



**MONTANA DEPARTMENT OF JUSTICE
DIVISION OF CRIMINAL INVESTIGATION**

Montana DOJ Sexual Assault Kit Initiative

**CODIS Hit Case Review and Investigation
Packet**



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DEPARTMENT OF JUSTICE
STATE OF MONTANA**

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CODIS Hit Case Review and Investigation Procedure

Purpose: This protocol establishes the duties and guidelines for case review and investigation of MT SAKI cases following a CODIS hit.

Definitions:

MT SAKI Team – The Montana DOJ employees responsible for the Sexual Assault Kit Initiative which includes the SAKI Site Coordinator, SAKI Crime Analyst, and SAKI Investigator.

Case Research – Gathering information on the suspect, witness, and survivor’s current location, criminal history, and contact information; status of the case; previous contacts with the survivor, etc. Any information that is at the MT SAKI team’s disposal prior to contacting local authorities, including open-source records and intelligence systems.

Case Review Team Roles:

Investigator – Review key facts of the case and identify ongoing investigative strategy.

Prosecutor – Consult on plans for ongoing investigation and determine viability for potential charges.

Advocate – Provide input on survivor notification, services, and engagement. Plan for survivor care.

Crime laboratory – Explain forensic testing, results, and statistical significance. Provide information about testing resources.

Sexual Assault Nurse Examiner (SANE) – Explain medical history, history of complaint, and medical examination. May also provide information about clinical findings associated with trauma. May provide history of how evidence was collected at the time.

Probation/Parole – Provide information on suspects if offender or survivor is or has been under supervision, including location and address changes.

MT SAKI team member – Advise on SAKI grant requirements, resources, and cold case review processes.

Protocol:

A. CODIS Hit Confirmation

1. Hit confirmation notifications will be sent from the Montana State Crime Lab to the MT DOJ SAKI Team email address dojsakiteam@mt.gov.
2. Upon receipt of a confirmation notification, the hit confirmation will be uploaded to the appropriate case file in the SharePoint SAKI Case Management system. All relevant data entries will also be made, to include:
 - a. CODIS Hit Type (Offender or Forensic)
 - b. Hit Date
 - c. Hit Name
 - d. Hit DOB
 - e. Hit Match Original Suspect (Yes or No)

- f. Hit Type (enter State the hit came from)
 - g. Any other relevant data not already entered in the case management system
3. The email with the notification will be saved in a designated folder within the MT DOJ SAKI Team email inbox.
 4. The SAKI Investigator will be notified that a CODIS hit has been received.

B. Original Jurisdiction Notification

1. The point of contact for the law enforcement agency and prosecutor for the original jurisdiction will be notified by phone and follow-up email of the CODIS hit by either the SAKI Site Coordinator or SAKI Investigator. Best efforts will be made to make this notification within 14 business days of MT SAKI receiving the CODIS hit confirmation.
2. During this contact the following will be covered:
 - a. Hit details including date of hit, hit type, etc.
 - b. Request case history and/or case records if MT SAKI does not already have the records.
 - c. Protocols for case reviews and assistance the MT SAKI team provides for cold cases. These services include a dedicated cold case investigator, Prosecution Services Bureau, additional evidence testing, forensic investigative genetic genealogy, survivor notification, surreptitious collection of DNA, and resources in other states via other SAKI sites.
 - d. Request if there are any specific individuals who should participate in the case review. Specifically, if they have a victim advocate that they work with.
 - e. Next steps regarding the case review process.
 - f. Caution not to contact survivor until a case review is completed.
3. The follow up email (see CODIS Hit Packet email template) will include the MT DOJ SAKI CODIS Hit Packet which includes:
 - a. This protocol;
 - b. Montana DOJ SAKI – Survivor Notification Protocols;
 - c. Interpreting CODIS Results;
 - d. Statute of Limitations summary;
 - e. The Value of CODIS Hits;
 - f. MT SAKI Case Investigation Request Letter; and
 - g. PSB Prosecution Request Letter.
4. An Administrative Message to the law enforcement agency will be entered in CJIN notifying them of the CODIS hit through dispatch. The bulletin will state there is a CODIS hit, the case number, and to contact MT SAKI (see CJIN Administrative Message template). This will be a last resort option when unable to contact anyone at the agency. For every case this will be done after a case review to ensure a record of the CODIS hit.

C. Case Records

1. The SAKI Crime Analyst or SAKI Investigator will be assigned case research to gather all relevant case information to complete a case review.

