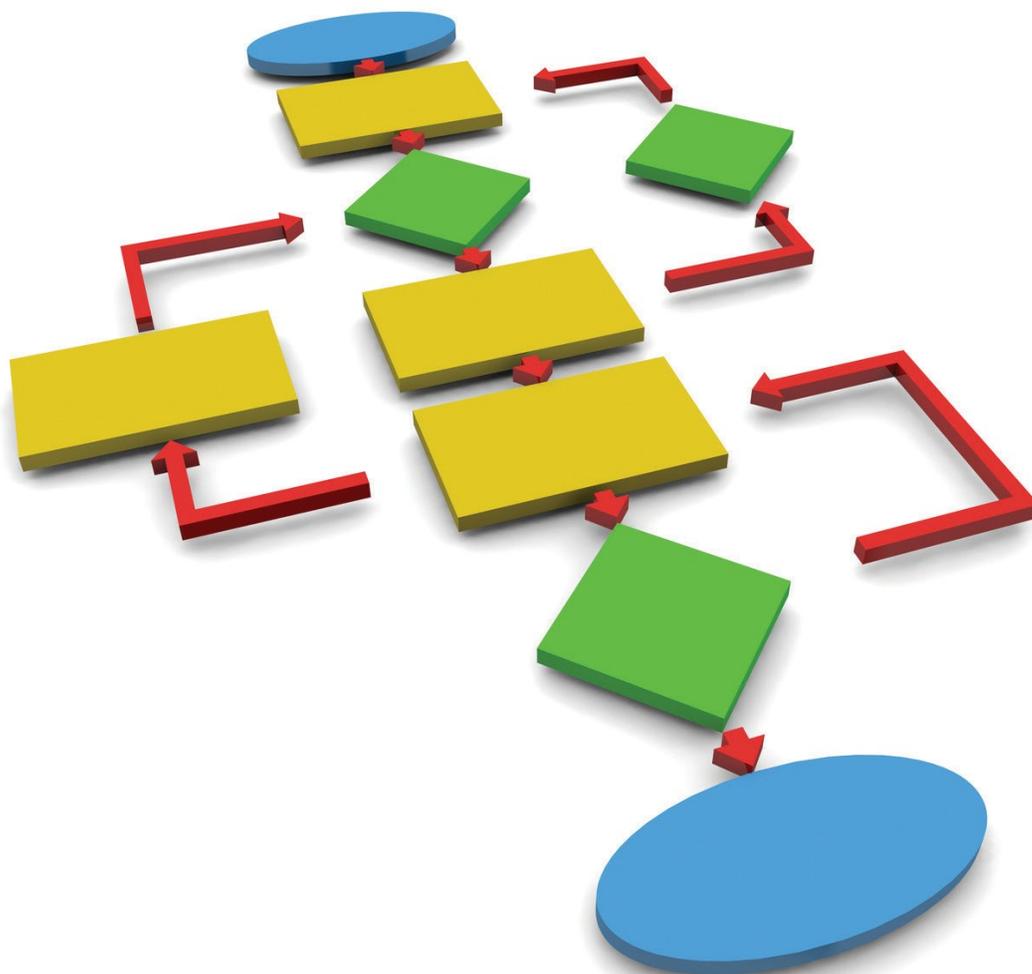


# Describing and Quantifying How Previously Unsubmitted SAKs Advance from Testing to Disposition on the Cuyahoga County Sexual Assault Kit Task Force

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## **Executive Summary**

In 2015, the Cuyahoga County Prosecutor’s Office (CCPO) was awarded an almost \$2 million grant from the Bureau of Justice Assistance (BJA) as part of the National Sexual Assault Kit Initiative (SAKI). The findings presented in this research brief are derived from a process evaluation and participant observation we conducted in collaboration with the Cuyahoga County Sexual Assault Kit (SAK) Task Force and funded from this award.

Below we detail the process by which previously unsubmitted SAKs advance through four phases—*testing, investigation, prosecution, and disposition*—on the Cuyahoga County SAK Task Force (Task Force), which has implemented a forklift approach to its nearly 5,000 previously unsubmitted SAKs from 1993 through 2009.

In this brief, we describe the key steps in the process, providing statistics on the number of cases that proceed or fail to proceed as well as the reasons why cases fail to proceed. The purpose of this research brief is to aid other jurisdictions that are processing their previously unsubmitted SAKs. Our hope is that this brief can be used and adapted by these jurisdictions for visualizing the processing from testing to disposition, collecting performance measures at each step in the process, and establishing comparable statistics across jurisdictions. This will aid in forecasting how many SAKs will likely include DNA hits, how many investigations should be completed, and how many should result in indictments and convictions, which can then be used for allocating resources, informing end-dates, communicating updates and expectations, and, hopefully, helping ensure no new “backlog” develops.

Additionally, we have provided statistics in this brief to aid other jurisdictions in knowing what comes after testing—specifically, should investigations be opened for the all tested SAKs (e.g., SAKs with no DNA or no DNA hit), how should certain types of SAKs be prioritized for testing and/or investigating (e.g., stranger vs. non-stranger cases), and how many serial sex offenders are likely to be identified.

## **Key Findings**

As of September 7, 2016,

- 59% of all tested SAKs yielded a DNA profile eligible for upload into CODIS and 40% of all tested SAKs yielded a “DNA hit”.

