



The New York County District Attorney's Sexual Assault Kit Backlog Elimination Program

The New York County District Attorney's Office (DANY) is pleased to announce its Sexual Assault Kit Backlog Elimination Program of up to \$35 million.

Goal of the RFP: The goal of this Request for Proposals (RFP) is to promote strategies to permanently eliminate the national sexual assault kit (SAK) backlog. Funding awarded through this program may be used to pay for the cost of testing untested or backlogged SAKs only. Funding may not be used for related costs such as investigating and prosecuting cases, inventorying SAKs, creating data- or information-sharing systems, or onsite training. Applicants will be asked to submit information about the size and scope of their untested SAKs, current state and/or local SAK testing policies, and their willingness to follow SAK testing best practices (prescribed in this RFP).

Title: The New York County District Attorney's Sexual Assault Kit Backlog Elimination Program (SAK Program or Program)

Eligibility: Applicants are limited to States (including territories), units of local government (including federally-recognized Indian tribal governments as determined by the Secretary of the Interior), law enforcement agencies, prosecutor's offices, and public forensic labs.

Deadline and How to Apply: All applications must be submitted through DANY's online grant administration portal <https://app.wizehive.com/apps/whnycda> by June 1, 2015 at 5:00 p.m. EST. Applications may not be submitted in any other way, and no late applications will be accepted.

Amount and Number of Awards: Each applicant may request up to \$2,000,000 for a two-year period. As resources allow, additional funding may be available through subsequent solicitations to support additional SAK testing efforts. However, DANY anticipates that applicants may require significantly lesser amounts of funding. All applicants with untested SAKs that meet the requirements of this solicitation are encouraged to apply.

Informational Webinar: DANY will host an informational online webinar on April 20, 2015 at 11:00 a.m. EST to provide further information about the SAK Program. Applicants may [register](http://tinyurl.com/gqpbpye) for the webinar at <http://tinyurl.com/gqpbpye>. Applicants are strongly encouraged to participate in the information session. **The deadline for questions regarding the content of this RFP will be May 1, 2015.**

Bureau of Justice Assistance Sexual Assault Kit Initiative Grant Program

The U.S. Department of Justice's Bureau of Justice Assistance (BJA) recently released its [Sexual Assault Kit Initiative solicitation](#). DANY and BJA have partnered to ensure coordination between each agency's respective grant program. However, please note that these efforts are different funding opportunities and interested applicants should apply to both.

Through our partnership, upon request and with applicant permission, BJA will provide to DANY, a list of the respondents that submitted applications under BJA's solicitation to coordinate the selection of grantees and prevent any duplication of services. DANY will maintain the confidentiality of the applicant jurisdictions and all information contained within the application.

As resources allow, BJA will provide appropriate training and technical assistance (TTA) resources to the jurisdictions in receipt of DANY SAK funding. The purpose of this technical assistance will be to provide expert support to DANY grantees as they determine the scope of their untested SAK inventory, create data- and information-sharing systems, and ensure grantees' adherence to evidence-based and best practices for the testing and use of SAK evidence. While every attempt to assist those agencies funded by DANY will be made, the extent of TTA assistance provided by BJA will be resource-dependent and subject to limitations.

Applicants to DANY's SAK Program must include travel expenses in their proposed budget to attend one two-day workshop in Washington, DC in FY 2016 through BJA's training and technical assistance program. The workshop will focus on the elements of a successful project and key issues around DNA and untested SAK evidence.

Partnerships with Private Forensic Labs

DANY has established agreements with two private forensic labs: Bode Cellmark Forensics and Sorenson Forensics. Jurisdictions are under no obligation to use these services and must follow any applicable procurement rules when contracting with any private lab if selected for funding under the SAK Program. Through these established agreements, grantees of the SAK Program will be eligible to receive a competitive rate for SAK testing of \$550-650 per kit for initial DNA testing. However, applicants may use an accredited lab of their choice, whether that lab is public or private. No preference will be given to applicants based on their choice of lab.

Contact Information

For any questions regarding this solicitation or technical difficulties with the online submission portal, contact dnabacklog@dany.nyc.gov.

