (94%), 100% of suspects were male, 7% involved victims and suspects who were of the same sex (but only one with both adults), and one case involved a victim who reported as transgender. Over half of victims (52%) and 88% of suspects were adults, while 32% of the juvenile victims were adolescents. There was a wide range of victim-offender relationships in the sample. Figure 2 displays the closeness of offenders to

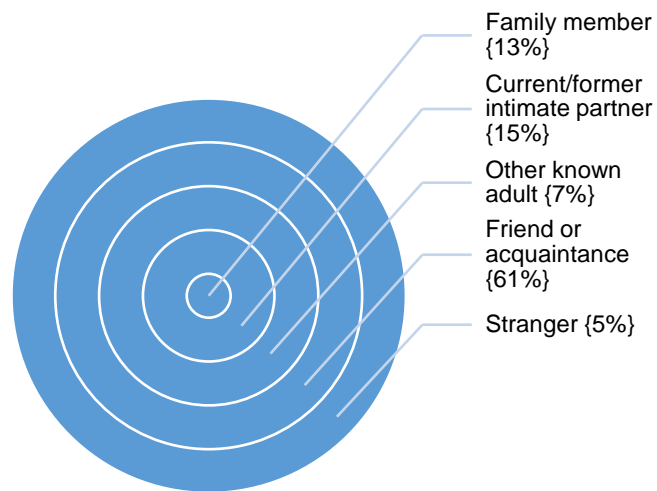
<sup>4</sup> Rape generally refers to a sexual offense involving oral, vaginal, or anal penetration. Idaho statutes include multiple offenses covering actions that constitute rape. In this report, we combined all sexual crimes involving penetration under the term *rape*.



victims. Friends comprised the largest group (31%) followed by acquaintance or co-worker (30%). Most victims and suspects (80%) were not cohabitating at the time of the incident.

A large proportion of suspects and victims had no reported alcohol (76%, 77%) or drug use (93%, 92%) at the time of the crime. There were no significant differences across any demographic variables between cases Pre-HB528 and Post-HB528.

FIGURE 2. SPHERE OF CONTACT: VICTIM-OFFENDER RELATIONSHIP



## The crimes

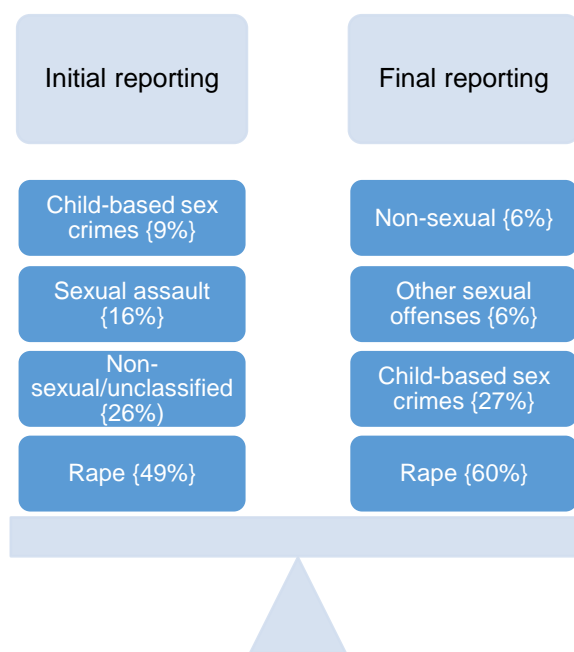
We were able to gather multiple crime characteristics from our sample of policing agency reports. As we would expect, sexual violence crimes occurred during every month of the year, every day of the week, and every hour of the day. Reported crimes came to the attention of

policing agencies primarily via someone calling 9-1-1 or the agency's direct line (75%) or in person at the agency (16%). And, while frequently victims themselves contacted policing agencies (34%), parents or guardians (especially for child victims, 26%) and hospitals (11%) also comprised a fair share of reporting for sexual violence crimes. Across all cases, the reporting party varied by the victim's age such that significantly more adults contacted policing agencies on their own, while more often someone else reported crimes against juveniles.<sup>5</sup>

At the time of reporting, just under half of the incidents were classified as rape (49%) which included forced rape, rape, and statutory rape; 26% were initially classified as a variety of non-sexually-based offenses (e.g., assault/battery or

welfare check) or not classified at all. The remaining 25% of cases were sexual assault (which may or may not include penetration), general sex offense (16%), or various forms of lewd and lascivious conduct with children (9%). However, by the end of the investigation, 94% of cases were classified as some form of sexually based offense, most frequently Rape (60%) or Lewd & Lascivious Conduct with a Child (25%), and 74% of cases listed only one offense (Figure 3).