2. The Cold Case Review Form will be completed by the assigned individual in preparation for the case review. All relevant documentation will be uploaded into the case file in the SharePoint SAKI Case Management system.
3. All case review and follow-up notes, to include survivor contact notes and local agency contact notes, will be maintained in the Cold Case Review form.
4. Relevant case files will be sent to the participants of the case review at least 10 business days prior to the review via secure file transfer.

D. Case Review

1. The SAKI Investigator or SAKI Site Coordinator will schedule a case review with an existing local Sexual Assault Response Team (SART) or Multidisciplinary Team (MDT) or create a SART or MDT which may include:
 - a. SAKI Investigator and/or SAKI Site Coordinator
 - b. A representative of the law enforcement agency of primary jurisdiction (chief, sheriff, detective)
 - c. A local victim advocate
 - d. Prosecuting attorney
 - e. Others as deemed appropriate by the team as identified under the Case Review Team Roles.
2. If a complete review team cannot meet at the same time, other options are available to ensure a case review is completed.
 - a. MT SAKI team review. This may include individually contacting representatives of the local law enforcement agency, prosecutor's office, and/or victim advocates to gather information relevant to the review.
 - b. MT SAKI Task Force review. This would be followed by a review by the MT SAKI team. Cases may be reviewed with various members of the MT SAKI Task Force based on their areas of expertise.
3. Any participants in a case review will sign the Montana SAKI Confidentiality Agreement. The completed agreement will be uploaded into each case file in the SharePoint SAKI Case Management system. While a summary of the case will be discussed with all participants, complete investigative case files will not be shared with anyone outside of a criminal justice agency in compliance with 44-5-303, MCA.
4. At the beginning of each case review, the team member facilitating the meeting will review the protocols and objectives of case reviews. This includes:
 - a. Introduction of review participants
 - b. Confidentiality rules
 - c. Focus on constructive discussion
 - d. Case Review Group Expectations
 - e. Goals and objectives of the review.
5. The goals and objectives of the case review are:
 - a. To ensure the immediate safety of the survivor and to minimize further trauma or systemic re-victimization;
 - b. To protect the privacy rights of the survivor;

- c. To minimize the number of survivor interviews and to ensure interagency collaboration;
 - d. To facilitate access to medical and mental health intervention to promote successful healing;
 - e. To increase the quality of sexual assault investigations, prosecution and victim services and eliminate the duplication of efforts;
 - f. To increase successful prosecution and offender accountability through multidisciplinary collaboration;
 - g. To encourage all team members on the MDT involved in case review, case staffing, and sexual assault case response to adhere to best practices of their respective professions;
 - h. To identify and improve system and local resource deficiencies;
 - i. To promote survivor voice and choice;
 - j. To collect and maintain accurate information regarding the investigation and prosecution of sexual assault cases;
 - k. To implement trauma-informed care practices and principles; and
 - l. To increase and maintain active participation and consistent attendance of each agency at multidisciplinary team meetings.
6. During the case review, the team will:
- a. Review all relevant and available case information
 - b. Complete the Cold Case Review form
 - c. Determine survivor notification based on the MT SAKI Survivor Notification Protocol and who will make the notification.
 - d. Determine next steps if further investigation is warranted.
 - e. Determine who is responsible for each next step identified.
 - f. Discuss lessons to be learned from the case, what went well, and how to share that information.
 - g. Discuss resources that are available for the investigation, prosecution, and/or survivor such as Office of Victim Services, Prosecution Services Bureau, etc.
 - h. Discuss ViCAP eligibility and who will be responsible for entering the case in ViCAP.
7. Every attempt will be made to ensure all case reviews are scheduled within 30 days of the team's receipt of the CODIS hit confirmation. Case reviews may be completed in-person or via a virtual platform.
8. Notes and records from any case review will be uploaded to the SharePoint SAKI Case Management system.
9. All case reviews will include identified areas for improvement in training, investigative process, survivor support, etc.
10. Information gathered during the case reviews including recommendations specific to the case, improvements to be made to process or training, etc., will be shared with the local jurisdiction and/or more broadly via collective reports and data generated by the MT SAKI team.

E. Victim Advocate Referrals

1. Survivor notification will follow the Montana DOJ SAKI – Survivor Notification Protocols.
2. The team member involved in the survivor notification will have advocate contact information available before making the initial contact with a survivor. The team member will provide this

information to the survivor and offer to arrange a call or meeting between the survivor and advocate. If the survivor does not want to be connected at that time with an advocate, the team member will request consent to mail, via USPS or email, resources to the survivor such as:

- a. Advocacy organization information and advocate contacts in their area;
 - b. Office of Victim Services program information, including a Crime Victim Compensation claim form; and
 - c. MT SAKI team member business card or contact information.
3. Limited information on the case will be shared with the victim advocate unless the survivor has signed consent for disclosure forms with the victim advocate.
 4. When the SAKI Investigator is conducting the investigation, the survivor will be asked if they would like a victim advocate present when interviewed about the offense and ensure other survivor rights related to the investigation as outlined in 46-24-106, MCA.