- 999 DNA profiles had been added to CODIS to potentially solve future crimes.
- The Task Force has completed approximately one-third of the investigations stemming from the testing of these SAKs and averages approximately 37 completed investigations per investigator per year.
- Twenty-five percent of all completed investigations resulted in an indictment. The most common reason for not indicting a case was because it had been previously adjudicated—meaning the case had already been prosecuted without testing the SAK.
- The Task Force has seen success in investigating all SAKs—including “No DNA” or “No DNA hit” investigations—over 20% of these investigations resulted in indictments.
- “No DNA” and “No hit” investigations were completed more quickly and less frequently resulted in an indictment compared to “DNA hit” investigations.
- “DNA hits” were not the only source for investigative leads—42% of the case files included named or partially named suspects.
- Sexual assaults committed by strangers returned DNA hits with similar frequency as sexual assaults committed by non-strangers.
- Over a quarter of the defendants identified through the testing and investigating of these previously unsubmitted SAKs were linked to more than one victim.
- Of the indicted cases that were disposed without dismissal, 92% resulted in a conviction.

## **Recommendations**

1. **Develop an organizational chart that captures the multidisciplinary team’s organizational structure and capacity (Figure 1).** This will help the team visualize and agree on its organizational and reporting structure, in addition to identifying possible issues with communication and resource allocation.
2. **Develop a process map and attach quantitative measures for each step—similar to those presented in this brief (Figures 2 and 3).** This will aid in describing the process to the team, funders, media, and public. The quantitative measures should detail how many SAKs proceed or fail to proceed and the reasons why they fail. The process map and quantitative

measures can be used for forecasting end dates, staffing resources, and the number of completed investigations, indictments, and convictions.

3. **Develop prioritization levels for the investigations.** After applying the prioritization levels, assess what percentage of cases fall into each priority level. Add additional levels if a majority of cases fall into one priority level.
4. **Consider investigating all SAK cases including “No DNA” and “No hit” cases.** Ideally, these cases should not be assigned the lowest priority but should be investigated at the same time as the DNA cases.
5. **Sexual assaults committed by strangers (“stranger SAKs”) should not be prioritized for testing over non-stranger SAKs** if the goal of the prioritization is to obtain DNA hits, as research presented here has shown that stranger SAKs do not more frequently result in a DNA hit compared to non-stranger SAKs.
6. **Define and track serial sex offenders in multiple ways, depending on available data.**

## **Cuyahoga County SAK Task Force (Task Force)**

### **Conducting the Inventory of the SAKs in Cuyahoga County**

As was the Cleveland Police Department’s (CPD)<sup>i</sup> policy at the time, SAKs were frequently not submitted for testing at the time of collection and for those that were submitted, not all were tested by the crime lab. In 2002, CPD received a small amount of funding as part of a statewide initiative to inventory and submit unsubmitted SAKs but was unable to complete the collection and submission of all the unsubmitted SAKs through this project.

In 2009, CPD began a hand count of SAKs in their possession to determine which had been submitted and/or forensically tested. By early-2010, CPD decided to submit all new SAKs for testing and began cataloging older, unsubmitted SAKs. By mid-2011, CPD began submitting its backlog of untested SAKs in small batches to the state crime lab, the Bureau of Criminal Investigation (BCI), for testing. However, CPD’s ability to complete a full inventory remained limited by staffing constraints. Thus, CPD continued to possess an unknown number of unsubmitted and/or

untested SAKs.

In December 2011, the Ohio Attorney General invited all Ohio law enforcement agencies to submit previously unsubmitted SAKs to BCI to be tested at no charge to local jurisdictions.

In early 2013, former Cuyahoga County Prosecutor, Timothy McGinty, organized a multidisciplinary team now known as the Cuyahoga County SAK Task Force (Task Force) to address the collection and testing of unsubmitted SAKs along with the subsequent investigation and prosecution of cases resulting from the testing. The Task Force received its first lab report from BCI on February 14, 2013.

In September 2013, the Cuyahoga County Prosecutors' Office (CCPO) began to work with CPD to conduct a formal inventory of these unsubmitted and/or untested SAKs and provided additional staff to conduct the inventory. CPD completed inventorying these SAKs in June 2014, which resulted in 4,373 unsubmitted SAKs being identified for sexual assaults that had been committed between 1993 and 2009.

In addition to the 4,373 unsubmitted SAKs identified by CPD, suburban police departments in Cuyahoga County identified 472 unsubmitted SAKs for a total of 4,845 unsubmitted SAKs in Cuyahoga County. As of 2015, all 4,845 unsubmitted SAKs from Cuyahoga County had been submitted to BCI for testing.

### **Mandatory Testing of SAKs in Ohio**

In December 2014, the Ohio Governor signed Senate Bill (SB) 316 into law. SB 316 (Ohio Revised Code 2933.82), effective March 23, 2015, requires law enforcement agencies to submit all old SAKs to BCI or another crime lab within one year and all newly collected SAKs to BCI or another crime lab within 30 days of collection.