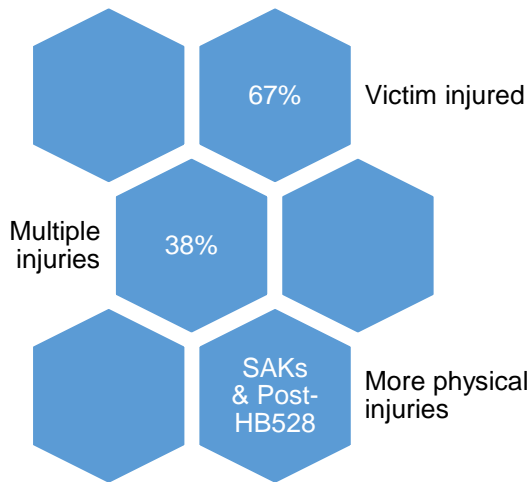
FIGURE 3. INITIAL & FINAL CRIMES



We defined 'higher risk behaviors' as actions which reduce the opportunities for, or likelihood of, others being present and able to intervene to prevent the crime from occurring. We use the term *higher* risk as there is always some measure of risk for sexual victimization. Examples would be

<sup>5</sup>  $\chi^2=10.946, p=.001$

FIGURE 4. VICTIM PHYSICAL INJURIES



being out alone at night or with unknown individuals. Across the entire sample, less than half (42%) of victims were engaged in higher risk behaviors prior to the assault. Significantly more victims were engaging in higher risk behaviors when the suspect was an acquaintance or co-worker than any other victim-offender relationship.<sup>6</sup>

Victims verbally resisted the assault (e.g., screaming) in 47% of cases and physically resisted (e.g., hitting) in 26% (Figure 4). The majority (67%) of sexual violence victims experienced physical injuries and, of those, 38% had multiple physical injuries, higher than what is reported in most sexual assault research (Rennison, 2002). There was a significantly higher prevalence of physical injury among cases in the Post-HB528 group and those

with a SAK compared to those without one.<sup>7,8</sup>

Among all cases in the study, 85% had witnesses who could possibly provide information about the crime with an average of three witnesses per case. In 86% of cases, people could corroborate aspects of the victim's statement with only 10% having direct witnesses to the actual assault. The number of possible witnesses was significantly related to a victim verbally resisting such that, victims engaged in verbal resistance when there were fewer potential witnesses.<sup>9</sup>

Drug facilitated crimes were scarce in the sample (9%) and there were no weapons, other than personal (e.g., hands, legs), used in the commission of the reported crimes.

## The factors that affect investigations

As with any crime, there are multiple factors that can affect investigations of sexual violence cases. These elements involve aspects of the victim, officer, and the commission of the crime. There are a variety of reasons why victims of sexual violence may delay reporting, particularly trauma reactions, fear of social stigma, or fear of the suspect. However, delayed reporting may impact the ability to recover usable physical evidence of the crime. Victims delayed reporting by 24 hours or more in 58% of all cases in our study and Non-SAK cases involved significantly more delayed reporting.<sup>10</sup> At the time of reporting, one-third of victims still expressed fear of the

### Crime characteristic connections

- More adult victims reported on their own than juvenile victims
- Physical injuries were more prevalent in Post-HB528 cases and in SAK cases
- Victims used verbal resistance in cases where there were fewer witnesses
- Victims engaged in "higher risk" behaviors in cases where the suspects were acquaintances

<sup>6</sup>  $\chi^2=15.291$ ,  $p=.000$

<sup>7</sup>  $\chi^2=4.186$ ,  $p=.041$

<sup>8</sup>  $\chi^2=6.088$ ,  $p=.014$

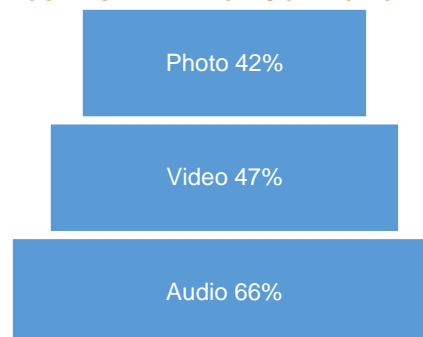
<sup>9</sup>  $t=2.294$ ,  $p=.026$

<sup>10</sup>  $\chi^2=9.326$ ,  $p=.002$

suspect and victims' fear did not differ by their relationship to the suspect (e.g., family member vs. acquaintance).