F. Cold Case Investigation

1. If further investigation is needed, the law enforcement agency of jurisdiction may proceed with the cold case investigation, or they may opt to request that the SAKI Investigator be assigned the case.
2. If the law enforcement agency decides to proceed with the investigation, all case records gathered by MT SAKI will be securely shared with the assigned investigator.
3. To request assignment of the SAKI Investigator, a ranking member of the law enforcement agency must submit the MT SAKI Case Investigation Request Letter on agency letterhead to the SAKI Site Coordinator.
4. This letter will be forwarded to the DCI Major Case Supervisor.
5. The SAKI Site Coordinator will assign the case to the SAKI Investigator in the DCI case management system.
6. The SAKI Investigator will follow all investigative policies and procedures established by the DCI Investigations Bureau. See DCI Policy Manual section 700.

G. ViCAP Entries

1. Cases that meet ViCAP entry requirements will be uploaded to ViCAP by the SAKI Crime Analyst or the originating law enforcement agency.
2. The SAKI Crime Analyst will notify the law enforcement agency of eligible cases and determine if they need assistance entering the case(s) in ViCAP.
3. The ViCAP Web National Crime Database – Hub Designation Form, which allows MT SAKI to enter the case in ViCAP, will be provided to the law enforcement agency.

H. Prosecutive Services Bureau (PSB) Referrals

1. PSB may be consulted on cases prior to contacting local agencies and/or prosecutors.

2. A PSB attorney may be added to any case review where their expertise is needed or where it is anticipated a request will be made to PSB to prosecute the case.
 - a. Situations where PSB participation may be prioritized include when the county attorney requests PSB assistance, multi-jurisdiction cases, complex cases, and rural jurisdictions that may lack resources or experience prosecuting these cases.
3. Any jurisdiction that would like PSB to prosecute a case or provide assistance or resources for prosecution must send an email to the MT SAKI team with a request detailing the assistance needed and the case number. The PSB Prosecution Request Letter may be used as a template.

I. CODIS upload no hit case reviews

1. Any case where a hit is not received after 6 months of the DNA profile being entered in CODIS may be reviewed by the MT SAKI team and Forensic Science Division personnel to determine if it is eligible for additional testing, including Forensic Investigative Genetic Genealogy.

References:

DCI Policy Manual

Attachments:

CJIN Administrative Message Template
CODIS Hit Packet Email Template
Cold Case Review Form
Interpreting CODIS Results
Montana DOJ SAKI – Survivor Notification Protocols
MT SAKI Confidentiality Agreement
Prosecution Service Bureau Prosecution Request Letter
MT SAKI Case Investigation Request Letter
Statute of Limitations Summary
The Value of CODIS Hits
ViCAP Web National Crime Database – Hub Designation Form
How to Gain Access to ViCAP

History:

Effective Date: 04/09/2025

Montana SAKI Case Review Group Expectations

Clear group expectations help groups avoid confusion and misunderstandings, focus on the task at hand, and reach consensus on decisions. Each case review team will follow the expectations outlined below.

- ❖ Have the meeting in the meeting.
- ❖ Be open to other people's ideas and feedback.
- ❖ Assume goodwill in everyone's communication and actions.
- ❖ No blaming or speculation.
- ❖ Give grace to each other; these are not easy conversations and topics.
- ❖ Recognize and respect what each person brings to the table.
- ❖ Be present and actively participate.
- ❖ For virtual meetings:
 - Ensure that you are participating in a place that honors confidentiality.
 - Be on camera whenever possible.

CJIN Administrative Message Template

The MT DOJ Sexual Assault Kit Initiative has received a CODIS hit for [agency] case [#]. Please contact MT DOJ SAKI at DOJSAKITeam@mt.gov or 406-444-5296 or 406-513-8817 for further information.

Be advised, a CODIS hit is just an investigative lead. Do not take investigative action solely on this hit.

Please forward this notification to the head of your agency and/or agency detectives.

CODIS Hit Packet Email Template

[Title and Name]

[Thanks for our phone call today...following up from our phone call today...it was good to talk to you today...]

Attached is the MT DOJ SAKI CODIS Hit Packet. Please review the CODIS Hit Packet to learn about SAKI, what to expect, and to prepare for the case review. The CODIS Hit Packet provides resources and information discussed in the case review including how to interpret CODIS results, a summary of Montana statute of limitations laws, survivor notification protocols, etc. If you have any questions about the materials or process, please do not hesitate to contact me or anyone on the MT SAKI team. Below is the contact information for each team member. You can also email DOJSAKITeam@mt.gov, which will go to the entire team.