SB 316 spurred the submission of additional SAKs from Cuyahoga County to BCI. *As of September 7, 2016, an additional 151 SAKs (for a total of 4,996) had been submitted by law enforcement agencies in Cuyahoga County as part of the Task Force.*

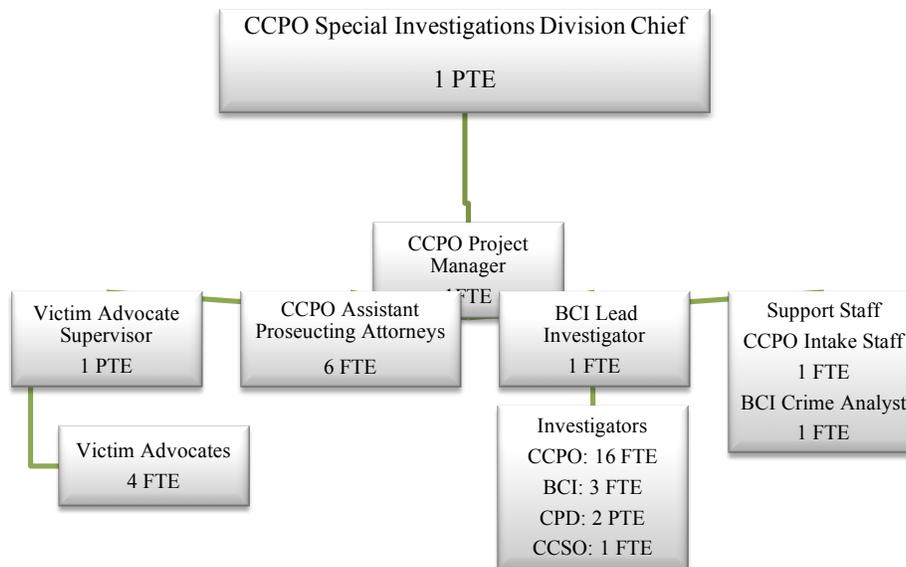
### **“Cleveland 1,867”**

With the assistance of BCI, the Task Force identified 1,867 additional SAKs from the same time frame (i.e., 1993 through 2009) that CPD had submitted to BCI prior to the SAK Initiative. Some of these SAKs were submitted contemporaneous to the sexual assault. Others were submitted as part of past initiatives. A preliminary review of the case files associated with these “Cleveland 1,867” SAKs revealed that some of these SAKs were not tested, investigated, or prosecuted in accordance with current Task Force practices (i.e., tested only for serology, tested only a few samples, etc.). Thus, the Task Force is currently investigating these 1,867 cases in addition to the nearly 5,000 previously unsubmitted SAKs.

### **Composition of the Task Force**

The Task Force is comprised of five collaborating organizations—Cuyahoga County Prosecutor’s Office (CCPO), which serves as the lead agency, Cleveland Police Department (CPD), Cleveland Rape Crisis Center (CRCC), Cuyahoga County Sherriff’s Office (CCSO), and Ohio Bureau of Criminal Investigation (BCI). The collaboration is illustrated in the organization chart provided below (Figure 1).

**Figure 1. Organizational Structure and Capacity of the Task Force**



The Task Force is overseen by the CCPO’s Special Investigations Division Chief. The Task Force’s Project Manager, a CCPO Assistant Prosecuting Attorney (APA) (full-time equivalent, FTE), manages and oversees the daily activities of the Task Force.

There is a CCPO Victim Advocate Supervisor (part-time equivalent, PTE) who directly oversees 4 FTE system-based victim advocates. Victim advocacy is also supported by a CRCC employee who averages 12.5% of her time assisting with the Task Force but does not report to the CCPO Project Manager. The Victim Advocate Supervisor is responsible for overseeing victim advocacy for all general criminal matters in the Cuyahoga County Prosecutor’s Office, not just the SAK cases.

The Task Force also includes: 6 FTE CCPO APAs; 1 FTE Lead Investigator, a Special Agent with BCI, who directly oversees all SAK investigators (16 FTE CCPO investigators, 3 FTE BCI investigators, 2 PTE CPD investigators, and 1 FTE CCSO investigator); and 2 support staff (1 FTE CCPO intake staff member and 1 FTE BCI crime analyst). The Lead Investigator is responsible for coordinating all investigations on the Task Force and signs off on the investigative reports before submitting to the SAK Project Manager for review.

## Visualizing and Describing the Process: Following Previously Unsubmitted SAKs from Testing to Disposition

### Description of the Data

The statistics provided below are derived from JusticeMatters, the CCPO's electronic database (a management system that preceded the Task Force). JusticeMatters is organized so that most documents are uploaded as PDFs into electronic case files (called "Matters") but some data are captured in discrete fields and thereby extractable into a database. The data analyzed for this research brief is from this extracted database.

### Visualizing and Describing the Process

Figure 2 visualizes the Task Force's processing SAKs from testing to disposition. There are four main phases to this process—*Testing*, *Investigation*, *Prosecution*, and *Disposition*.

**Testing Phase.** The process begins with the forensic testing of the SAKs, which skips testing for serology and proceeds straight to the DNA testing. (BCI is the crime lab that is testing all the SAKs in Cuyahoga County<sup>ii</sup>). Once tested, BCI submits a DNA lab report to the Task Force.