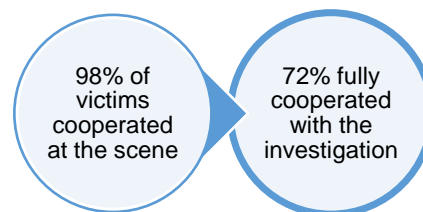
Beyond SAKs, there are other types of evidence that may be collected during sexual violence investigations. Photographic evidence can capture victim injuries on the outer body, clothing, crime scene, or other physical evidence. In sexual violence cases, injury photographs may be taken by SANEs during the SAK examination or by policing professionals, particularly in Non-SAK cases. The use of body cameras among responding policing professionals may also document physical evidence as well as capture initial interviews with victims, suspects, or witnesses at the scene, providing video and audio evidence of the investigation. Follow-up interviews with all involved parties may be captured by other video or audio recordings (via interview room cameras or voice recorders). Less than half (42%) of all cases included photographic evidence, but significantly more SAK cases had photographic evidence than Non-SAK cases.<sup>11</sup> As would be expected, significantly more cases where victims were physically injured had photographic evidence.<sup>12</sup> Less than half (47%) of cases had video evidence which was significantly more frequent in cases where the suspect was an acquaintance.<sup>13</sup> Finally, 66% of cases included audio evidence with a significantly higher prevalence among cases involving verbal resistance by the victim (Figure 5).<sup>14</sup>

FIGURE 5. EVIDENCE COLLECTION



Research has demonstrated that victim credibility is an influential factor in the criminal justice system's response to sexual violence crimes<sup>15</sup> and yet it can be a quite subjective determination. Some of the more commonly mentioned victim credibility issues in sex crimes are reluctance to cooperate, past sexual history, memory problems, prior criminal or delinquency record, failure to disclose information, prior sexual victimization, and a belief that the victim lied during the current investigation or in a prior report. Many of these are grounded in societal myths about sexual violence and its victims (e.g., only "good" women are "really" raped; women frequently falsely report; reluctance to talk or inability to recall details are signs of lying; if you consent to sexual contact once, you will always consent) (Burt, 1980). In the past decade, neurobiological research has demonstrated that trauma can affect cognitive processing, highlighting that reluctance to share or difficulty in recalling details is likely a sign of trauma as opposed to deceit (Burt, 1980; Campbell, 2012). Given the societal myths and stigma surrounding crimes of sexual violence, a criminal justice professional's perception of victim credibility may be different than it is for other crime types.

FIGURE 6. VICTIM COOPERATION



No credibility issues were noted in over half (52%) of the reports and, in most cases, policing professionals did not indicate discrepancies in victims' statements (87%) or express

<sup>11</sup>  $\chi^2=7.721$ ,  $p=.005$

<sup>12</sup>  $\chi^2=10.958$ ,  $p=.001$

<sup>13</sup>  $\chi^2=7.020$ ,  $p=.008$

<sup>14</sup>  $\chi^2=4.250$ ,  $p=.039$

<sup>15</sup> Less research has been conducted on its influence in other crimes, except domestic violence.

doubt about their credibility (87%). Most victims (89%) had no previous history of consenting to sexual acts with the suspect and had not consumed any alcohol or drugs at the time of the crime (77% & 92%, respectively). Victims cooperated with officers at the scene (or time of reporting) in almost all cases (98%) and 72% fully cooperated with the entire investigation (Figure 6). In those cases where officers noted potential credibility problems (48%), the most frequent problem was a victim's reluctance to cooperate with the investigation (42%) followed by difficulty in recalling details (17%), and a victim's past sexual history (17%).

There were no significant differences between Pre-HB528 and Post-HB528 cases among any crime characteristics.