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Overview

DNA technology has revolutionized the ability for law enforcement to solve crimes. As that technology has advanced and improved, there has been a sea change in how the country thinks about and treats sexual assault cases. There is now a collective recognition that, when tested, sexual assault kit evidence can identify unknown perpetrators, confirm the presence of known suspects, affirm a victim's account of an attack, connect evidence from an individual crime scene to serial rapists, and exonerate innocent suspects.¹ It is estimated that hundreds of thousands of untested SAKs exist nationwide; however, there is no comprehensive data on the scope of the SAK backlog since few state or local governments track and report such information.²

DNA from any one jurisdiction's SAKs may help solve crimes across the country. According to the New York State Division of Criminal Justice Services, 3,121 DNA hits have been generated in New York from the national DNA databank.³ In cases where a suspect has not yet been identified, biological evidence from the crime scene can be analyzed and compared to offender profiles in DNA databases to help identify the perpetrator. Crime scene evidence can also be linked to other crime scenes through the use of DNA databases to identify serial offenders. Arrests for lower-level crimes in one state might help solve a cold case in another state.

New York City was the first major jurisdiction to make a comprehensive effort to eliminate its SAK backlog.⁴ Between 2000 and 2003, New York City sent out approximately 17,000 SAKs for testing, creating a model for other large cities to tackle their own SAK backlogs. Instead of attempting to select specific case types for forensic testing, New York adopted the "forklift method," testing all SAKs in the backlog regardless of the status or facts of the case. The testing of those SAKs resulted in over 2,000 DNA matches and 200 cold case prosecutions citywide, 49 from Manhattan alone.⁵ Combined, these offenders are now serving more than 900 years in prison.

Other jurisdictions have made systematic efforts to address their SAK backlogs with similar success. In 2009, for example, the Wayne County (Detroit, MI) Prosecutor's Office discovered more than 11,000 untested SAKs during a tour of an abandoned law enforcement agency's warehouse in Detroit. Wayne County Prosecutor Kym Worthy sought and received funding to test a random sample of 400 of those SAKs, which generated such a significant number of leads that the county was subsequently awarded funds by the U.S. Department of Justice's National Institute of Justice to test an additional 1,600 SAKs. From the initial 2,000-kit sample, there were 670 DNA matches in the national DNA database, including hits linking crimes committed in 26 other states. To date, the Wayne County Prosecutor's Office has identified 188 potential serial rapists, and obtained 15 convictions.⁶

Another recent SAK backlog effort took place in Houston, Texas where federal grant money and supplemental city funding was used to test 6,663 untested SAKs. Testing from this effort resulted in 850 matches in the federal DNA database and the prosecution of 29 offenders.⁷

¹ DuFour Morrow, Mary. Wayne County Prosecutor's Office. *Detroit Rape Kit Initiative*. Detroit, Michigan. Print.

² Investments to Reduce the National Rape Kit Backlog and Combat Violence Against Women. (2015, March 16). Retrieved March 20, 2015, from <https://www.whitehouse.gov/the-press-office/2015/03/16/fact-sheet-investments-reduce-national-rape-kit-backlog-and-combat-violence>

³ The NYS DNA Databank and CODIS. Retrieved March 20, 2015, from <http://www.criminaljustice.ny.gov/forensic/dnabrochure.htm>

⁴ Bashford, M., & Knecht, I., (2013, February 13). New York City's Sexual Assault Kit Backlog Project: Lessons Learned [Webinar].

⁵ Ibid.

⁶ DuFour Morrow, Mary. Wayne County Prosecutor's Office. *Detroit Rape Kit Initiative*. Detroit, Michigan. Print.