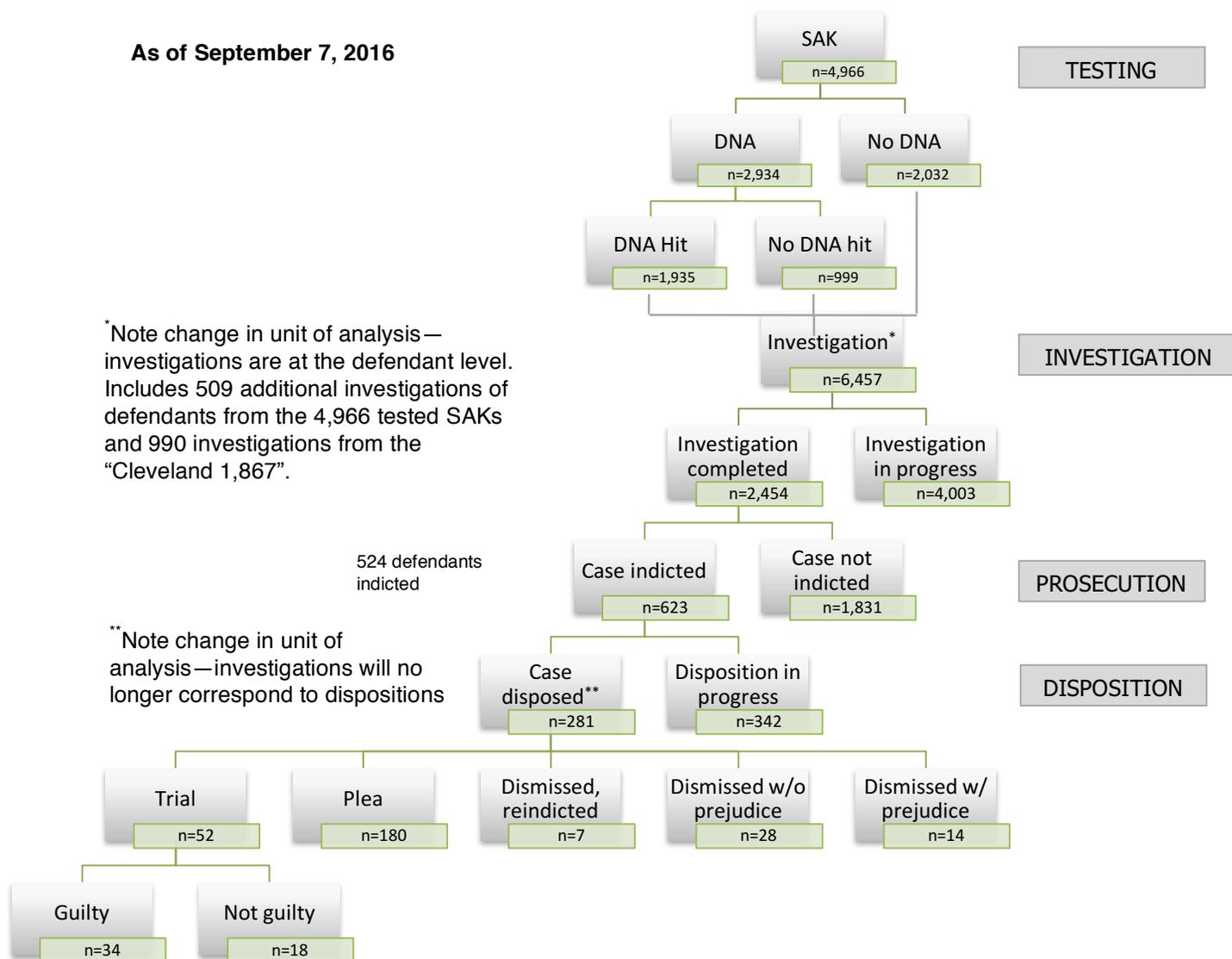
The forensic testing either yields **DNA**—more specifically, a foreign DNA profile ("foreign" meaning not belonging to the victim and "profile" meaning a unique DNA sequence) that is sufficient for upload into the Combined DNA Index System (CODIS) or **No DNA**—more specifically, no foreign DNA or partial DNA that is not sufficient for upload. "Sufficient for upload" implies sufficiently meeting the crime lab's criteria for markers/data points for upload into CODIS. A DNA "upload" entails adding the unique profile into the CODIS database and searching the database for a match.

**A DNA hit** is when a DNA profile matches to an existing DNA sample in CODIS. In simplistic terms, there are two types of "hits": (1) *an offender hit*—DNA profile matches to a named offender sample already in CODIS (termed a CODIS hit by BCI and the Task Force) or (2) *a forensic hit*—DNA profile matches to a sample from another crime already in CODIS (termed a CODIS match by BCI and the Task

Force). These “hits” can also include a combination of offender and/or forensic hit(s), where a DNA profile matches to multiple cases and/or multiple samples. “No hit” is when the SAK is tested and the results indicate the presence of DNA but does not return a DNA hit.

**Figure 2. Processing SAKs from Testing to Disposition**

As of September 7, 2016



\*Note change in unit of analysis— investigations are at the defendant level. Includes 509 additional investigations of defendants from the 4,966 tested SAKs and 990 investigations from the “Cleveland 1,867”.

\*\*Note change in unit of analysis—investigations will no longer correspond to dispositions

524 defendants indicted

**Investigation Phase.** In this Phase, the unit of analysis has changed from a SAK to an investigation, which is at the defendant level. The Task Force opens an investigation for each profile found in the SAK (which is at the defendant level), whether there is a hit or not. Investigations may be added as additional suspects are identified.

**Investigations in Progress** are open investigations—meaning that investigators are in the process of completing the (applicable) tasks. Once the (applicable) investigative tasks are completed, the investigation is considered **Completed** (“closed”). There can be, and often is, more than one investigation (e.g., defendant) for a SAK. This occurs in cases where there is more than one offender profile per SAK and/or the offender profile identified in the lab report SAK was a consensual partner of the victim and not the offender.

The investigative tasks involve: obtaining and reviewing necessary documents (e.g., initial police reports, criminal histories for victim and suspect, [if known], and medical records); attempting to locate and obtaining statements from the victim and suspect (if known); creating a photo array once a suspect has been identified; obtaining a buccal swab(s) of the suspect(s) and lab report for the buccal swab(s) to confirm DNA match; writing an investigative report; submitting the investigative report to the Task Force’s lead investigator for review; and meeting with the Task Force’s directing prosecutor program manager to discuss the charging decision.