### Factor characteristic connections

- More non-SAK cases involved delayed reporting of 24 hours or longer
- Photographic evidence was more prevalent in SAK cases and those with victim injuries
- Video evidence was more prevalent in cases where suspects were acquaintances
- Audio evidence was more prevalent among cases where the victim verbally resisted the assault.

39% had both patrol (initial) and investigators (follow-up) in some capacity. Some differences emerged based on who responded to the sexual violence report. The presence of an investigator in a case resulted in significantly more cases with audio evidence<sup>16</sup> but, when they followed up after an initial patrol response, fewer cases included photographic evidence.<sup>17</sup>

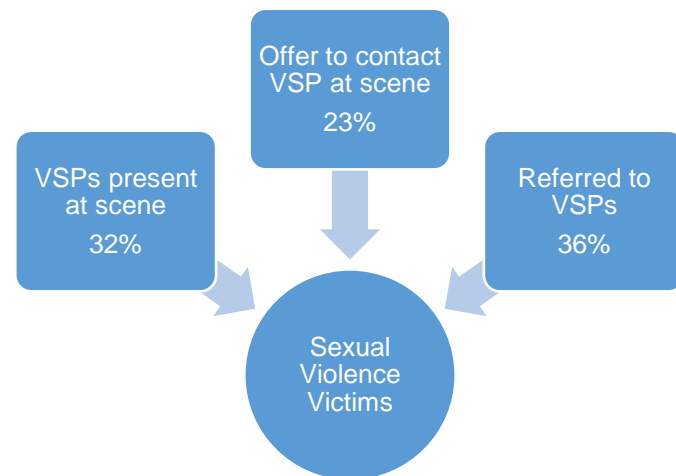
One increasingly frequent policing response to reported sexual violence is to connect the victim with a community-based advocate (associated with a non-profit agency) or victim-witness coordinator (VWC) (employed by policing or prosecutorial agencies). Advocates or VWCs were present at the initial response in 32% of cases. When they were not already present at the scene, 23% of policing professionals offered to contact an advocate or VWC for the victim and 36% referred the victim to those services (Figure 7). Among cases where we had information on follow-up interviews with victims, 22% noted the presence of a victim services professional. According to reports, policing professionals provided victim services-type information to victims in 8% of cases, including explaining the civil protection/criminal no contact order processes, crime victim compensation, the general criminal justice system process, or asked if they needed accommodations.

Most initial responses could be categorized as further investigation needed (71%), arrest/warrant (13%), or prosecutor review (6%). Significantly more cases in need of further

## The response

There are different aspects to policing agencies' responses to crimes, including sexual violence ones. We identified 56 unique policing professionals who were primary responders to the sexual violence cases in our sample with a range of 1-3 cases each. While the majority of responders had only one case in the sample, two had three cases each, both of whom were investigators. Investigators were the sole responders in half of the reports and

FIGURE 7. CONNECTING VICTIMS TO SERVICES



<sup>16</sup>  $\chi^2=8.979$ ,  $p=.003$

<sup>17</sup>  $\chi^2=4.120$ ,  $p=.042$

investigation involved delayed reporting (24 hours or more) of the crime<sup>18</sup> or a higher number of possible witnesses.<sup>19</sup> In these follow-up investigations, 80% of victims cooperated with

### Response characteristic connections

- Investigator presence was related to more cases with audio evidence
- Photographic evidence was present in fewer cases when patrol provided initial response with investigator follow-up
- Cases in need of further investigation included more delayed reporting and a higher number of potential witnesses

additional interviews, 15% of victims refused to go forward with the case, and no victims recanted their statements.

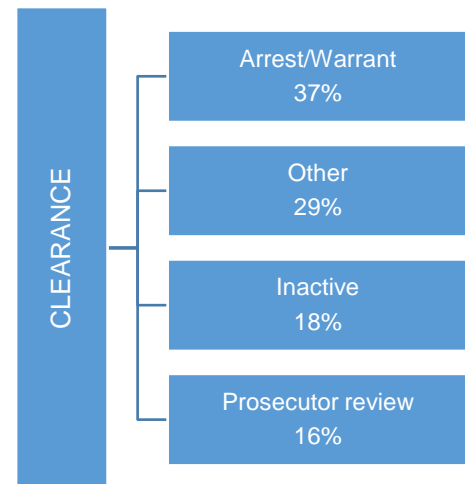
No significant differences between Pre-HB528 and Post-HB528 cases were detected among response characteristics.