Approximately 10 business days prior to the case review, I will securely send you case records and a case summary in preparation for the case review.

For additional information visit: <https://dojmt.gov/victim-services/sexual-assault-kit-initiative/>. We appreciate your time and collaboration on this important work.

Thank you,

Michele Morgenroth
MT SAKI Site Coordinator
406-444-5296
Michele.morgenroth@mt.gov

Alesha Woodland
MT SAKI Cold Case Investigator
406-513-8817
alesha.woodland@mt.gov

MT SAKI Crime Analyst
406-

Cold Case Review Form

Reviewer: Click or tap here to enter text.

Case No.: Click or tap here to enter text.

Date of Offense: Click or tap to enter a date.

Survivor: Click or tap here to enter text.

Original Investigator: Click or tap here to enter text.

SYNOPSIS

Click or tap here to enter text.

COLD CASE SEXUAL ASSAULT REVIEW CHECKLIST

Questions	Yes	No	NA	Comments
Suspect named in original case				
Suspect arrested				
Suspect known by victim				
Consent defense or prior record				
New suspect post-CODIS				
Consent defense				
Current location known				
Sexual assault history or convicted on this offense				
Laboratory analysis completed during initial investigation				
New lab results				
Other evidence available				
Survivor status known				
Case Jurisdiction				
Statute of Limitations considerations				
Witness(es) available				
CASE DISPOSITION				
Original request for prosecution made?				Disposition:

Date of Review: Click or tap to enter a date.

Case Review Team Members Present:

Click or tap here to enter text.

POST-COLD CASE SEXUAL ASSAULT REVIEW CHECKLIST

- ✓ Review original report and all supplements.
- ✓ Review evidence and results of forensic analysis.
- ✓ Review supplements for all witnesses identified and witnesses to be interviewed or re-interviewed.
- ✓ Review identified suspect's information.
- ✓ Review survivor status and the notification plan.
- ✓ Review any crime analysis.
- ✓ Assign specific follow-up tasks and completion dates.

SUMMARY

Case History

What were the reasons this case did not move forward at the time? Why was the SAK not tested?

Evidence and Forensic Analysis:

Additional forensic processing possible with existing evidence? Technology considerations (social media, DNA advances, security footage, etc.)?

Witnesses:

Witnesses to be interviewed or re-interviewed?

Suspect(s):

Suspect(s) identified or outstanding? Prior SA offenses? Location?

Survivor:

*What services have already been provided? What have contacts/attempts looked like? Should the survivor be notified now? Can the name of the offender be shared with the survivor? What survivor concerns must be discussed prior to notification (substance abuse, incarceration, relationship to offender, safety concerns, etc.)
What resources can be offered?*

Crime Analysis:

Connections or similarities to other cases (via forensic evidence or the facts of the case)?

Lessons Learned:**POST-COLD CASE SEXUAL ASSAULT REVIEW CHECKLIST**

- ✓ Identify specific follow-up tasks and completion dates.
- ✓ Ensure the case management entry and status is accurate and up to date.
- ✓ Document case review in the case management system.

Questions	Yes	No	NA	Comments
DCI Investigation Request				
PSB Prosecution Request				
Additional investigative information needed?				Describe:
Additional forensic analysis needed?				Describe:
Witnesses to be interviewed or re-interviewed?				
Suspect to be located or interviewed?				
Survivor to be notified?				
Additional crime analysis needed?				
Forward for prosecution?				
ViCAP entry?				
Other:				
Other:				

Interpreting CODIS Results

Offender (Suspect) CODIS hit:

Perpetrator DNA in a case hits to the DNA profile of a convicted offender or arrestee, identity is known

Forensic (Case-to-case) CODIS hit:

Perpetrator DNA in one case hits to perpetrator DNA in another case, identity may be unknown, agencies should communicate to compare suspect details

DNA positive CODIS eligible:

Perpetrator DNA entered into CODIS with no hits to any DNA at that time

DNA positive, CODIS ineligible:

CODIS eligibility requirements not met, e.g., weak DNA results

Serology Screening:

No biological material detected, e.g., semen or blood not detected on evidence

DNA negative cases:

DNA testing failed to yield DNA results

Montana DOJ SAKI – Survivor Notification Protocol

Click the image below to view the entire document.

Montana Department of Justice Sexual Assault Kit Initiative



Survivor Notification Protocol

"This project was supported by Grant No. 2020-AK-BX-0030 awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice."

MT SAKI Confidentiality Agreement

The following listed team members hereby agree to collaborate with each other in implementing the following goals and objectives.