The Task Force has implemented a *three-tier priority system for investigations* in order to aid the investigators in knowing which cases should be given higher priority.

Priority 1 investigations are those:

- (1) where the statute of limitation expires within six months or
- (2) where the offender is a serial sex offender (identified via a DNA hit and/or a sexually-based conviction or arrest in his criminal history) and is currently not incarcerated or is incarcerated but is scheduled to be released in less than five years.

Priority 2 cases are those:

- (1) where the offender is a serial felon and is currently not incarcerated or is incarcerated but is scheduled to be released in less than one year or

(2) where a weapon was used in the sexual assault associated with the SAK.

Priority 3 cases are those:

- (1) where the sexual assault associated with the SAK was committed by a non-stranger, or
- (2) where the sexual assault associated with the SAK was committed by an offender who has not been identified as a serial sex offender or serial felon or
- (3) where the sexual assault associated with the SAK was committed by an identified serial sex offender who is currently incarcerated for at least five or more years or
- (4) where the offender is a serial felon and is currently incarcerated for at least one or more years or
- (5) all other investigations not specified.

**Prosecution Phase.** Investigations that are completed can either be **Indicted** (i.e., lead to prosecution) or **Not Indicted** (e.g., fail to lead to prosecution). Investigations are not indicted for the following reasons:

- (1) abated by suspect(s) death
- (2) DNA matched to victim's consensual partner and not the offender
- (3) insufficient evidence
- (4) previously adjudicated (e.g., case was previously prosecuted without testing the SAK)
- (5) statute of limitation expired prior to the CCPO receiving the case

The Task Force has three categories of defendants in the Prosecution Phase:

- (1) "known offenders"—named defendants
- (2) "John Does"—unnamed defendants with a unique DNA profile that was uploaded into CODIS
- (3) "unknown males"—unnamed defendants without a unique DNA profile, included on indictments with known offenders and John Does when the assault was committed by multiple males.

**Disposition Phase.** Indicted investigations result in either a **Case disposed** or a **Disposition in progress**. The unit of analysis is now a disposition (i.e., a case), which will no longer correspond to an investigation and which may or may not include multiple SAKs and/or multiple defendants.

For example, a case might have one defendant and three SAKs. The final disposition of the case might be guilty on two of the SAKs but not guilty on the third. The final disposition of the entire case would still be classified as guilty.

A case then either proceeds to **Trial** (where the final outcome is either being found **Guilty or Not guilty**) or has one of the following outcomes: **Plea, Dismissed and re-indicted, Dismissed with prejudice, and Dismissed without prejudice.**

## **Quantifying the Process in Cuyahoga County**

In this section, we quantify the processing of SAKs from testing to disposition (Figure 3). Figure 3 is the same as Figure 2 but includes statistics for each Phase of the process in Cuyahoga County<sup>iii</sup>.

**Testing Phase.** As detailed in Figure 3, as of September 7, 2016, BCI completed testing 4,966 of the 4,996 SAKs. Thus, BCI had 30 SAKs left to test.

Of all the tested SAKs (n=4,966)

- 59% (n=2,934) included DNA (i.e., yielded a profile for CODIS upload)
- 41% (n=2,032) did not include DNA

Of all the tested SAKs (n=4,966)

- 39% (n=1,935) included DNA and yielded a DNA hit
- 20% (n=999) included DNA but did not yield a DNA hit

Of the tested SAKs that included DNA (n=2,934)

- 66% included DNA and yielded a DNA hit (n=1,935)
- 34% included DNA but did not yield a DNA hit (n=999)