## The outcomes

We focused on two primary outcomes: length of time from crime reporting to case clearance

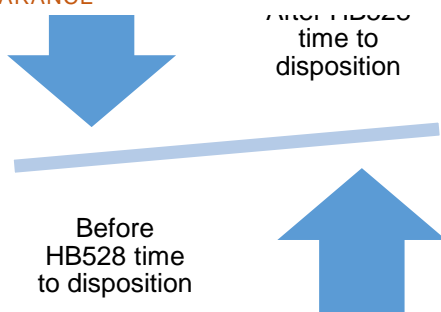
and type of case clearance. Policing agencies have many different case clearance codes, including multiple codes even for arrest, due to their federal reporting requirements. We identified 15 different clearance codes in our sample, but were able to group them into arrest/warrant (37%), inactive (18%), prosecutor review (16%), and other (e.g., victim refusal, unfounded [29%]) (Figure 8). Twenty-three percent of cases in our sample were cleared the same day as they were reported with another 18% resolved within one week from reporting. In fact, 66% of cases had clearance dates one month from the reporting date and the average time to case clearance was 44 days. Cases where officers noted victim credibility issues were connected to shorter disposition times.<sup>20</sup> In turn, cases with officer noted credibility problems, like memory issues or reluctance to cooperate, had fewer than half of the arrest dispositions (32% arrest) than cases without officers noting victim credibility issues (68% arrest).<sup>21</sup>

FIGURE 8. CASE CLEARANCE



One of the main objectives of this study was to begin the process of determining if Idaho's SAK statute may have had any significant effect on investigative outcomes for sexual violence crimes. There was a significant difference in time to disposition in our sample based on whether the case was before or after HB528. Pre-HB528 cases took significantly longer to clear than Post-HB528 cases.<sup>22</sup> We were unable to calculate the time to disposition for over one-third (35%) of our cases due to missing dates in the reports, so this result should be seen as preliminary. Yet, whether the case occurred before or after HB528 and officers noting victim credibility issues were the only two factors that showed any significant connection to

FIGURE 9. LENGTH OF TIME TO CASE CLEARANCE



<sup>18</sup>  $\chi^2=6.651, p=.010$

<sup>19</sup>  $t= 2.898, p=.005$

<sup>20</sup>  $t= 2.104, p=.042$

<sup>21</sup>  $\chi^2=5.083, p=.024$

<sup>22</sup>  $t= 2.605, p=.013$

case clearances in our sample. Even so, we will revisit these relationships in our next report as we continue to increase our sample because, when we ran predictive models for clearance, neither having a SAK nor whether or not a case occurred before or after HB528 were significant predictors of arrest, prosecutor review, or remaining inactive. Officers noting victim credibility issues remained the sole predictor of a case being cleared by arrest and remaining inactive.<sup>23</sup>

### Outcome characteristic connections

- Cases with officers noting victim credibility issues had shorter times to disposition
- Significantly fewer cases were cleared by arrest when officers noted victim credibility issues
- Cases before the HB528 statute had longer clearance times than after HB528.
- Having a sexual assault kit did not have a statistically significant effect on case clearance.
- Officers noting victim credibility issues was the only significant predictor of arrest and a case remaining inactive in sexual violence cases.

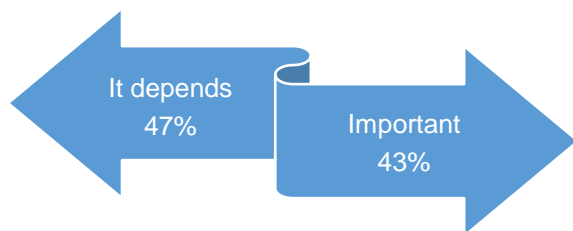
## The survey

Policing professionals (n=37, 67% completion rate) who completed the survey were asked a series of questions about their general perspectives on sexual violence cases and investigations as well as a handful of demographic questions<sup>24</sup>. Those professionals had on average 16 years of experience and 58% had 10-19 years of policing experience. Almost all (96%) fell into one of the college categories: had completed some college courses (44%), earned a bachelor's degree (44%), or graduate level work (7%). One-third had prior military service and 89% worked for a municipal police department. Most professionals reported as white (89%), non-Hispanic (96%), male (85%), and married (74%). All were U.S. citizens.

