

## **A. Statement of the Problem/Description of the Issue**

In 2017, the Sexual Assault Forensic Examiner (SAFE) Advisory Board, a statewide multidisciplinary advisory board, examined the issue of unsubmitted and untracked sexual assault kits (SAKs), known as a ‘black hole’ here in Maine. In 2018 a related commissioned report with specific recommendations was issued. (See, *Maine Sexual Assault Kit Study, December 2018, Muskie School of Public Service’s Cutler Institute for Health and Social Policy at the University of Maine*). These recommendations included investing in state funding for the Maine State Police Crime Lab for staffing to prevent a future backlog, increase training for law enforcement on sexual assault response and investigations, improve the model for prosecution of cases, invest in an audit and tracking system for kits, improve the local process and review of cases, and improve victim notification during the process. Informal survey data provided to researchers showed that statewide about 200-300 exams were completed yearly. (See *Maine Sexual Assault Kit Study, pages 15-16*). Until recently, there had been little progress made on many of these recommendations.

In 2022 the SAFE Advisory Board established a Sexual Assault Kit Subcommittee (Subcommittee) to further focus on these issues. The Subcommittee met with several different states who were experienced in addressing the SAK backlog issue, including Massachusetts, Kentucky, Vermont, New Hampshire, Idaho, Michigan, and Connecticut. The Subcommittee began building information around which tracking systems might meet Maine’s needs, and also learned about best practices with regard to kit tracking, testing, and related investigation and prosecution. As a result of this work, in 2023, the statewide sexual assault coalition and the Maine State Police (MSP) Crime Lab received STOP grant funds to implement a sexual assault kit tracking system in two counties: Kennebec and Penobscot. The Lab has selected the Idaho

system and that system has cleared the internal Information Technology (IT) assessment so the hope is that training and implementation will begin soon on that pilot project. That system is due to be in place by September 2024.

Also as a result of the Subcommittee's work, Cumberland County stepped forward as a statewide leader on SAK testing practices by developing and hosting a multidisciplinary training in October 2023. This training focused on the importance of testing SAKs, prioritizing victim-survivor needs, and clearing the backlog with thorough investigative and prosecutorial action that is aligned with evidence-based practices. The Cumberland County District Attorney's Office (DA's Office), the University of New England SAFE Program, the Scarborough Police Department, and other partners raised funds, organized, and hosted this two-day intensive and multi-disciplinary training.

The first day featured a viewing of the documentary "I Am Evidence" followed by an expert panel of professionals from the film. The expert panel included County Prosecutor Kym Worthy from Detroit, Investigator Nicole DiSanto from Cleveland, and Dr. Rebecca Campbell from MSU. A targeted second day of training by the experts for law enforcement, community and system-based advocates, healthcare professionals and forensic nurse examiners, and prosecutors focused on the skills and information that would help them in their individual disciplines. Crucial to the success of this project was a partnership with the Joyful Heart Foundation (JHF) staff who shared their expertise and knowledge and connected us with presenters. The JHF has been a resource that Maine has relied on for the past three years since the Subcommittee connected with their agency in an effort to move the work forward.

This event turned out to be a critical turning point for progress in Maine as it connected with practitioners as well as the public and increased engagement and knowledge around SAK

testing and tracking needs in Maine. After this training, several constituents contacted their Maine state representatives to advocate for bills to mandate tracking and testing and legislators who attended also felt moved to create change. Although there was wide support for legislative initiatives this past session, legislation was not able to be finalized in the past session. A lack of legislative mandates for testing in Maine has also been identified as a challenge by other states.

During the Subcommittee work and the legislative process, statewide data was shared by the Maine State Police Crime Lab (Lab) that helped the true nature of the issue become known. In 2023 the Lab noted that of the 382 kits that had been distributed in 2022 for the purpose of use in patient exams (not earmarked for training), only 78 (22%) had been submitted back to the Lab. Looking at the Lab's data over the past few years shows a similar trend: that only between 20-30% of kits sent out for use during exams are ever returned to the Lab for testing of potential evidence. Cumberland County is the most populous county, with a population of 310,230 residents. There is no doubt a proportionate 'black hole' here as well.

<https://www.census.gov/quickfacts/fact/table/cumberlandcountymaine,ME,US/PST045223>

One challenge, among many, is that there is just one crime lab, the Maine State Police (MSP) Crime Lab in Augusta. This is the primary lab that handles chemistry and DNA analysis of almost all collected evidence in Maine pertaining to sexual assault. Other challenges are systemic and resource-based, traditionally only prioritizing testing for cases that will be prosecuted.