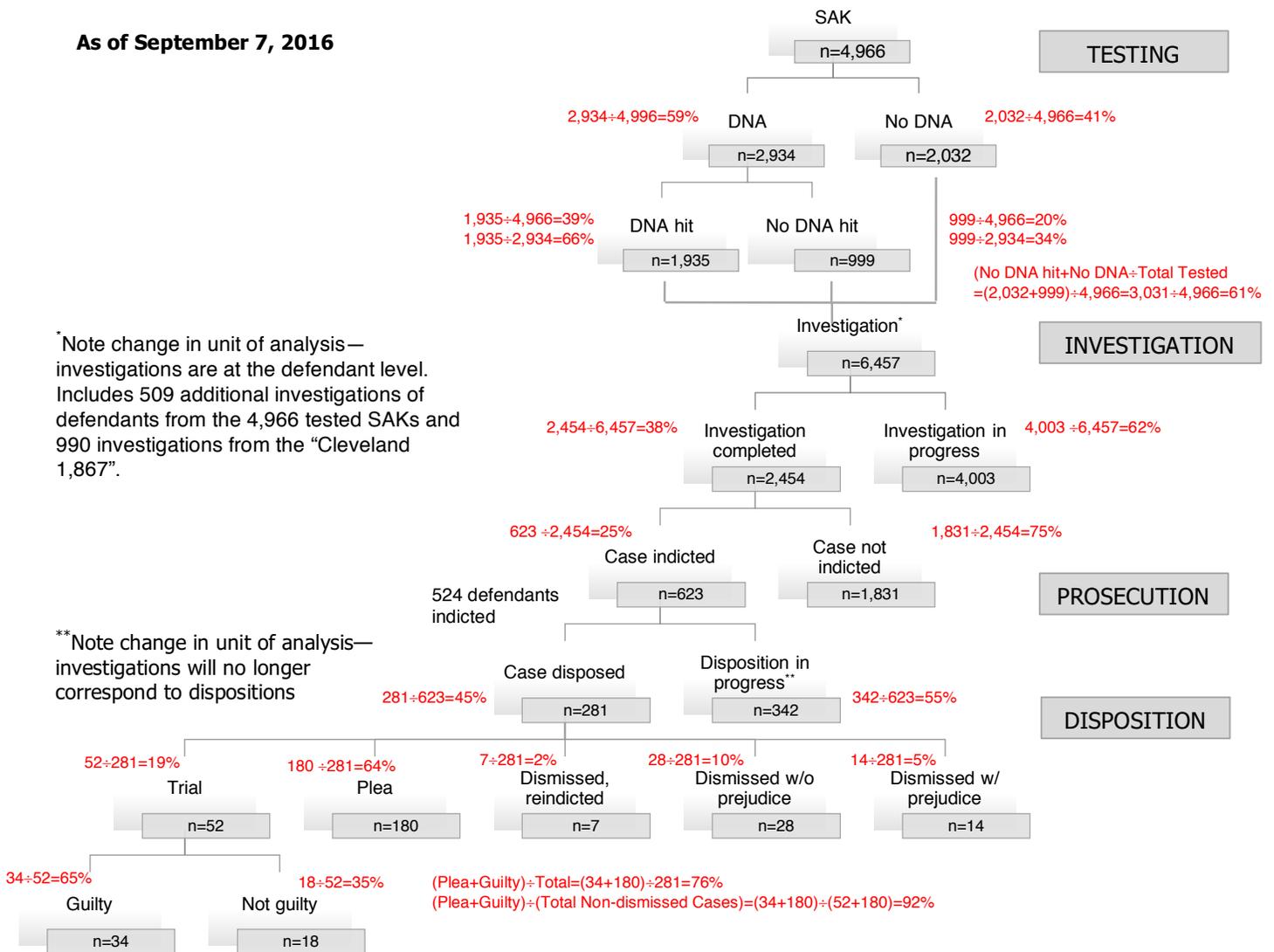
Therefore,

- If 39% of all tested SAKs yielded a DNA hit then this implies that 61% (n=2,032+999 of 4,966) of all tested SAKs did not yield a DNA hit—either because they did not have DNA (“No DNA”; n=2,032) or had DNA but did not yield a DNA hit (“No DNA hit”; n=999).
- The initiative added 999 profiles to CODIS to potentially solve future crimes.

**Investigation Phase.** In the Investigative Phase, the unit of analysis changes from a SAK to an investigation. As shown in Figure 3, as of September 7, 2016, the Task Force had completed 38% of all opened investigations (n=2,454 of 6,457). The Task Force added 509 additional investigations of defendants from the 4,966 tested SAKs and 990 investigations from the “Cleveland 1,867” (Figure 3). The Task Force is still in the process of adding investigations, so the statistics provided in Figure 3 will not represent the universe of all Task Force investigations.

**Figure 3. Quantifying the Processing of SAKs from Testing to Disposition**

As of September 7, 2016



\*Note change in unit of analysis— investigations are at the defendant level. Includes 509 additional investigations of defendants from the 4,966 tested SAKs and 990 investigations from the “Cleveland 1,867”.

\*\*Note change in unit of analysis— investigations will no longer correspond to dispositions

**Closing Reasons for All Completed Investigations.** As detailed in Figure 3, as of September 7, 2016, 25% of all the completed investigations (n=623 of 2,454) resulted in an indictment. *Thus, 75% of all the completed investigations (n=1,831 of 2,454) did not result in an indictment and therefore did not continue in this process.* As seen in Table 1 below, the most common reason why a completed investigation was not indicted was because the case was *previously adjudicated* (40%) (n=981 of 2,454). The second most common reason was because the Task Force determined there was *insufficient evidence* to indict the case (20%) (n=492 of 2,454). In 6% of completed investigations (n=137 of 2,454), the *statute of limitations expired* prior to the Task Force receiving the case, and in an additional 5% of completed investigations (n=123 of 2,454), the Task Force did not indict because the suspect identified through the testing of the SAK was the *consensual partner* of the victim and not the offender. Finally, in 4% of completed investigations (n=98 of 2,454), the suspect had *died*.

**Table 1. Closing Reasons for All Completed Investigations (as of September 7, 2016)**

Closing Reasons	All Completed Investigations
Abated by suspect’s death	4% (n=98)
Consensual partner	5% (n=123)
Insufficient evidence	20% (n=492)
Resulted in prosecution (“indicted”)	25% (n=623)
Previously disposed	40% (n=981)
Statute of limitation expired prior to CCPO receiving case	6% (n=137)
Total	100% (n=2,454)

*Results of “No DNA” and “No DNA Hit” Completed Investigations.* “No DNA” investigations are those where the tested SAKs yielded no DNA (or not sufficient DNA for upload to CODIS). The Task Force has dedicated a prosecutor and three investigators to these investigations. These investigations begin by determining if there is any additional evidence that could be submitted for DNA testing (e.g., sheets, clothing, etc.). If additional evidence exists, that evidence is submitted to BCI for testing. Investigators also examine case files for named (or partially named) suspects or other investigative leads that could lead to identification. Victims are

contacted if there is reason to believe they might be able to help with identification.