Confidentiality:

As a MT SAKI MDT participant, other agencies may inform me of confidential client or criminal justice information. The purpose for the disclosure of this confidential data is to ensure that appropriate social services, legal services, and medical care is obtained for sexual assault survivors.

I understand that information contained in other agencies' records are designated as confidential pursuant to the laws and regulations of the State of Montana, and its implementing regulations and shall not be disclosed by me to any person, organization, agency or other entity except as authorized or as required for the purposes of a criminal investigation and/or prosecution or as otherwise required by law.

I agree that such information may not be used for any purpose other than the purposes stated in this agreement and that any other use or release to any party of such confidential information or records without prior written consent, will be presumed to be a breach of this Confidentiality Agreement. I further agree that any breach of confidentiality may result in the referral of the matter to an appropriate enforcing entity for potential sanctions.

**If I am a visitor coming into the meeting to observe the MDT meeting, I agree to all the above-stated conditions in this Confidentiality Agreement. I also agree that I shall be treated in the same manner as the members of the MDT and will be subject to this Agreement in the same manner and to the same extent as the members of the MDT.

I the undersigned, as a representative of the agency listed below and member or visitor of the MDT, agree that all information discussed and/or obtained in these case review meetings will remain confidential other than for the reasons stated above. This Confidentiality Agreement will be renewed at each MDT meeting.

Conflicts of Interest:

Any team member whose review of a case presents a conflict of interest for the member should disclose the conflict and abstain from participating in any discussion related to the case.

Grant Requirements:

According to federal grants, cooperative agreements must follow the confidentiality requirements put forth under the Violence Against Women Act: 34 U.S.C. § 12291(b)(2)

Nondisclosure of confidential or private information

(A) In general

In order to ensure the safety of adult, youth, and child victims of domestic violence, dating violence, sexual assault, or stalking, and their families, grantees and subgrantees under this subchapter shall protect the confidentiality and privacy of persons receiving services.

(B) Nondisclosure: Subject to subparagraphs (C) and (D), grantees and subgrantees shall not—

- (i) disclose, reveal, or release any personally identifying information or individual information collected in connection with services requested, utilized, or denied through grantees' and subgrantees' programs, regardless of whether the information has been encoded, encrypted, hashed, or otherwise protected; or
- (ii) disclose, reveal, or release individual client information without the informed, written, reasonably time-limited consent of the person (or in the case of an unemancipated minor, the minor and the parent or guardian or in the case of legal incapacity, a court-appointed guardian) about whom information is sought, whether for this program or any other Federal, State, tribal, or territorial grant program, except that consent for release may not be given by the abuser of the minor, incapacitated person, or the abuser of the other parent of the minor. If a

minor or a person with a legally appointed guardian is permitted by law to receive services without the parent's or guardian's consent, the minor or person with a guardian may release information without additional consent.

- (C) Release: If release of information described in subparagraph (B) is compelled by statutory or court mandate—
 - (i) grantees and subgrantees shall make reasonable attempts to provide notice to victims affected by the disclosure of information; and
 - (ii) grantees and subgrantees shall take steps necessary to protect the privacy and safety of the persons affected by the release of the information.
- (D) Information sharing
 - (i) Grantees and subgrantees may share—
 - (I) non-personally identifying data in the aggregate regarding services to their clients and non-personally identifying demographic information in order to comply with Federal, State, tribal, or territorial reporting, evaluation, or data collection requirements;
 - (II) court-generated information and law enforcement-generated information contained in secure, governmental registries for protection order enforcement purposes; and
 - (III) law enforcement-generated and prosecution-generated information necessary for law enforcement and prosecution purposes.
 - (ii) In no circumstances may—
 - (I) an adult, youth, or child victim of domestic violence, dating violence, sexual assault, or stalking be required to provide a consent to release his or her personally identifying information as a condition of eligibility for the services provided by the grantee or subgrantee;
 - (II) any personally identifying information be shared in order to comply with Federal, tribal, or State reporting, evaluation, or data collection requirements, whether for this program or any other Federal, tribal, or State grant program

Prosecution Service Bureau Prosecution Request Letter

(Please email the following information to dojsakiteam@mt.gov)

[Agency/county/city] requests Montana DOJ Prosecution Services Bureau (PSB) assistance with the case(s) below, inventoried and submitted for forensic analysis by the Montana DOJ Sexual Assault Kit Initiative (MT SAKI):

1. Case #1
 - a. Suspect Name (If available)
2. Case #2
 - a. Suspect Name (If available)

We are asking that PSB [prosecute the case/assist with prosecution/provide resources].