Policing professionals in our survey listed a total of 17 types of physical evidence they deemed important to an investigation. Potential forensic evidence topped the list (66%) followed by documentation of other aspects of the crime and scene (21%) with 32% of professionals specifically mentioning SAKs. As highlighted in our case analysis of sexual violence reports, they indicated that the value of any specific type of evidence, physical or otherwise, is dependent on the specific characteristics of each case. They were divided on the importance of any physical evidence (including SAKs) in sexual assault investigations (47% 'it depends' & 43% 'quite a bit' or 'key piece').

Given the significance of victim credibility in the case analysis, we asked policing professionals about the role it played in their investigations. The 27 policing professionals mentioned 21 different factors that contribute to their evaluation of a victim's credibility. Sixteen percent of mentions indicated that their role is as fact finder and thus they do not evaluate victim credibility. The remaining mentions were grouped into four categories: victim statements (29%), corroboration (25%), victim cooperation (18%), and prior history of victim and/or suspect (12%). The need to consider each case according to its specific characteristics extended to victim credibility as well. Almost three-fourths said that, if a victim recanted their statement, the decision

FIGURE 10. IMPORTANCE OF PHYSICAL EVIDENCE



deemed important to an investigation. Potential forensic evidence topped the list (66%) followed by documentation of other aspects of the crime and scene (21%) with 32% of professionals specifically mentioning SAKs. As highlighted in our case analysis of sexual violence reports, they indicated that the value of any specific type of evidence, physical or otherwise, is dependent on the specific characteristics of each case. They were divided

FIGURE 11. CASE DECISION-MAKING

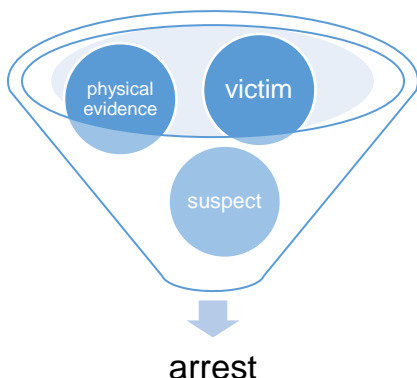


<sup>23</sup> Model  $\chi^2=8.938$ ,  $df=4$ ,  $sig=.030$ ,  $R^2=.220$ , victim credibility ( $B=-1.493$ ,  $sig=.015$ ,  $Exp(B)=.225$ )

<sup>24</sup> A consistent 27% of policing professionals who completed the survey did not answer any of the demographic questions.

to continue with the investigation would depend on other evidence. Over half (52%) of policing professionals indicated that, if strong evidence exists but the victim does not want to cooperate, the case should still go forward with 41% believing that it should go inactive until the victim wishes to cooperate.

FIGURE 12. FACTORS INFLUENCING ARREST

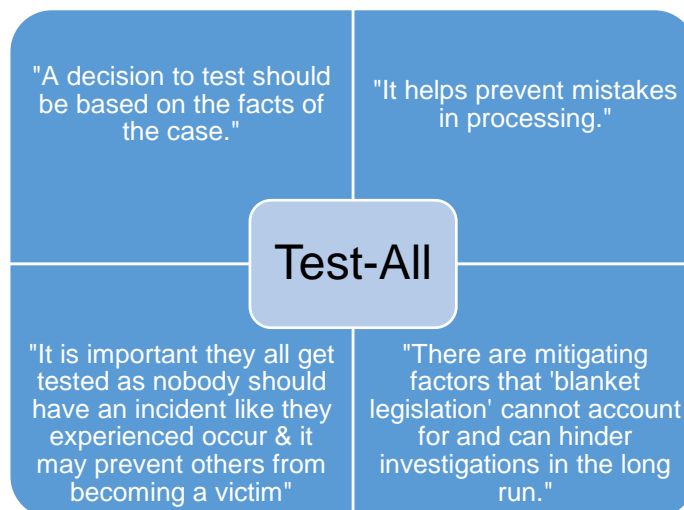


When asked how a case would likely be resolved without evidence to corroborate a victim's statement, 45% stated the case would go inactive until other evidence emerged, while 41% indicated it would move forward regardless of corroboration.