If there are no viable profiles found in the SAK, the Task Force will open a “John Doe” investigation (i.e., a “No DNA hit” investigation). For these cases, investigators contact the victims to aid in identifying and/or confirming a suspect’s identity and obtaining additional investigative leads. When there is sufficient evidence, these cases are indicted as “John Does.”

Table 2 below shows the differences in the closing reasons for “No DNA, No hit” completed investigations (defined as No DNA investigations and No DNA hit investigations) compared to investigations that included DNA hits.

As of September, 7, 2016, half of the completed investigations were “No DNA, No hit” investigations (50%; n=1,218 of 2,454). “No DNA, No hit” investigations less frequently resulted in indictment (19%; n=236 of 1,218 vs. 31%; n=387 of 1,236) and more frequently resulted in closure due to insufficient evidence (28%; n=342 of 1,218 vs. 12%; n=150 of 1,236) compared to DNA hit investigations. Forty percent of both DNA hit and “No DNA, No hit” investigations were previously adjudicated.

**Table 2. Closing Reasons for No DNA, No Hit Completed Investigations Compared to DNA Hit Completed Investigations (as of September 7, 2016)**

Closing Reasons	% of Completed Investigations with No DNA, No Hit	% of Completed Investigations with DNA Hit
Abated by suspect’s death	3% (n=40)	5% (n=58)
Consensual partner	2% (n=19)	8% (n=104)
Insufficient evidence	28% (n=342)	12% (n=150)
Resulted in prosecution (“indictment”)	19% (n=236)	31% (n=387)
Previously disposed	40% (n=484)	40% (n=497)
Statute of limitation expired prior to CCPO receiving case	8% (n=97)	3% (n=40)
Total	100% (n=1,218)	100% (n=1,236)

*Investigations with a DNA Hit.* When setting up an investigation, the Task Force documents the results of the lab report. For SAKs that returned a DNA hit, the Task

Force categorizes it as either a CODIS hit (“offender hit”) or a CODIS match (“forensic hit”).

*Completed Investigations that Included a Named or Partially Named Suspect at the Time.* Just because the DNA testing does not return a DNA hit does not imply there are no investigative leads, as often the case files include named suspects. In order to get a better understanding of how often this occurred, we examined investigations that were already completed and resulted in an indictment, closed due to insufficient evidence, or the statute of limitation expired prior to the CCPO receiving the case<sup>iv</sup> and examined the relationship status of the victim and the offender as entered into JusticeMatters.

Of the above mentioned completed investigations that had the *relationship status entered into JusticeMatters (i.e., was not missing)*, 42% (n=224 of 539) of the investigations included non-stranger suspects while 58% included stranger suspects (n=315 of 539)<sup>v</sup>. *Although, stranger sexual assaults are disproportionately represented in these data, especially when compared to their frequency with all sexual assaults (RAINN, 2017), almost half had named suspects in the case files—meaning there were investigative leads in the case files even without the benefit of a DNA hit.*

We also examined whether sexual assaults committed by strangers were more likely to return a DNA hit or no DNA hit. Table 3 shows that sexual assaults committed by strangers returned either a DNA hit or match with similar frequency as sexual assaults committed by non-strangers (65% vs. 63%). *Therefore, sexual assaults committed by strangers should not necessarily be prioritized for prosecution if the purpose of that prioritization is to obtain a DNA hit—a similar finding from Wayne County’s previously unsubmitted SAKs (Campbell, Pierce, Sharma, Feeney, and Fehler-Cabral, 2016).*

**Table 3. DNA Testing Results for Completed Investigations: Stranger and Non-Stranger Sexual Assaults<sup>vi</sup> (September 7, 2016)**

Testing Result	% for Stranger Sexual Assaults	% for Non-Stranger Sexual Assaults
DNA hit or match	65% (n=204)	63% (n=141)
No DNA hit or match	35% (n=111)	37% (n=83)
Total	100% (n=315)	100% (n=224)

**Serial Sex Offenders.** The Task Force tracks how many of the offenders in the investigations are associated with more than one victim in the backlog. As of September 7, 2016, 27% of the offenders (n=378 of 1,429) were associated with more than one victim in the previously unsubmitted SAKs—in other words, a “kit-to-kit” match (matched via DNA testing and/or through an investigation). It is important to note here that this statistic only pertains to victims from previously unsubmitted SAKs and does not take into account the defendants’ entire criminal history.

**Prosecution and Disposition Phase.** Figure 3 shows that there were 524 indicted defendants represented in the 623 indicted investigations, as a defendant can have more than one investigation.

Of the 524 indicted defendants, the majority are known offenders (69%; n=361 of 524), followed by John Does (21%; n=110 of 524), and unknown males (10%; n=53 of 524).

The Task Force also tracks offenders’ sexually-based criminal histories including arrests and convictions for the purposes of measuring how many serial sex offenders have been indicted. A “sexually-based” offense is defined as an arrest or conviction for an offense that would require sex offender registration—therefore, this statistic includes offenders’ criminal histories as well as “kit-to-kit” matches. Therefore, serial offenders comprised the over a quarter of indicted defendants—27% (n=139 of 524).

Figure 3 also shows that of the 281 cases that reached disposition, 232 were non-dismissed cases (83%; n= [180+52] of 281). The majority of the disposed cases ended in pleas (64%; n=180 of 281). For the 52 cases that went to trial, 65% (n=34 of 52) resulted in a guilty verdict.

The overall conviction rate can be calculated two ways. Of all the 281 disposed cases, 214 resulted in a guilty verdict or plea (76%;  $n=[34+180]$  of 281). Of all the 232 non-dismissed disposed cases ( $n=52+180$ ), 92% ( $n=214$ ;  $34+180$ ) resulted in a conviction.

