

SACRAMENTO POLICE DEPARTMENT RESPONSE

1. In the last 10 years, the total # of sexual assault evidence kits the SPD has collected from hospitals and other centers that perform exams, including situations where SPD collects the kit prior to turning it over to an external testing agency and also situations where the kit goes directly from the hospital to the external testing agency.

RESPONSE: the SPD has no documents responsive and advises the requestor to direct the question to the Sacramento County Crime Lab as kits are sent directly from the hospital(s) to the Crime Lab.

2. In the last 10 years, the total # of kits processed by the external testing agency.

RESPONSE: the SPD has no documents responsive and advises the requestor to direct the question to the Sacramento County Crime Lab as kits are sent directly from the hospital(s) to the Crime Lab.

3. The total # of kits received by SPD that were not processed by the external agency used for testing and remain in any storage facilities.

RESPONSE: The SPD has no documents responsive to the request as it does not receive kits for processing. The requestor may wish to direct the question to the Sacramento County Crime Lab.

4. Any written policies/procedures regarding sexual assault evidence kits as well as documents defining the meaning of any terms or abbreviations for sexual assault evidence kits.

RESPONSE: Please see the following for procedures regarding evidence collection.

EVIDENCE COLLECTION

1. CSI shall process crime scenes involving sexual assaults and collect evidence when latent prints may exist or physical evidence demands special handling, packaging or processing.
2. The hospital will complete the Rape Examination Kit(s) and provide any additional evidence to the Laboratory of Forensic Services.
 - a. The Rape Examination Kit(s) will be handled by the hospital staff and not booked as evidence into the Property warehouse.
 - b. Sexual assault tags shall be affixed to the outside of the booking locker if items of evidence require refrigeration.
3. Officers shall:
 - a. wear disposable latex gloves when handling evidence that may be contaminated with body fluids (i.e. blood, urine, semen, etc.)
 - b. discard latex gloves after use, as outlined in General Order 522.05, and wash all exposed areas with hot water and soap.
 - c. take the suspect(s) to the Sobriety Testing Station and complete a Rape Examination Kit before booking the suspect(s) into jail.

SACRAMENTO COUNTY



SHERIFF'S DEPARTMENT

SCOTT R. JONES

Sheriff

January 28, 2016

[REDACTED]

Sent via email to: [REDACTED]

Re: Response to CPRA Request regarding Evidence Kits

Dear Ms. [REDACTED],

The Sacramento Sheriff's Department is in receipt of your California Public Records Act request concerning sexual assault evidence kits.

Request 1-3: "Any documentation regarding the number of sexual assault evidence kits sent by the Sacramento Sheriff's Department to the SCDAO in at least the last ten (10) years, broken down by year, if documentation is readily-available further back in time, we request all such readily-available documentation;" "Any documentation regarding the number of sexual assault evidence kits sent by the Sacramento Sheriff's Department to the SCDAO that have been processed by SCDAO in the last ten (10) years, broken down by year, if documentation is readily-available further back in time, we request all such readily-available documentation; "Any documentation regarding the number of sexual assault evidence kits sent by the Sacramento Sheriff's Department to the SCDAO that are unprocessed and remain in any storage facilities currently under the SCDAO's jurisdiction and control; and"

Response: All kits were worked from 1192-2004. There were 2,158.

	Received	Worked
2005	135	101
2006	143	64
2007	144	51
2008	148	44
2009	127	26
2010	74	29
2011	68	all
2012	86	all
2013	82	all
2014	92	all
2015	94	all



Sacramento County District Attorney's Office

ANNE MARIE SCHUBERT
District Attorney

Stephen J. Grippi
Chief Deputy

Michael A. Neves
Assistant District Attorney

November 10, 2016

[REDACTED]

Re: California Public Records Act Request on Behalf of Joyful Heart Foundation

Dear Ms. [REDACTED]:

This is in response to your California Public Records Act (CPRA) request dated November 3, 2016. You have requested that the Sacramento County District Attorney's Office "provide public records and additional information regarding any rationale, and documentation related thereto, regarding why certain sexual assault [sic] evidence kits received in the years from 2005 to 2010 remain untested."