⁷ Houston. (n.d.). Retrieved March 20, 2015, from <http://www.endthebacklog.org/ending-backlog-government-responses-local/houston>

Key Definitions

The following definitions shall be used in this RFP:

- *Untested or backlogged sexual assault kits:* “Backlog” and “untested” refer to any SAK connected to a reported sexual assault that has not been tested within 365 days of being booked into law enforcement evidence—regardless of the reason why the SAK was not tested. For example, a SAK that was not tested because the statute of limitations has expired, in cases where identity of the perpetrator is not an issue, or where the offender was convicted without DNA evidence would still be considered backlogged or untested. A tested kit is defined as one that has undergone complete DNA testing by an accredited forensic lab. Only SAKs where the victim did not consent to testing or where evidence exists that no crime was committed (e.g., the victim recants or there is video footage substantiating that no crime was committed) may be excluded from testing.
- *Multi-disciplinary strategy:* A multi-disciplinary strategy incorporates all critical stakeholders, including law enforcement, prosecutors, system and community-based victim advocates, forensic medical personnel and laboratories, and formalizes the process for coordinating local SAK testing efforts. In some jurisdictions, a working group or task force may be established.
- *Forklift approach:* A method that embraces the testing of all untested SAKs irrespective of the type of kit. SAKs should not be excluded from the sample of kits to be tested for reasons including, but not limited to: expired statute of limitations, perceived weaknesses in the case, the nature of the victim/defendant relationship, victim cooperation at the time the crime was reported, previous adjudication of the case, or prior partial forensic testing. Previous backlog elimination efforts have been very effective by employing the forklift approach (see Overview section of this solicitation).
- *Random sample:* A random sample refers to the process of selecting a subset of SAKs in which each kit in the subset has an equal probability of being selected for testing. For example, if a jurisdiction receives funding to test one-fourth of its total backlog, the random sample should include every fourth SAK; if a jurisdiction receives funding to test one-fifth of its total backlog, the sample should include every fifth SAK, and so on.⁸ To that end, applicants are not permitted to intentionally select a specific case type for testing (e.g., stranger cases, cases where the victim is perceived as credible). The only exception to this approach involves the testing of cases where the statute of limitations will expire within two years; in these instances, those cases may be prioritized. Note: random sampling does not apply to jurisdictions that are applying to test their full backlog. In this case, all SAKs will be transferred for testing.
- *System-based vs. community-based victim services agencies:* A system-based victim advocate works within a law enforcement agency, such as a police department or prosecutor’s office, links victims to services and acts as a liaison to victims throughout the process of investigating and prosecuting a crime. A community-based victim advocate is usually employed by an independent non-profit agency, and provides ongoing

⁸ This model was used in Detroit’s SAK testing efforts. (See DuFour Morrow, Mary. Wayne County Prosecutor’s Office. Detroit Rape Kit Initiative. Detroit, Michigan. Print).

comprehensive support and counseling to victims to address trauma and other needs resulting from a sexual assault, whether or not the victim reports the crime to law enforcement.

- *Combined DNA Index System (CODIS)*: The Federal Bureau of Investigation's national DNA database for uploading DNA profiles contributed by participating federal, state, and local forensic laboratories.
- *Index Crime Statistics*: [The Federal Bureau of Investigation's Uniform Crime Report](#) is comprised of seven index crimes: murder and non-negligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny (theft), and motor vehicle theft.
- *Lead Applicant*: The organization or agency submitting this application is the Lead Applicant. If selected as a grantee, the Lead Applicant holds responsibility for coordinating the multi-disciplinary strategy, reporting to DANY on a quarterly basis, and liaising with the BJA training and technical assistance provider (if applicable).
- *Multi-jurisdictional entity*: An applicant to this grant program, such as a state lab or state Bureau of Investigation that is the Lead Applicant to this solicitation on behalf of multiple smaller jurisdictions, such as counties or cities.

Program-Specific Information

The goal of the SAK Program is to provide localities with funding to support efforts to permanently eliminate their SAK backlog, with the ultimate goal of eradicating the national SAK backlog. **Funding awarded through the SAK Program will focus exclusively on the forensic testing of untested or backlogged SAKs. Funding may not be used for related costs such as investigating and prosecuting cases, inventorying SAKs, developing data- or information-sharing systems, or onsite training.**

DANY recognizes that many applicants may not currently have a complete inventory of untested SAKs. All qualified jurisdictions are encouraged to apply for funding, even if the total scope of the backlog or other pieces of information requested within this solicitation remain unknown. Successful grantees will be required to track and report on the scope and size of their untested SAKs throughout the grant process.