MT SAKI Case Investigation Request Letter

(Please place on Department Letterhead)

To: Montana DOJ SAKI

From: [Chief / Sheriff / Administrator]

Date:

[Agency] requests that the listed case(s) below be investigated by the MT DOJ SAKI Investigator, with the MT DOJ Division of Criminal Investigation. Permission is hereby granted to inspect and/or obtain copies of any reports, records, and/or Law Enforcement information in reference to the following cases:

1. Report/Case #1
 - a. Suspect Name (If available)
2. Report/Case #2
 - a. Suspect Name (If available)

All records are to be kept confidential and to be used as an investigative tool.

Statute of Limitations Summary

Statute of limitations consideration must be a very careful and fact-specific analysis for each individual case as there are many factors to consider.

45-5-502 Sexual assault
45-5-503 Sexual intercourse without consent
45-5-504 Indecent exposure
45-5-507 Incest
45-5-625 Sexual abuse of children
45-5-627 Ritual abuse of minor (not enacted until 1993)
45-5-704 Sexual servitude
45-5-705 Patronizing victim of sexual servitude

45-1-205. General time limitations. (1) (a) A prosecution for deliberate, mitigated, or negligent homicide may be commenced at any time.

(b) **Except as provided in subsection (1)(c) or (9), a prosecution for a felony offense under 45-5-502, 45-5-503, 45-5-504, 45-5-507(4) or (5), 45-5-625, or 45-5-627 may be commenced within 10 years after it is committed.**

(c) **A prosecution for an offense under 45-5-502, 45-5-503, 45-5-504, 45-5-507, 45-5-508, 45-5-602, 45-5-603, 45-5-625, 45-5-627, 45-5-704, or 45-5-705 may be commenced at any time if the victim was less than 18 years of age at the time that the offense occurred.**

(2) Except as provided in subsection (7)(b) or as otherwise provided by law, prosecutions for other offenses are subject to the following periods of limitation:

(a) A prosecution for a felony must be commenced within 5 years after it is committed.

(b) A prosecution for a misdemeanor must be commenced within 1 year after it is committed.

(3) The periods prescribed in subsection (2) are extended in a prosecution for theft involving a breach of fiduciary obligation to an aggrieved person as follows:

(a) if the aggrieved person is a minor or incompetent, during the minority or incompetency or within 1 year after the termination of the minority or incompetency.

(b) in any other instance, within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(4) The period prescribed in subsection (2) must be extended in a prosecution for unlawful use of a computer, and prosecution must be brought within 1 year after the discovery of the offense by the aggrieved person or by a person who has legal capacity to represent an aggrieved person or has a legal duty to report the offense and is not personally a party to the offense or, in the absence of discovery, within 1 year after the prosecuting officer becomes aware of the offense.

(5) The period prescribed in subsection (2) is extended in a prosecution for misdemeanor fish and wildlife violations under Title 87, and prosecution must be brought within 3 years after an offense is committed.

(6) The period prescribed in subsection (2)(b) is extended in a prosecution for misdemeanor violations of the laws regulating the activities of outfitters and guides under Title 37, chapter 47, and prosecution must be brought within 3 years after an offense is committed.

(7) (a) An offense is committed either when every element occurs or, when the offense is based upon a continuing course of conduct, at the time when the course of conduct is terminated. Time starts to run on the day after the offense is committed.

(b) A prosecution for theft under [45-6-301](#) may be commenced at any time during the 5 years following the date of the theft, whether or not the offender is in possession of or otherwise exerting unauthorized control over the property at the time the prosecution is commenced. After the 5-year period ends, a prosecution may be commenced at any time if the offender is still in possession of or otherwise exerting unauthorized control over the property, except that the prosecution must be commenced within 1 year after the investigating officer discovers that the offender still possesses or is otherwise exerting unauthorized control over the property.

(8) A prosecution is commenced either when an indictment is found, or an information or complaint is filed.

(9) If a suspect is conclusively identified by DNA testing after a time period prescribed in subsection (1)(b) has expired, a prosecution may be commenced within 1 year after the suspect is conclusively identified by DNA testing.

(10) A prosecution for reckless driving resulting in death may be commenced within 3 years after the offense is committed.

(11) A prosecution of careless driving resulting in death may be commenced within 3 years after the offense is committed.

45-1-206. Periods excluded from limitation.

The period of limitation does not run during:

(1) any period in which the offender is not usually and publicly resident within this state or is beyond the jurisdiction of this state.

(2) any period in which the offender is a public officer and the offense charged is theft of public funds while in public office; or

(3) a prosecution pending against the offender for the same conduct, even if the indictment, complaint, or information which commences the prosecution is dismissed.