The County has already-existing partnerships that have led to the success of the past training event, is connected to the kit tracking system implementation pilot project in Kennebec and Penobscot counties, and can build on many years of community involvement to focus on the specific need here with unsubmitted SAKs. Cumberland County has four hospitals who see

patients for medical-forensic exams. There are approximately 18 law enforcement agencies that operate within Cumberland County. Procedural and criminal justice for victims includes inventorying, testing, and fully following up based on updated practices and knowledge on each case to the extent possible, and that is what this project proposes in Cumberland County.

Although the Cumberland County DA's Office regularly charges sexual assault cases, it is understaffed like most government agencies. There is a high regular caseload for prosecutors and continuous steady incoming arrests and summons cases. The DA's Office would benefit from dedicated resources through this grant to be able to lead the project, establish standards going forward and to focus on these cases in particular. This ongoing limited and lack of resources to devote to this work also applies to the Cumberland County Sheriff's Office as well as to the Sexual Assault Response Services of Southern Maine, the local community-based sexual assault advocacy organization.

Through a preliminary process to prepare for the grant application, the proposed Site Coordinator/Lead Prosecutor has been in contact with several Cumberland County law enforcement departments. Based on this process there is a rough estimate that there would be around 500 SAKs that would be eligible for testing if there were resources. The largest department, Portland Police Department, is in the jurisdiction of two busy hospitals and the urban center. They are currently holding between 400-600 kits of all types. Brunswick Police Department, a smaller department and site of one hospital and a small college is currently holding 62 total kits, with 23 of those being anonymous.

Maine is the last state to adopt nationally identified pillars of reform in this area (see, the Joyful Heart Foundation's Six Pillars of Reform <https://www.endthebacklog.org/the-six-pillars/>). The pilot project for tracking that is currently ongoing will complement the efforts proposed here

to inventory and test kits in Cumberland County, as well as add our kits to the tracking system as it is installed.

This grant proposes to bring Cumberland County, Maine, more in line with reforms and to overcome identified lack of resources and gaps that currently exist. With this project it would be possible to identify exactly how many kits are currently being held, to begin testing all appropriate non-anonymous kits while following up on investigations and prosecutions with specific and dedicated personnel. It also proposes to provide victim-centered and evidence-based training among professionals who will work collaboratively to establish better practices and protocols for SAKs and victims going forward. The goal would be to promote public safety and civil rights, equity in the system for all survivors, as well as to make justice more accessible and transparent through the data and reporting established with this project.

## **B. Project Design and Implementation**

The goal of this project is to begin the overdue process of inventorying, tracking, and testing, non-anonymous unsubmitted or partially tested SAKs and secondary evidence (as appropriate) while establishing a robust and engaged multi-disciplinary team or working group (Working Group). This Working Group will develop better evidence-based practices and policies that are victim-centered and -informed, including a victim notification procedure. This project also proposes to put in place specific personnel who have experience with sexual assault cases and who will focus on notifications, investigation, and prosecution of cases that develop from the testing work. All of this will inform and lead to better future practices in Cumberland County which will hopefully prevent another backlog of unsubmitted SAKs. Maine has a 20-year statute of limitations currently for gross sexual assault Class A offenses if there are no

complicating or tolling events. The 20-year date as of the grant proposal release would be June 21, 2004.

1. Inventory and Tracking of Unsubmitted and Partially Tested SAKs *First required BJA model element*

Inventory and Tracking: An informal inventory has already been started by the proposed Site Coordinator by reaching out to several departments. Maine state law requires law enforcement to collect all kits, ‘reported’ and ‘anonymous,’ at the hospital after the Sexual Assault Forensic Exam which means they have primarily been stored at law enforcement agencies, not at hospitals or other agencies. There typically are not used kits stored at any of the four hospitals in Cumberland County: Maine Medical Center, Mercy Hospital, Midcoast Hospital, and Bridgton Hospital. There are many kits that are not yet used or marked for training purposes currently stored at these hospitals that could be added to the tracking system at a future point during this project to help track future cases. Because the Lab is currently installing a tracking system for the first time, it will allow Cumberland County to join this system at no cost when it is installed as there are separate funds for the initial installation.