## Assessing Resources

In the following sections, we detail how long, on average, each Phase took to complete and staffing considerations for each Phase.

**Testing Phase.** With regards to duration, CPD began submitting small batches of SAKs around 2011; therefore, the process of testing 4,966 SAKs took approximately five years. The Task began investigating the tested SAKs in 2013. As of September 7, 2016, the Task Force received on average 30 to 35 lab reports a week from BCI (approximately 1,560 to 1,820 reports a year).

**Investigation Phase.** As of September 7, 2016, the Task Force had closed approximately one-third of the investigations ( $n=2,454$  of 6,457) (Figure 3). They estimate that the remaining investigations on these cases will be completed in as soon as 4.1 years and as many as 5.8 years depending upon staffing levels and closure rates.

As of September 7, 2016, the average number of completed investigations per month per investigator was 3.1, which is approximately 37 investigations per year per investigator or about 750 investigations per year depending upon staffing levels. No DNA cases have required less time to investigate as many of the investigative steps are not applicable. For the three investigators who have been investigating these cases for at least 9 months, as of September 7, 2016, the average number of investigations closed per month was 6.3 compared to the average of 3.1 a month for all investigations.

**Prosecution and Disposition Phase.** As of September 7, 2016, a little over half of the indicted cases (55%;  $n=342$  of 623) were *dispositions in progress* (Figure 3)—indicted cases waiting to go to disposition. With 2015 SAKI funds, the Task Force was able to hire additional APAs to address the bottleneck of cases to be prosecuted. Currently, six APAs are detailed to the Task Force with an average caseload of 15.

## Conclusion and Discussion

The data provided in this research brief will hopefully aid jurisdictions that are addressing their backlog of previously unsubmitted SAKs. By developing a process map and attaching quantitative measures for each step in the process, a jurisdiction will be able to assess its own performance as well as communicate to funders and the public, why for example, a site could have almost 5,000 tested SAKs but only 243 convictions. The answer to this question lies in the fact that: the team has only completed a certain percentage of the investigations, not all SAKs could or should result in an indictment (as many were likely previously adjudicated or outside the statute of limitations), convictions are not the same as SAKs (as the unit of analysis changes), it can take several years for cases to go from indictment to disposition, etc.

These quantitative measures can also be used for forecasting and communicating end dates and resources to the team and the public regarding the expected number of DNA hits, indictments, and convictions. These quantitative measures also add a degree of transparency and accountability to the process—to know how many cases advance or fail to advance through the process and the reasons why.

Initially, the Task Force only investigated DNA cases; however, in October 2014, after meeting with representatives from other cities, including Detroit and Memphis, the Task Force expanded its investigative focus to include No DNA cases. They assigned three investigators and a prosecutor to review these cases to ensure that these cases were not the last ones to be addressed.

The Task Force has found that these No DNA cases tend to be investigated more quickly than the DNA cases because they often involve fewer investigative tasks. The Task Force has also learned that a DNA hit is often not necessary to open an investigation because suspects are frequently named in case files. In other words, DNA hits are not the only source of investigative leads. The data presented in this brief show that the No DNA cases are less frequently indicted because often, if no suspect was identified at the time and there is no additional evidence to submit for DNA testing, without the additional investigative lead of the DNA hit, cases are difficult to indict. *In fact, as of November 29, 2016 (the data for which this statistic was available), the practice of checking for additional evidence yielded an additional 41 DNA hits.*

Until recently, in most jurisdictions across the nation, stranger SAKs were the only SAKs that were tested in order to help identify unknown suspects. While DNA hits are undeniably useful when no suspects have been identified, our findings show that stranger SAKs should not be prioritized for testing if the purpose of that prioritization is to obtain DNA hits. In other words, non-stranger SAKs should also be submitted for testing, as they are equally likely to yield a DNA hit—thereby providing corroborating accounts of the sexual assault, confirming the identity of the offender, and even helping solve other crimes where the offender was unknown. Thus, by testing and investigating non-stranger SAKs, jurisdictions can also identify offenders in stranger SAKs.

## References

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<https://www.rainn.org/statistics/perpetrators-sexual-violence> Last retrieved February 15, 2017.

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<sup>i</sup> The official name is the Cleveland Division of Police but is most often referred to as the Cleveland Police Department.

<sup>ii</sup> As of November 2016, BCI had completed the testing of all SAKs submitted from Cuyahoga County's SAK Initiative. "Attorney General DeWine Announces All Cuyahoga County Sexual Assault Kits Now Tested as Part of Special Initiative" Last retrieved February 17, 2017, <http://www.ohioattorneygeneral.gov/Media/News-Releases/November-2016/Attorney-General-DeWine-Announces-All-Cuyahoga-Cou>.

<sup>iii</sup> For ease of interpretation, the statistics provided in Figure 3 are presented at percentages instead of proportions.

<sup>iv</sup> This implies that the investigations that closed due to previously adjudication, abated by suspect's death and consensual partner were excluded. For more information on the reasons why investigations do not result in indictment, see the Prosecuting Phase section.

<sup>v</sup> For the relationship variable, n=433 were missing and n=92 were coded as unclear.

<sup>vi</sup> The frequencies provided in this table only include completed investigations that resulted in an indictment, were closed to due to insufficient evidence, or the statute of limitation expired prior to the CCPO receiving the case and for which the relationship variable was not missing.