



COUNCIL STAFF REPORT

CITY COUNCIL *of* SALT LAKE CITY

TO: City Council Members

FROM: Ben Luedtke
Constituent Liaison/Public Policy Analyst

DATE: October 21, 2014

**RE: Improvements to Sexual Assault
Evidence Collection Kit Processing**

PROJECT TIMELINE:

Briefing: 4/15/14
Briefing: 9/16/14
Briefing: 10/21/14
Set Date:
Public Hearing:
Potential Action:

Council Sponsor: **Council Member Kyle LaMalfa**

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ISSUE AT-A-GLANCE

As of December 31, 2013, SLCPD has 625 Code R kits that have not been submitted for DNA testing (Attachment I). The Council was briefed by SLCPD Chief Burbank on April 15, 2014 regarding how Code R kits are processed as probative evidence for testing, storage, or disposal. At this briefing, the Chief explained the central issue in the delay of processing these kits – DNA tests at private labs average \$1,150 while kits sent to the State Crime Lab are tested at no expense to the City but at a slower rate (6+ months) due to capacity issues. In Utah, only the State Crime Lab can enter DNA profiles into the FBI's Combined DNA Index System (CODIS).

Based on the Council's previous Work Session discussions, staff has compiled a complete inventory of policy statements (Attachment II). In addition, Council staff has attempted to boil these down into a consolidated policy document (Attachment III).

- **Which version of presenting the policies does the Council prefer?**
- **Would the Council like to officially adopt and/or modify the policy statements?**

Goal of the briefing: Continue the discussion of sexual assault evidence collection kit process improvements to give direction on what modifications should be established and what options to fund.

COUNCIL AREAS OF INTEREST/OPTIONS FOR CONSIDERATION

Council Sponsor, Kyle LaMalfa, detailed the following key areas of interest and options for the Council to consider with regard to this issue:

1. **Training** – Does the Council want to establish a training requirement regarding new research such as, Rebecca Campbell's video on brain chemistry & how the trauma of rape can impact a person's reporting / memory / processing / timing, etc.? The Administration indicates the Council's request for SLCPD to



consult with an expert familiar with recent research on understanding sexual assault victims will be accomplished by the Police Executive Research Forum (PERF)¹ study. The duration of the study for SLCPD runs through September 2015.

- a. SLCPD will participate in Office of Violence against Women (OVW) trainings during the PERF study.
- b. Note: May need to address funding along with enhanced training requirements.

2. **Processing** – Does the Council support a policy of at least one DNA test? This would mean that an alleged offender of sexual assault or sexual battery has their DNA tested at least once either by: cheek DNA swab at time of arrest, U-Quick samples sent to State Crime Lab, or submission of full Code R kit. This policy would avoid duplication of testing and provide flexibility for changes in testing procedures and technology.
 - a. The Administration identified a situation when submitting untested Code R kits for DNA analysis (new and old) is not needed to get the offender's DNA profile entered into CODIS. Beginning January 1, 2015, State law requires a DNA sample via cheek swab be collected from any person arrested for a felony, such as sexual assault. These DNA samples are analyzed, compared to CODIS for matches, and uploaded to DNA databases when appropriate. Prior to January 1, 2015 collection of DNA by cheek swab has been voluntary.
 - b. Under the U-Quick program, three samples from all new Code R kits will be sent to the State Crime Lab for DNA analysis, at no cost to the City. Testing the full kit will only be necessary if DNA analysis was inconclusive or additional testing is requested by prosecutors or defense attorneys. The California program, which U-Quick is based on, successfully processed 91% of cases. Only 9% required testing the full kit.
3. **Funding** –The Administration indicates a budget appropriation IS necessary to submit the 625 untested Code R kits (as of 12/31/13), for DNA analysis. This would NOT require an ordinance to implement.
 - a. Does the Council wish to fund any of the following?

Funding Options for Sexual Assault Kit Processing by Length of Time

<u>Timeframe</u>	<u>Funding Option</u>	<u>Estimated Cost / Notes</u>
Short-term	Appropriation to submit untested Code R kits for DNA analysis at a private lab (new cost to the City). Kits could first be submitted to the private lab under contract with the State Crime Lab (no cost to City <i>until</i> \$750,000 one-time funding is all spent).	Approx. 625 untested Code R kits at \$1,150/per test = \$718,750. This estimate does not include potential discounts from private labs, such as bulk purchasing, and assumes the City would pay for all testing.
Medium-term	Hire forensic scientist(s) to process Salt Lake City's Code R kits, and other City cases, at the State Crime Lab.	City would pay salary and benefits. State Crime Lab would provide access to training, equipment, and CODIS. The fully loaded cost for this type of position is estimated at \$90,000 – \$120,000.
Medium-term	Hire victim advocate(s) in the Police Department to track cases and provide support to victims. Salt Lake City currently relies on grant funding for victim advocate positions in the Police Dept.	The fully loaded cost for this type of position is estimated at \$55,000 – \$75,000. The Council could convert grant funded positions to City-funded. See Attachment IV for victim advocate job description.
Long-term	Fund Salt Lake City owned DNA lab. Could leave open for other municipalities to contract with in the future.	Funding would be in the range of tens of millions and would require a more robust funding source such as a general obligation bond.
Long-term	Fund DNA lab in collaboration with other interested municipalities.	Similar to a City-owned DNA lab but with cost and resource sharing.
Long-term	Fund DNA lab as a public-private partnership with interested commercial laboratories.	Similar to a City-owned DNA lab but with cost and resource sharing.