During the first months of the project it would be anticipated that the recruitment and hiring process would be started by the County and the Cumberland County Sheriff’s Office. They will hire a new mid-level detective to work within the Cumberland County District Attorney’s Office, in partnership with the Site Coordinator/Lead Prosecutor. It is important that the Investigator have full county jurisdiction as a sworn law enforcement office. This pair will manage the inventory by coordinating with law enforcement agencies within Cumberland County, to ensure an accurate inventory of SAKs as per BJA requirements. All related law enforcement reports connected to kits will be collected through this process as well. All

information required by the grant will be noted and tracked as per grant requirements. This will include the total number of SAKs that exist and their locations, specific information associated with each SAK as required and information about where the SAKs travel to and from. At the end of this process we will submit a completed inventory report to BJA for approval prior to any testing, and will then prioritize cases depending on statutes of limitations and any other factors guided by the Working Group and the SAKI TA providers.

During this time, it is the hope that the tracking system will be implemented and in use so that the inventory count can be connected with this system as well. If it is not, Cumberland County will keep its own system to ensure the inventory is accurate. The proposed Site Coordinator/Lead Prosecutor recently attended a demonstration of the Idaho system, which has been given both Lab and IT approval. Numerous features are available, including transparency to the public and the legislature as to general numbers, and access for victims regarding their specific kit location (not results). This would attempt to resolve the unknown ‘black hole’ of information that currently exists in Maine related to SAKs. The CCSO Investigator and the Site Coordinator/Prosecutor will provide all training on the kit tracking system to individuals and agencies who will use the system in Cumberland County whenever the system goes live.

It is expected that the hiring of new staff and related training process, along with doing a full and complete inventory process, would take approximately six months. When the inventory is complete, certified, and BJA approval has been given, decisions about which kits to test first will be made by the Investigator and Prosecutor, after inputting general practices developed by the multidisciplinary team and in consultation with SAKI TA providers. Such considerations include statute of limitations, victim impact, correlation to other existing evidence, and any other issues the team raises.

Testing: As kits are prioritized, the Investigator will supervise and coordinate shipping from the law enforcement department to the selected testing vendor. This will include ensuring an unbroken chain of custody of each kit from its location to the testing lab and maximizing shipping resources to send them in bulk. There will potentially be two labs used, one initial testing lab, and a second lab for secondary review in some cases. The MSP Crime Lab has invaluable information on this process and will be consulted along the way during the Working Group meetings and also on a one-on-one basis. It is necessary with current Lab staffing and resource limitations to outsource the bulk of the testing process for existing unsubmitted or partially submitted kits that are held in Cumberland County. Lab staff have met at length with other state labs as well as private labs during the planning phase of this grant proposal and have advised us of the technical pieces. Testing will be with Combined DNA Index System (CODIS)-eligible DNA methodologies. If there is a need to test secondary items that can be evaluated as all testing results are returned in the second half of the grant period.

Investigation and Prosecution: With testing results to guide the Investigator and Prosecutor, further victim follow-up, investigation, and prosecution are expected in some cases. This is a crucial time for victim/survivors and the goal of this project is to make sure that our team is prepared for making contact in a thoughtful and sensitive way. It will be a primary focus under this grant work to center individual victim/survivor needs and rights as a priority in the further investigation. The SARSSM advocate will accompany the Investigator on all victim contacts and will help ensure culturally appropriate and accessible resources are available. The Investigator will be trained to enter all applicable cases into the Violent Crime Apprehension Program (ViCAP). The Site Coordinator/Lead Prosecutor will establish practices in line with the



recently released “DOJ Framework for Prosecutors to Strengthen our National Response to Sexual Assault and Domestic Violence Involving Adult Victims.”

Included in the budget are expenses related to out of state lab witness travel funds in an effort to project expenses and plan for these costs that may arise with prosecution of cases that come from testing of our held, unsubmitted kits. This would be anticipated primarily in the later years of the grant after the evidence has been discovered and investigations are completed.

2. Formulation of a specific and focused multi-disciplinary working group or team (Working Group) *Second BJA required element*

In Cumberland County many strong interdisciplinary partnerships and work are already in place. The Violence Intervention Partnership exists to bring together agencies who do domestic violence and sexual assault work in the county for regular meetings. The DA’s office has been a long-time project partner in this work, and has a dynamic domestic violence unit in place based on this partnership. This project would build on these and other county relationships to develop a focused group of specific staff who are able to do in-depth and regular work on the SAK backlog issue.