Policing professionals mentioned 52 characteristics most associated with arrest: victim factors (39%), actual or potential physical/forensic evidence (29%), suspect factors (29%), and interviews (4%).

the prosecutor for review, 46% stated they either consulted with or referred all cases to the prosecutors' office. Most listed criteria they use to screen in for review, while others listed criteria they use to screen out of prosecutorial review. Criteria used to screen in could be grouped into three categories: evidentiary (54%), victim (18%), and the totality of circumstances (29%), while all criteria associated with screening out cases were related to victim credibility.

FIGURE 13. SUPPORT/NON-SUPPORT FOR TEST-ALL



As with the case reports, one of our primary interests was the perceived importance and potential effect of SAKs on sexual assault investigations. A majority (73%) of policing professionals reported that the importance of SAK evidence compared to other physical evidence was dependent on case characteristics, as they did for SAK's usefulness in identifying suspects (60%) and for making arrests (60%). Overall, though, 55% of policing professionals felt the evidence gathered as part of a SAK was very important in sexual violence investigations but estimated that, on average, only 30% of the cases they investigated in the past year had SAK evidence. While 57% were unaware if the SAK testing requirements had any effect on any inactive cases in their agency, only 17% reported that it assisted in moving any inactive cases forward. Yet, support for testing all SAKs was high (72%) among policing professionals in our survey with 24% supportive and 48% very supportive.

### Sexual violence investigation perspectives

- Specific case characteristics influence the importance of a SAK for investigations, identifying suspects, and arrests
- Evidence gathered from SAKs was very important for half of policing professionals
- Testing all SAKs was overwhelmingly supported among policing professionals

Reasons varied among those in support and not in support of testing all SAKs. People in support mentioned the importance of all evidence collection, consistency in handling SAKs, preventing identification errors, and the potential for assisting other cases through CODIS hits. Those less supportive or unsupportive primarily followed the earlier theme of "it depends on case characteristics" such that there are some cases where a SAK

would not have much impact on the case and an appropriate use of resources would be to allow the facts of the case to drive the decision to have a SAK tested.

## Study Recommendations

Although this study is considered a baseline analysis of the possible effects of Idaho's SAK testing statute on sexual violence crimes, after analyzing data from the case analysis and policing professionals survey, a handful of early recommendations became clear. We caution that they should be viewed as preliminary since our subsequent studies and analyses may offer more in-depth information that could modify these recommendations. Our recommendations are grouped as follows: victim services response, policing response, and cross-agency response.

### **Recommendation #1: Expand all forms of victim services through state funding.**

Victim services provides valuable assistance to survivors of sexual violence in the immediate aftermath of the assault through either direct service within the agency or connecting them to important resources in the community. In addition, victim witness coordinators educate victims about the criminal justice system processes they will encounter and serve as a point of contact as the case moves through the system. Community-based advocates serve victims regardless of their reporting to policing agencies or cooperation with the investigation and provide long-term support beyond the resolution of a criminal case. In prior reports, we have made repeated recommendations for the legislature to fund an expansion of all forms of victim services in Idaho with particular attention to more rural/remote locations and smaller communities. We continue that recommendation here and note that many of our prior and current recommendations are heavily dependent on this expansion of services to victims.

**Recommendation #2: Change Idaho Statute 39-6316 to include victims of sexual violence crimes.** In the wake of trauma, neurobiological responses can make help-seeking difficult for victims and navigating the numerous agencies that they may need to contact can seem overwhelming. Providing supportive services information to victims at the point of reporting is one small step in increasing the likelihood that a victim will receive much needed assistance. The Idaho legislature has already acknowledged this necessary step for other crime victims in 39-6316. Currently, Idaho statute requires policing agencies to provide written information on services only to victims of domestic violence. We recommend the modification of this statute to include victims of sexual violence crimes.

**Recommendation #3: Change Idaho Statute 39-6316 to require connecting victims to services at the time of reporting.** Policing professionals are often crucial partners in connecting victims to services and in this sample that connection occurred relatively infrequently. Making this connection at the time of reporting is much easier when established partnerships between victim services and policing agencies exist. We recommend modification of the 39-6316 to require policing agencies to put victims in touch with these services at the time of reporting and for local and state agencies, such as the Idaho Council on Domestic Violence & Victim Assistance and the Idaho Coalition Against Domestic & Sexual Violence, to assist in developing these partnerships between victim service and policing professionals to meet the needs of survivors.