DANY has identified several best practices critical to a successful SAK testing effort, to which adherence will be required as a part of the SAK Program. These best practices include:

- A multi-disciplinary strategy that coordinates law enforcement agencies, prosecutor's offices, system- and community-based victim advocates, forensic medical personnel and public laboratories. Jurisdictions such as Detroit and Houston have established processes to engage key stakeholders in their SAK backlog elimination efforts.⁹ In these jurisdictions, this coordinated strategy took the form of a multi-disciplinary team or task force.
- The adoption of the "forklift approach." The forklift approach is a method that embraces the testing of all untested SAKs irrespective of the type of kit. The forklift approach has

⁹ Harvard Kennedy School Webinar: Taking on the Challenge of Unsubmitted Sexual Assault Kits, October 31, 2014.

proven effective in New York City, Detroit and Houston. Only in cases where the victim did not consent to testing or where evidence exists that no crime was committed may the SAK be excluded from testing.

- A commitment to entering all eligible DNA profiles into the Combined DNA Index System (“CODIS”) within a reasonable timeframe.
- A commitment to prosecuting and investigating any CODIS hits that result from testing, including a simultaneous process for notifying law enforcement agencies and prosecutors.
- A coordinated strategy to notify and engage victims following a CODIS hit.
- Participation in data collection in order to track the outcomes of the SAK Program.

What an Application Should Include:

This section describes what should be included in an application. Failure to submit an application that contains all of the specified elements may negatively affect the review of the application.

1. Program Narrative

The program narrative is a clear, concise narrative in paragraph format that addresses the questions and guidelines outlined below. DANY recognizes that some applicants may not be able to answer all of the questions. Applicants are encouraged to use these questions as a guide for their response.

The program narrative should be double-spaced, using standard 12-point font (Times New Roman is preferred) with 1-inch margins, and should not exceed 15 pages. Pages should be paginated.

A. Proposer Information

- i. Describe the function of your agency or organization.
- ii. Provide information about the jurisdiction. Report the population size and index crime statistics, including yearly sexual assaults reported for each year for the past five years.
- iii. Summarize the relevant statutes of limitations for prosecuting sexual assault crimes in your jurisdiction.
- iv. Describe any previous or ongoing efforts to test untested SAKs and investigate any resulting hits.

B. Background

- i. Provide information about your jurisdiction's current backlog. Responses should include the number of untested SAKs in your jurisdiction, the number of untested SAKs that you propose will be tested under this grant program, and an explanation of where these SAKs are located (e.g., law enforcement agency storage, public lab, hospital or clinic). If the exact numbers of SAKs is unknown, please provide estimates.
- ii. Describe approximately how long the SAKs have remained untested.
- iii. Does your jurisdiction have an official or unofficial policy or practice around SAK testing (e.g., test every case as it is submitted, test only stranger cases, test only upon law enforcement agencies' request)?
- iv. Approximately how many new SAKs are collected in your jurisdiction each year? Approximately how many of those are tested within one year? On average, how long does it take a sexual assault kit to be tested? Please describe the process.

C. Proposed Approach

- i. Describe how you will employ a multi-disciplinary strategy. How will you engage key stakeholders including law enforcement, prosecutors, system and community-based victim advocates, labs and the governing body to ensure accountability, information and data sharing and adherence to a victim-centered approach? If you are a multi-jurisdictional entity such as a state or a county, how will you work with the individual localities within your jurisdiction?
- ii. Describe your jurisdiction's plan to inventory, track and analyze your backlog. Please address the following issues:

- Has your jurisdiction inventoried its untested SAK inventory? If yes, describe the nature of the current SAK backlog inventory. If not, describe the strategy and timeline for conducting an inventory. For multi-jurisdictional applicants only, what steps will be taken to gather inventory information from all localities?
 - How will batches of SAKs be selected for testing? Will a random sampling methodology be employed?
 - Where will SAKs be sent for testing? Please specify if the lab is public or private. If private, has your jurisdiction previously outsourced the testing of SAKs to a private lab? If so, which lab(s) has your jurisdiction used and is there a contract currently in place?
 - How will SAKs be tracked throughout the process of inventorying, transporting, testing, and uploading profiles into CODIS? For example, does a case management system currently exist? If not, will one be established?
- iii. How will law enforcement and prosecutors investigate and prosecute the cases that result from CODIS hits on SAKs tested through the SAK Program? For example, some jurisdictions have formed cold case units that specialize in investigations and prosecutions involving DNA evidence. In addition, describe how law enforcement agencies and prosecutors will be notified in the event of a CODIS hit.
- iv. How will victims be notified in the event of a CODIS hit? What services will be available to victims and how will they be administered?
- v. Describe any potential barriers to success in your jurisdiction and how they will be addressed.

D. Sustainability

What steps will be taken to ensure that a new backlog does not form after the completion of this project?

E. Timeline

Attach a brief, estimated timeline for this project outlining key deliverables of this grant program. Important milestones may include the inventory of SAKs, procurement of lab(s), transfer of first batch of SAKs to lab and each subsequent batch. The length of this project must not exceed two years; however, DANY requires grantees to provide follow-up data in the two years following the grant period.

F. Performance Measures

As part of grantees' performance measurement, all grantees will be required to provide information to DANY on a quarterly basis during the grant period and follow-up data in the two years following the grant period. The Lead Applicant will be responsible for submitting this information to DANY; however, gathering this information may require cross-agency collaboration. Grantees will be expected to report on metrics in the following areas: (i) SAK and CODIS information, (ii) arrests and dispositions based on CODIS hits, (iii) victim notification in the event of a CODIS hit, (iv) victim characteristics, and (v) victim/defendant relationship, in addition to qualitative process measures regarding the overall progress of the project during the reporting period.

See Appendix A for a sample list of performance measures required under the SAK Program. Please note that this list is intended as a sample of potential performance measures DANY will require under the SAK Program and subject to change.

- i. Describe your jurisdiction's capacity to track and report on the proposed performance measures for this Program.
- ii. If the Lead Applicant does not hold the data requested of grantees, explain how cross-agency reporting will be coordinated.

2. Budget Detail Worksheet and Narrative

Funding awarded through the SAK Program will focus exclusively on the forensic testing of untested SAKs. This includes postage to ship SAKs to a forensic lab, initial DNA testing in a public or private forensic lab, technical review and CODIS profile uploads by a certified lab. Funding may not be used for related costs such as investigating and prosecuting cases, creating data- and information-sharing systems, onsite training, etc. Additionally, funds may not be used to supplant existing resources. If your jurisdiction proposes to use funds from this grant to test untested SAKs through its public lab, funds may *not* be used to supplant existing personnel. Applicants may only use the funds to pay for overtime or contract personnel services over and above the lab's current capacity.

- Budget Detail Worksheet and Narrative

The budget narrative should thoroughly and clearly describe every category of expense listed in the Budget Detail Worksheet. DANY expects proposed budgets to be complete, cost effective, and allowable within the parameters of this grant program.

Each application must provide an estimate or confirmed number of SAKs requiring forensic DNA testing and the approximate costs for the testing process, to include actual testing costs, and costs associated with review of outsourced lab data (if applicable) and CODIS upload. Additionally, each application should include estimated costs associated with travel for a small delegation to attend a 2-day workshop hosted by BJA in Washington, DC in FY 2016.

Selection Criteria

- **Program Narrative (90%, divided)**
 - Proposer Information: 10%
 - Background: 10%
 - Proposed Approach: 45%
 - Sustainability: 10%
 - Timeline: 5%
 - Performance Measurement: 10%
- **Budget Detail Worksheet and Narrative (10%)**

Attachments

Applicants should use appropriately descriptive file names, including the name of the section and the Lead Applicant (e.g., "Program Narrative_NY County DA," "Budget Detail Worksheet and Narrative_NY County DA," "Timeline NY_County DA,") for all attachments.