Many partnerships of relevant and necessary professionals are already in place: the DA’s office provides legal and witness training for sexual assault forensic examiners, and works with our local colleges and universities to increase our mutual knowledge of how sexual assault cases unfold. In preparation for this grant application, the proposed Site Coordinator/Lead Prosecutor has been working with the Lab and local law enforcement departments for the past several months to assess needs, practices, and resources.

Key Agencies and Personnel (more information is included in the Capabilities and Competencies section and with attached resumes)

1. Site Coordinator/Lead Prosecutor, Tina Panayides
2. Investigator, To Be Hired
3. Advocate, To Be Hired
4. Erin Flood, Sexual Assault Response Services of Southern Maine, Executive Director
5. Lt. Michael Zabarsky, Maine State Police Crime Lab Director
6. David Muniec, Forensic Biology Supervisor, MSP Crime Lab
7. Other Lab staff as appropriate by specialty (DNA, Chemistry)
8. Sexual Assault Forensic Examiners and Program Directors, Emily Hilton (Maine Medical Center) and Mindy Gammon (Mercy Hospital)

All law enforcement agencies and officers at all levels (supervisors, investigators, first responders), will be invited to participate along with victim-witness advocates in the DA's office. Other key community partners will be identified by the Working Group members.

The Working Group will focus on information that comes from the inventory, and reasons why there has been a backlog. It will also work through best practices for victim notification and develop protocols for contact that are designed to address victim/survivor potential trauma when reopening historical sexual assault cases. This Working Group will also undergo preliminary training and then help develop trainings that are applicable to the kit tracking, testing, investigative, and prosecution processes. (An example of this would be watching Dr. Campbell's videos on the neurobiology of trauma.) One focus of discussions will be on how to build knowledge around the probative value of forensic evidence, how and why to develop related investigative leads, and will work toward increasing the likelihood of prosecution. Case studies may provide an opportunity to learn, but if case studies are discussed they will be fictional and/or de-identified to focus on the systems and our responses.

The Site Coordinator/Lead Prosecutor, Investigator, and Advocate will work together on meeting agendas and on making sure the Working Group is aware of individual team members' work. As the first group with this particular focus in the state, an important part of our efforts will likely be to share information and practices with other agencies and districts. One way of doing this is by presenting on our work at our respective disciplinary conferences, such as the Maine Prosecutor's Conference, the Chiefs meetings, and advocacy training programs. Paramount in the examination of policies and practices will be victim rights and best practices, due process considerations for suspects, as well as a focus on public safety.

This funding would not only help establish in Maine's most populous county some of the six pillars of reform identified by the Joyful Heart Foundation as necessary for victims and justice, it would also address here in Cumberland County the specific state recommendations (which closely mirror the JHF's pillars) that were identified in 2017 and 2018. The goal of this Working Group will also be to develop and put in place practices that would help avoid a future backlog of SAKs.

### 3. Site Coordinator *Third required BJA element*

The proposed Site Coordinator will handle communication and coordination of stakeholders and partners and work closely with the assigned BJA Training and Technical Advisor (TTA) to coordinate regular monthly contacts. The proposed Site Coordinator, ADA Tina Panayides, will also serve as the Lead Prosecutor and has a long history of working throughout Maine in the field of sexual assault. In her past private and governmental practice she has trained other attorneys on best practices, as well as doing regular training for Sexual Assault Forensic Examiners.

As an experienced lawyer she can hold the line if necessary, but focuses on collaboration, clear communication, and coming to consensus. She has experience in her working collaboratively in a multi-disciplinary setting while holding members accountable for their work and roles. As Chair of both the SAFE Advisory Board as well as of the Kit Subcommittee, she led the group through a process that was at times intense and contentious as issues were raised. Her approach was to reach out individually to listen to members' concerns and then bring the group back together to work through concerns and stay focused on the work. As a result, the Subcommittee's process helped shape and inform this proposal.

The Site Coordinator/Lead Prosecutor will also ensure each Working Group member is trained appropriately and that the project is staying on task. She will be responsible for guiding the Working Group through development of new policies and procedures for the inventory, victim notification, and the related investigations as well as prosecution work and decisions.