**Recommendation #4: Fund training for all policing professionals on the effects of trauma on victims and evidence-based practices in responding to sexual violence victims.** Given that officers noted victim credibility issues in 48% of cases, more than one-third of cases where patrol made the first contact with victims, and the potential effect of victim credibility on case clearance, there should be a concerted effort to ensure that all officers, beginning with POST certification, receive training on the neurobiological effects of trauma, rape myths, the societal stigma faced by victims of sexual violence crimes, how these may manifest



themselves in the initial reporting of these crimes, and, most importantly, active strategies they can use in their response. As smaller and more rural agencies have less capacity to send officers to out-of-town trainings, a variety of training modalities and delivery formats should be used to make this training accessible regardless of agency geographic location or size.

**Recommendation #5: Continue to prioritize the testing of sexual assault kits.** While our analysis here of sexual violence crimes across Idaho provided some preliminary results about HB528, solid conclusions cannot yet be made about potential effects of HB528 or the subsequent changes to the SAK statute. However, in our survey, policing professionals were clear in their belief in the importance of SAKs. A majority indicated that forensic evidence was the most critical type of physical evidence in sex crime investigations and over half specifically mentioned SAK evidence as particularly valuable. There was also overwhelming support for the required testing of all SAKs among policing professionals in our survey. Therefore, we recommend the continued prioritization of SAK testing here in Idaho.

**Recommendation #6: Fund a statewide victimization survey modeled on the National Crime Victimization Survey (NCVS).** We reported out many victim, suspect, and crime characteristics among the cases in our study. However, these cases only represent those sexual violence crimes that were reported to policing authorities. Since on average 59%-75% of sex crimes are never reported to policing agencies (Morgan & Truman, 2020), we rely solely on crimes that are reported in understanding what sexual violence crimes “look” like here Idaho. In addition, we have virtually no knowledge about sexual violence victims’ experiences, their reasons for reporting or not, or even how much sexual violence is occurring in Idaho. Our only avenue to better understand sexual violence in Idaho, regardless of reporting, is to conduct a statewide victimization study, as has been repeatedly recommended (Growette Bostaph et al, 2015; Growette Bostaph et al, 2020; King et al, 2020). This entails surveying a random sample of households in Idaho about their victimization experiences across all crime types in the past six months. The NCVS has conducted such a study on a national scale since in the late 1960s. Due to small sample sizes in locations like Idaho, they cannot provide us with local data, but their methodology provides a roadmap for a victimization survey to be done here in Idaho (see King et al (2020) for a more in-depth discussion). The State of Idaho should invest in a scientifically rigorous, statewide victimization study following the major tenets of the NCVS.

## Study Conclusions

For the past six years, Idaho has worked to address the issue of untested SAKs across the state, including the passage of HB528 in 2016. This study serves as a baseline analysis of the various characteristics of reported sexual violence crimes in Idaho and the possible effects of the various SAK testing bills on the clearance of sexual assault cases across the state. While these results are preliminary, our analyses did identify shorter clearance times and more documentation of physical injuries after the enactment of HB528. In addition, we found that SAK cases had more photographic evidence in general and specifically of physical injuries than cases without a SAK. However, we did not detect any statistically significant effects of HB528 or of SAKs on sexual assault case investigations or clearances. Yet, that does not mean SAKs and the testing of SAKs are without merit. Our survey of policing professionals provided some context to our results, indicating that SAKs were an important aspect of cases that appear to function, in many instances, as much needed corroboration of victims’ statements rather than as a single determiner of case clearance. These results align with other research on police decision-making in sexual assault cases (Campbell et al, 2014). And, required testing of all SAKs was widely supported by the policing professionals in our study.

We thank all of the policing agencies and policing professionals who participated in this study as well as ISPFs for providing the initial sample population of SAKs. We look forward to our continuing partnership with criminal justice and victim services agencies around the state and their participation in our future studies on the impact of SAK testing legislation and SAKs in order to increase our understanding of about these crimes, those who are victimized by it, and community and criminal justice response to sexual violence.

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