- Applicants must submit individualized, signed letters of commitment from the agency or agencies that possess untested SAKs, the crime laboratory that provides DNA services to the law enforcement agency, the prosecutor's office, and a community-based victim services organization stating their commitment to the project as presented in the application. Where applicable, letters of commitment must include an explicit commitment from each agency to share relevant data with the Lead Applicant for reporting purposes under the SAK Program.
- Timeline
- Budget worksheet and narrative

Appendix A: Sample Quarterly Performance Measures

Sexual Assault Kit and CODIS Information	
1.	# of kits inventoried
2.	# of kits tested (overall)
3.	# of kits tested in the past 3 months
4.	# of kits still untested (current backlog)
5.	# of untested kits planned for testing in next 3 months
6.	# of DNA profiles entered into CODIS
7.	# of hits in CODIS
Arrests and Dispositions (Based on cases where SAKs resulted in CODIS eligible profiles only)	
For each "case" with multiple defendants please count each defendant separately. Also, for defendants with multiple cases, count each case separately. All of the following pertain only to the results of SAKs tested through the DANY SAK Program.	
8.	# of misdemeanor arrests
9.	# of felony arrests
10.	# of misdemeanor cases (based on top screening charge) accepted for prosecution
11.	# of felony cases (based on top screening charge) accepted for prosecution
12.	# of cases (all categories) declined at initial screening
13.	# of cases in which defendant(s) have been indicted (or equivalent)
14.	# of cases dismissed
15.	# of cases resulted in guilty plea convictions
16.	# of cases resulted in trial convictions
17.	# of cases resulted in acquittals
18.	# of exonerations
Charge Description (Based on cases where SAKs resulted in CODIS eligible profiles only)	
Revise the following categories based on your penal code before including numbers, and include all relevant charge categories.	
19.	# of cases with top screening charge "Rape in the third degree"
20.	# of cases with top screening charge "Rape in the second degree"
21.	# of cases with top screening charge "Rape in the first degree"
22.	# of cases with top screening charge "Criminal sexual act in the third degree"
23.	# of cases with top screening charge "Criminal sexual act in the second degree"
24.	# of cases with top screening charge "Criminal sexual act in the first degree"
25.	# of cases with top screening charge "Aggravated sexual abuse in the third degree"
26.	# of cases with top screening charge "Aggravated sexual abuse in the second degree"
27.	# of cases with top screening charge "Aggravated sexual abuse in the first degree"
Victim Notification (Based on cases where SAKs resulted in CODIS eligible profiles only)	
28.	# of attempted notifications to victims about a hit
29.	# of successful notifications to victims about a hit
30.	# of victims cooperating with investigation/prosecution
Victim Characteristics (Based on cases where SAKs resulted in CODIS eligible profiles only)	
31.	# of female victims
32.	# of male victims
Defendant Characteristics (Based on cases where SAKs resulted in CODIS eligible profiles only)	
33.	# of female defendants
34.	# of male defendants
35.	# of non-Hispanic Black defendants
36.	# of Hispanic defendants (including Hispanic Black and Hispanic White)
37.	# of Asian defendants
38.	# of non-Hispanic White defendants
39.	# of defendants under 18 years of age at the time of arrest
40.	# of defendants with any previous conviction history
41.	# of defendants with previous sexual offense conviction history
42.	# of defendants with previous domestic violence conviction history
Victim-Defendant Relationship (Based on cases where SAKs resulted in CODIS eligible profiles only)	
43.	# of intimate-partner cases
44.	# of acquaintance cases
45.	# of stranger cases

**Appendix B:
Terms and Conditions**

1. The New York County District Attorney's Office's (DANY) decisions on all applications are final. DANY has complete discretion with respect to all decisions on all applications.
2. No applicant has a cause of action arising out of DANY's decision as to its application.
3. DANY reserves the right to postpone or cancel this RFP, in whole or in part, for any reason and at any time, and reserves the right to reject all applications it receives.
4. Applicants shall not be reimbursed for any costs incurred in connection with their applications.
5. Any applicant may withdraw its application only by submitting a written notice of withdrawal to DANY prior to DANY's communication to the applicant of DANY's decision with respect to the application.
6. New York law shall govern any disputes arising out of this RFP, and New York State Supreme Court located in New York County shall have exclusive jurisdiction over any such disputes.