### **C. Capabilities and Competencies**

The Cumberland County DA, Jacqueline Sartoris, has been a state leader on this work since being elected in 2022. After bringing attention to SAK testing and lack of progress in Maine during her campaign, she then followed up after assuming office by taking specific actions to increase focus on victim needs and offender accountability. DA Sartoris created a sexual assault unit in her office to look at practices and help identify improvement in ongoing cases. She also hired an additional victim-witness advocate to ensure crime victims had communication about their rights. Her office was a co-host of the "I Am Evidence" training program. The DA's Office anticipates it will occasionally have non-SAKI funded prosecutors and victim-witness advocates step in on cases that go through the prosecution process and has full office support for this project.

Since hiring the proposed Site Coordinator/Lead Prosecutor **Tina Panayides** in the fall of 2023, the office has been working toward improving prosecution and communication with victims in sexual assault cases and in improving the SAK process. She and the DA have been working with partner agencies and proposed subrecipients for the past several months to collaborate on this proposal. Tina Panayides attended the SAKI grantees meeting in December 2023, funded by the County. In addition to general prosecution experience, she worked on managing a backlog of uncharged cases for review in Kennebec County that were primarily domestic violence and sexual assault offenses. She is familiar with some of the challenges, or perceived challenges, in these cases, and has experience training and motivating prosecutors to change out of date practices related to victim contact and charging decisions.

In partnership with the kit tracking pilot project, she was asked to sit on their project advisory committee and has participated in the tracking system process. She has a long history as a lawyer-trainer and in working across disciplines state-wide. Although Maine is geographically large, its population is small and those who work in this field are very connected despite the distance around the state. Relationships are key to making change and to having this project be successful and the proposed Site Coordinator/Lead Attorney has been developing relationships in this field for the past several years.

Other key personnel will include MSP Crime Lab Director Lt. **Michael Zabarsky**, who has been a member of the Subcommittee and has been a critical partner in developing this grant proposal. His leadership at the Lab is necessary for the success of this project. Also crucial is **David Muniec**, the Forensic Biology Supervisor at the Lab. As a scientist he has shared his technical knowledge of this application and led the research into the testing process involving out of state labs. The reason for this work always comes back to victim/survivors, and the

partnership between the DA's Office and the community-based sexual assault advocacy and support center is central to making true change. Necessary to this project has been the lens that **Erin Flood**, the Executive Director of Sexual Assault Response Services of Southern Maine, brings. She will hire the **Advocate** proposed to help lead this work and be part of the Working Group. Our County partnership with the Cumberland County Sheriff's Office has led to the proposed new **Investigator** position that could be hired if the grant is awarded. There currently is a model for this position as the DA's Office currently houses a CCSO detective who works exclusively on domestic violence investigations within their domestic violence unit. The newly hired Investigator will fill a similar role in our office with the focus being the inventory, shipping of kits, related investigations, and ViCAP entries. Resumes of key proposed staff are attached in the appropriate section of the grant.

The DA's office also has an active and strong relationship with the Cumberland County government and the professionals who provide guidance and infrastructure necessary to undertake this process. The DA and county managers have regular weekly meetings on a variety of topics. In addition, this grant proposal went through an internal County assessment prior to submission that involved conversations with the finance department and human resources. The County support and guidance will be a crucial piece of the success of this project and its implementation.

#### **D. Plan for Collecting the Data Required for This Solicitation's Performance Measures**

The Site Coordinator/Lead Prosecutor along with County staff will be primarily responsible for collecting relevant data reported to BJA. Data will be tracked using both internal and external systems, including the prosecutorial data management system of JustWare and, as it becomes available, the kit tracking system available through the Lab. Additionally, grant

required data will be tracked using a Performance Metric Tracking (PMT) methodology, such as Trello Project Manager or Gantt Chart System. This will be identified in the first month of the project.

Data tracked will include inventory counts, testing submission and results, investigation and follow this through prosecution decisions and final adjudication. Specifically, in addition to a complete inventory in compliance with BJA standards, information will be kept related to any further investigation or action taken on a case after testing, which police reports were collected in conjunction with which kits, the number of eligible CODIS uploads, the number of ViCAP entries, and related trainings both of Working Group members as well as about this work to the public or outside agencies.

Data will be presented regularly to the Working Group who will review the data system processes for input and adjustment if needed to reach grant goals. The Site Coordinator/Lead Prosecutor will use all data to produce quantitative and qualitative quarterly updates and semiannual progress reports on the work done under the grant. The County will provide equipment, systems, and operational costs for the data collection and correlation process. This data can and will be used to leverage change in the County as well as to inform policy and understanding of the issues that led to the backlog.