Your request further notes that you are not seeking any "private information of individual suspects or victims," as you respect the privacy interests of those individuals. You indicated a willingness to work with us to ensure that all privacy regulations are upheld. This clarification of your request seems to recognize that Government Code sections 6254(c) and 6254(k) provide exemptions under the CPRA for the disclosure of information which would constitute an unwarranted invasion of personal privacy. Furthermore, Government Code section 6255 exempts records from disclosure because the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. The records you seek regarding why specific sexual assault evidence kits were not tested would involve an analysis of the particular circumstances of each alleged offense, and thus would constitute an invasion of the privacy interests of the individuals involved.

Moreover, the specific reasons why a particular sexual assault evidence kit was not tested would involve a review and analysis of our investigatory file. Government Code section 6254(f) exempts from CPRA disclosure records of complaints to or investigations conducted by any local police agency, investigatory files compiled by any local police agency, and investigatory files compiled by any other local agency for law enforcement or licensing purposes. Under the California Constitution and by statute, the District Attorney is vested with broad authority to investigate violations of the law, and prosecute such matters in criminal, civil, or administrative actions, as may be appropriate. The District Attorney's employees include peace officers, attorneys, and other staff who perform such investigations. There can be no question that the District Attorney's Office is a local agency that conducts police or law enforcement investigations and has complaints and investigatory files within the meaning of section 6254(f). Case law supports this conclusion. (See *Rivero v. Superior Court* (1997) 54 Cal.App.4th 1048;

Rackaucas v. Superior Court (2012) 104 Cal.App.4th 169; *Fagan v. Superior Court* (2003) 111 Cal.App.4th 607; *County of Los Angeles v. Superior Court* (2005) 130 Cal.App.4th 1099.) This exemption applies not only to documents generated by the agency, but also to records gathered from victims, witnesses, and others. (See *Haynie v. Superior Court* (2001) 26 Cal.4th 1061.) This exemption continues to apply even if the case is complete and the investigation closed. (See *Rivero v. Superior Court* (1997) 54 Cal.App.4th 1048; *Williams v. Superior Court* (1993) 5 Cal.4th 337.)

In addition, documents identifying why specific sexual assault evidence kits were not tested reflect the thought process of deputy district attorneys who review the analysis of this type of evidence. Thus, the types of documents you seek are exempt from disclosure under the CPRA by the deliberative process privilege. (Gov't Code § 6255.)

We do not possess any further documentation responsive to your request that is subject to disclosure. However, after speaking with the current supervisor of the DNA unit at our Laboratory of Forensic Services, I can offer you the following general explanation in an effort to satisfy your request. During the time period of 2005 to 2010, our Lab was only testing sexual assault evidence kits when specifically requested to do so by the law enforcement agencies or by deputy district attorneys. In some of those cases, it is readily apparent why testing was not requested at the time (such as, the suspect was a spouse or boyfriend or otherwise known to the victim or the suspect admitted the sexual conduct, such that DNA testing was not needed to establish identity); in others, the reason for not testing is not now readily apparent.

In 2013, the Lab began testing all sexual assault evidence kits on new cases as well as all kits from 2011 and 2012 that had not been previously tested. In addition, kits are sent directly to the Lab after collection. This cuts out the middle step of having a kit go to the law enforcement agency to be booked, and then later brought to the Lab upon a request. The Lab has recently been undergoing efforts to go back and examine the untested kits from 2005 to 2010. In fact, a number of those untested kits collected in 2005 have since been tested. However, it was realized that untested kits from 2006 were approaching statute of limitations issues, and it was determined that it would be a better use of resources to focus for now on the 2006 and later untested kits where the statute of limitations had not run. The Lab does intend to still go back and review cases for possible testing even where the statute of limitations has expired. We have three Lab employees who will be examining the untested kits, with two of those employees devoted full-time to completing this process.

Sincerely,

ANNE MARIE SCHUBERT
DISTRICT ATTORNEY

Michael Blazina
Assistant Chief Deputy District Attorney