2007 added: 45-1-205 (9) General time limitations. If a suspect is conclusively identified by DNA testing after a time period prescribed in subsection (1)(b) or (1)(c) has expired, a prosecution may be commenced within 1 year after the suspect is conclusively identified by DNA testing. *

*Subsection (9) does NOT permit or provide for the revival of charges for which the statute of limitations had already expired prior to October 1, 2007. *Tipton v. Mont. Thirteenth Judicial Dist. Court*, 2018 MT 164, 392 Mont. 59, 421 P.3d 780.

Mordja v. Eleventh Judicial District, 2008 MT 24, 341 Mont 219 (2008) establishes the following: The Montana Supreme Court held that where a statute of limitations was extended to extend the period in which a criminal offense could be charged, the extended period applied to all offenses not barred at the time of the amendment.

Date of Offense	Calculating Statute of Limitations
Offenses committed on or before 10/01/1989	Date of offense (year) + 5 = SOL expires
Offenses committed on or after 10/01/1989 until 10/01/2001	<p>Adult at time of assault: Date of offense (year) + 5 = Year SOL expires</p> <p>Minor at time of assault: (18 – age at assault) + 5 + year of assault = Year SOL expires</p>
Offenses committed on or after 10/01/2001 until 10/01/2017	<p>Adult at time of assault: Date of offense (year) + 10 = Year SOL expires</p> <p>Minor at time of assault: (18 – age at assault) + 10 + year of assault = Year SOL expires</p>
2007 amendment 45-1-205 (9)	<p>Add one year after suspect is conclusively identified by DNA after the Statute of Limitations has expired.</p> <p>This extension does not apply if SOL expired prior to October 1, 2007. 2007 MT SB 104, which added subsection (9) to MCA 45-1-205 was approved by the Governor on May 8, 2007, but did not include an effective date provision. Pursuant to MCA 1-2-201, since the 2007 legislature was a regular session, the effective date would have been October 1, 2007.</p>
Offenses committed on or after 10/01/2017 until 05/07/2019	<p>Adult at time of assault: Date of offense (year) + 10 = Year SOL expires</p> <p>Minor at time of assault: (18 – age at assault) + 20 + year of assault = Year SOL expires</p>
Offenses committed on or after 05/07/2019 until current	<p>Adult at time of assault: Date of offense (year) + 10 = Year SOL expires</p> <p>Minor at time of assault: May commence prosecution at any time *source HB0640 2019 amendment</p>

Research and case experience supports the value of examining previously unsubmitted or partially tested SAKs, even when the suspect has been convicted.

The Value of CODIS Hits

SAKI is requesting case files or conducting case reviews to determine: priority for submitting SAKs for testing; CODIS and/or VICAP eligibility; potential for further investigation.

Advances in DNA Testing

New technology can provide new leads.

Cases may be linked to identify serial offenders.

Cases may be eligible for Forensic Investigative Genetic Genealogy

John Doe Warrants

When DNA evidence cannot be matched to a known individual, a John Doe warrant can identify the suspect by their unique DNA profile. This warrant tolls the statute of limitations, allowing the investigation to continue.

Wrongful Convictions

Wrongful convictions can be overturned when DNA testing shows the convicted person was not the assailant. When the wrong person is convicted, the true assailant walks free and could commit other crimes.

Survivors

Survivor-centered and trauma informed approaches may promote survivor willingness to participate in the investigation and prosecution.

VICAP

Eligible cases are entered into the FBI's Violent Criminal Apprehension Program. This can help link cases from other jurisdictions. Eligible cases include homicides, sexual assaults, missing persons, and unidentified human remains.
<https://www.fbi.gov/wanted/vicap>

The Statute of Limitations has changed, so some cases can still be prosecuted.
45-1-205, MCA

Even if it appears nothing can be done with the case, testing the SAK and any subsequent CODIS hit can be used for:

- Determining if statute of limitations may be suspended/tolled once the suspect is identified;
 - Civil commitments under state sexual predator laws;
 - Evidence of prior bad acts for future prosecutions involving that suspect;
 - Relevant information for the sentencing phase (relating to the defendant's character);
 - Information for parole board hearings; and
 - Possible closure for the victim.
- May solve other prosecutable cases within SOL.

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Resource: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice: National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach

ViCAP Web National Crime Database – Hub Designation Form

Federal Bureau of Investigation - Violent Criminal Apprehension Program



ViCAP Web National Crime Database - Hub Designation Form

The ViCAP Web National Crime Database is a free repository for behavioral and investigative information related to the following solved and unsolved violent crimes:

- Homicides (and attempts) that are known or suspected to be part of a series and/or are apparently random, motiveless, or sexually oriented.
- Sexual Assaults that are known or suspected to be part of a series and/or are committed by a stranger.
- Missing Persons where the circumstances indicate a strong possibility of foul play and the victim is still missing.
- Unidentified Human Remains where the manner of death is known or suspected to be homicide.

