

February 6, 2019 SART meeting

This meeting we had a guest speaker, David Miller from the state crime lab, who came to lead a discussion on the centralized storage of the sexual assault exam kits. We took a moment to introduce everybody to David, but I would like to welcome our new members. Meredith Pheasant-Linger is the new SANE coordinator for Ruby Memorial Hospital, which is officially a full-time position. I also want to welcome Allison Hayes from WVU's CARE Team, who works closely with our student victims in helping them receive services. Welcome to SART!

Meredith Linger provided the hospital updates, including a summary of kits done for 2018 and 2019 so far.

- In 2018, 85 kits were done. 19 of those were pediatric and 26 were WVU students. 56 of the 85 were reported to law enforcement.
- In 2019 so far, 10 kits have been done. 1 of those was pediatric and 4 were WVU students. 6 of the 10 were reported to law enforcement.

Our main discussion centered around the collection and storage of Sexual Assault Evidence Collection Kits (SAECKs). To clarify why this is such an important topic, David gave some background information, beginning with the fact that less than half of all collected SAECKs are submitted to the state crime lab. There are a variety of reasons for this, including the fact that police may know who the perpetrator is and find the kit to be less important than other evidence that may need to be submitted to the crime lab or find the kit is unnecessary for their case altogether. The SANEs at the meeting also addressed the fact that not all kits that are opened for the SAFE exam end up being used if the victim decides that she (or he) does not want to continue with the exam. While this should be (and typically is) documented, that is not always the case, resulting in the appearance of a missing kit.

In 2016 the crime lab was awarded the DANY grant, which funded a state-wide inventory of Law Enforcement evidence lockers for unsubmitted kits, which were then sent to Marshall University Forensic Science Center for testing. As DNA results are being generated from those kits, they are being compared to DNA results from other cases, nationally, and to DNA profiles from convicted offenders. Of those previously untested kits that have now been entered into CODIS, nearly 30% of them have received CODIS hits from other cases, indicating that these perpetrators were serial offenders. The indication that so many perpetrators are serial offenders was one of the strongest reasons David shared for why every kit should be tested, even if the perpetrator is known; this is especially true in cases where the perpetrator acknowledges that there was sexual contact, but claims it was consensual.

Finishing this background, David opened the floor for the main reason for his visit. The SAFE Commission is currently considering a ruling that would enforce the submission of all SAECKs to the WVSP forensic lab for testing within 20 days. As of right now, when a SAECK is completed, law enforcement picks up the kit from the hospital and is responsible for submitting the kits to

the lab. In anticipation of this new ruling, it has been discussed having the hospitals send these kits directly to the lab, with Ruby Memorial Hospital being proposed to pilot this idea. David came to discuss any concerns our SART members may have and the challenges associated with implementing this idea. Some of the concerns were:

- Chain of evidence: this is the first question that was brought up and quickly addressed. From the prosecutor's point of view, evidence is already mailed to the lab frequently and this would actually cut out an extra person coming in contact with the evidence.
- Issues with case submission forms:
 - Law enforcement would come to get the paperwork associated with the kits, but they may not have a suspect immediately, or they may be still working on collecting additional evidence. Detective Friend explained that the typical procedure is to wait until there is a suspect, collect other relevant evidence, and submit as much as possible at one time to streamline the process. He brought up the concern that this may result in law enforcement having to submit incomplete case submission forms, as well as multiple submissions of evidence that must be linked to a single case. David admitted that this may require incomplete forms; the kits come with a sheet of case-number labels, though, with the hospital can share with police for additional evidence that may need to be shipped.
 - Another concern is the possibility that the hospitals may ship kits, but law enforcement may not come to get the paperwork, which means there would be no case submission form at all. David explained that the case submission form is essentially a contract with law enforcement that permits the lab to test the evidence that has been submitted. While it is not a common incident right now, when a kit arrives without the submission form it causes a lot of extra work to track down whose case it was; the concern is that this may happen more frequently if the kits come directly from the hospital, rather than law enforcement. A solution that he proposed would be giving such cases to State Police (though this is still currently just an idea).
- Shipment of the kits: currently, non-report kits are shipped to MUFSC via FedEx; they have, however, declined to ship kits to the state crime lab, citing "bio-hazard" materials. The crime lab is looking into establishing a UPS account for these kits. For the time being, the cost of shipping these kits would be covered by the state crime lab; if a law is passed for this to be standard practice, the law would fund the hospital submission of kits.
- Possible increase in backlog of evidence in the lab: at this time, David has informed us that there is a backlog of evidence from kits that are waiting to be tested. While the point in this new rule is to have every SAECK tested, this would result in a massive increase in the number of kits that are being submitted, which could potentially result in an increase in the backlog of evidence. While this is a concern and the lab has been undergoing renovations to make room for additional kits, new procedures for testing

should help keep this from becoming an overwhelming transition. The new procedure of testing for the presence of male DNA in general rather than testing specifically for semen samples has made processing evidence significantly faster and more manageable.

- Training for hospital staff and law enforcement: one major concern for the hospital during this test phase is simplifying the process for their staff. Though Monongalia County is the pilot site for this, Ruby's ED manager Curtis Ash expressed concern about keeping the practice the same among patients from different counties. For patients reporting from within the state, it was determined that the best practice would be for the hospital to continue sending the kits to the crime lab, regardless what county they are reporting from, informing whatever law enforcement agency came to collect the evidence of this practice, and providing the associated paperwork. This practice would only need to vary for patients reporting to Ruby from outside of the state.

Thanks again for the great turnout! Our next scheduled meeting is March 6, 2019.