The ViCAP Web System is a state-of-the-art behavior-based crime analysis tool enabling law enforcement agencies to collect, collate, enter, and analyze their own violent crime information on a local level, and facilitates the identification of similar cases on a regional, state, and national basis. It is available to law enforcement agencies nationwide through secure internet connectivity of the FBI's Criminal Justice Information Services (CJIS) Division, Law Enforcement Enterprise Portal (LEEP).

Each law enforcement agency requesting direct access to ViCAP Web must designate an employee of that agency to serve as the agency's main point of contact (POC) with FBI ViCAP regarding compliance to ViCAP Web user policies and procedures. Some agencies forgo direct access to ViCAP Web and instead elect to designate a Hub Agency to access ViCAP Web on their behalf. In this case, the agency head/designee must complete this form to designate a Hub agency.

Hub Agencies (in consideration of their resource limitations) must meet the following three minimum requirements to initiate and maintain status as a ViCAP Web Hub Agency: Provide assistance with entering criteria cases into ViCAP Web; assistance in searching ViCAP Web; and promotion of the ViCAP program. Additionally, Hub Agencies may assist with analysis, training, technical support, and other services. *Note: Hub Agencies entering cases on behalf of Spoke Agencies maintain an obligatory role in assisting with database entries; however, Spoke Agencies DO NOT relinquish their investigative authority on said cases. This matter is integral to full cooperation with Hub Agencies in their support of Spoke Agencies nationwide.*

As my agency head/designee, I hereby request:

Hub Agency Name _____ Hub Agency State _____

be designated as my Hub Agency.

be removed as my Hub Agency.

Signature: _____ Date: _____

Printed Title and Name: _____

Name of Agency: _____

Full Address of Agency: _____

Telephone Number of Agency: _____

This form can be scanned and emailed to vicap@leo.gov, faxed to 703-632-4239 or mailed to FBI Academy, Attn: CIRG/BAU-4/ViCAP, 1 Range Road, Quantico, Virginia 22135.

How to Gain Access to the ViCAP National Crime Database

Established by the DOJ in 1985, the FBI Violent Criminal Apprehension Program (ViCAP) serves law enforcement agencies across the nation by providing a free repository for behavioral and investigative information related to the following solved and unsolved violent crimes:

- *Homicides (and attempts) that are known or suspected to be part of a series and/or are apparently random, motiveless, or sexually oriented.*
- *Sexual Assaults that are known or suspected to be part of a series and/or are committed by a stranger.*
- *Missing Persons where the circumstances indicate a strong possibility of foul play and the victim is still missing.*
- *Unidentified Human Remains where the manner of death is known or suspected to be homicide.*

ViCAP is a state-of-the-art behavior-based crime analysis tool structured to address the violent crime problems impacting law enforcement agencies today. It enables law enforcement agencies to collect, collate, enter, and analyze their own violent crime information on a local level, and facilitates the identification of similar cases on a regional, state, and national basis. It is available to law enforcement agencies nationwide through secure internet connectivity of the FBI's Criminal Justice Information Services Division, Law Enforcement Enterprise Portal (LEEP). *All users must maintain active access to LEEP in order to access ViCAP.*

Steps to Gain Access to ViCAP:

- (1) Obtain access to LEEP (each user must do this) in one of two ways: (a) Through one of the participating Identity Provider (IdP) agencies to LEEP, or (b) Complete the online application (www.cjis.gov) for a LEEP ID.
- (2) Select a single agency point of contact to serve as the link between FBI ViCAP and the users within your agency. This individual will be referred to as the 'LEA Manager (LEAM).'

**Check the list of LEA Managers posted on the (LEEP) ViCAP JusticeConnect page to determine if your agency has a designated LEAM. If your agency has a designated LEAM, please contact him/her to request access rather than following the steps below. If your agency does not have a designated LEAM, continue with the steps below.*

- (3) Complete a ViCAP LEA Manager Designation/Replacement Form (signed by your agency head/designee). The form is posted on the (LEEP) ViCAP JusticeConnect page. Fax it to 703-632-4239 or email it to vicap@fbi.gov.
- (4) ViCAP will monitor LEEP activations and process your agency's LEA Manager Form. An email will be sent to the LEAM with instructions on how to access the ViCAP National Crime Database and a referral to the (LEEP) ViCAP JusticeConnect page for helpful documents including one on how to add additional users.

Grant Disclaimer

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