¹ Founded in 1976 as a nonprofit organization PERF is a police research and policy organization. PERF provides management services, technical assistance, and executive-level education to support law enforcement agencies. PERF helps to improve the delivery of police services through the exercise of strong national leadership, public debate of police and criminal justice issues, and research and policy development.

4. **Accountability** – Does the Council want to pursue a separate review of SLCPD practices prior to the PERF study findings (expected summer 2015)? The Council may wish to consider a broader study of the criminal justice system. The PERF study focuses on aspects of police work regarding sexual assault cases but does not assess broader components of the criminal justice system such as forensic scientists and prosecutors. Chief Burbank provided the following updates at a press conference announcing the PERF study:
- a. Salt Lake City is the first city to sign a memorandum of understanding (MOU) with PERF to participate in the three-year study of how law enforcement agencies handle sexual assault cases (see Attachment V). The project duration with SLCPD is expected to last through September 2015.
 - b. Unknown which other three cities will participate.
 - c. Study may begin next month.
 - d. Study uses a holistic approach for best practices department wide. For example, wouldn't make recommendations that decrease ability to investigate and process other types of cases.
 - e. Some immediate process changes are possible during the study period.
 - f. Study will not just evaluate data but also work with police officers during investigations.
 - g. PERF study will be given access to any and all parts of the investigative process from initial report to screening and prosecution.
 - h. The stated goals of the PERF study are:
 - i. Identify challenges in the police response to and handling of sexual assault cases
 - ii. Create an action plan to address issues
 - iii. Implement the action plan and any promising practices
 - iv. Collect outcome data related to plan implementation
 - v. Develop a national comprehensive guidebook outlining the issues, outcomes and any promising practices identified
5. **Prosecution** – Does the Council want to explore opportunities for collaboration between Salt Lake City Police Department (SLCPD), City Prosecutor's Office and the District Attorney's (DA) Office? The highest offense the Salt Lake City Prosecutor can charge is a class A misdemeanor, which would be a sexual battery charge. Only the DA can prosecute sexual assault cases because it is a second degree felony (see classification of offenses below). The Prosecutor's Office will need additional funding and personnel to handle sexual battery cases resulting from an increase of Code R kit testing. The Council is expected to hear at a future work session how the DA's Office would be impacted.
- a. Testing all Code R kits will primarily put pressure on the DA because they prosecute sexual assaults. Sexual battery cases, handled by the SLC Prosecutor's Office, rarely use DNA evidence because the statutory definition does not include penetration.
 - b. After investigation, a detective sends a screening packet to the DA for review. Screening packets are first sent to the jurisdiction which could file the highest possible charge. A declination letter is sent to the detective if the DA declines to prosecute.
 - i. The DA and SLC Prosecutor can request (but not control) that a case be sent to the other jurisdiction for consideration.
 - ii. Sending declination letters has been upgraded to an electronic process to reduce delays.
 - iii. Unclear what criteria and/or guidelines determine when cases declined by the DA are sent to the Salt Lake City Prosecutor for review. Victim advocates could play a role in tracking cases and acting as liaison among criminal justice agencies for victims.
 - iv. Staff has heard anecdotally that some victims object to a "downgrading" of sexual assault to the lesser charge of sexual battery. Conversely, some victims prefer a lesser criminal charge to none at all.

Classification of Offenses in Utah

<u>Offense Type</u>	<u>Category</u>	<u>Prison/Jail Term</u>	<u>Offense</u>	<u>Court Jurisdiction</u>	<u>Prosecutor Jurisdiction</u>
Felony	Capital	Life in prison, life in prison without parole, or death	-	District Court	Salt Lake County District Attorney (DA) or Attorney General (AG)
	First Degree	Five years to life in prison	-		
	Second Degree	One to 15 years in prison	Sexual Assault		
	Third Degree	Zero to five years in prison	Attempted Sexual Assault		
Misdemeanor	Class A	Up to one year in jail	Sexual Battery	Justice Court	DA, AG, or SLC Prosecutor
	Class B	Up to six months in jail	Attempted Sexual Battery		
	Class C	Up to 90 days in jail			
Infraction	Minor Offense	No jail time	-		

- c. The Salt Lake City Prosecutor’s Office uses a victim-centered approach. (We understand that the DA uses this approach as well, and the Council can hear more about that at a briefing later in November.)
- i. Victims of sexual offenses and domestic violence (which often overlap) can meet with the SLC Prosecutor’s Office face-to-face in a citizen screening.
 - ii. Sexual battery cases, because they are a Class A misdemeanor, can only be filed in District Court. When filing an attempted sexual battery case, sometimes the City Prosecutor files in District Court to avoid the scenario of double-trial where a Justice Court judgment can be appealed “de novo” to District Court (case starts all over from the beginning).
 - o A double-trial scenario is possible because the Justice Court is NOT a court of record.

POLICY QUESTIONS

- Will Office of Violence against Women (OVW) sponsored trainings offered as part of the PERF study, or other sexual assault victim training, become required for police officers after the study period?
- The Council may wish to ask the Administration for an estimated timeline of the RFI process for Salt Lake City to partner with other jurisdictions and/or private organizations on DNA lab services – specifically, when might this lab be ready to start testing evidence?
- Under the different testing scenarios, the Council may wish to ask the Administration for a recommended deadline to complete DNA analysis of all untested Code R kits.
- What criteria and/or guidelines determine when sexual assault cases declined by the DA get sent to the City Prosecutor for review of sexual battery charges?
- How will DNA analysis of all untested Code R kits impact cold case investigations at the DA’s Office and City Prosecutor’s Office?
- What is the rate of screenings and criminal case filings for Salt Lake City’s sexual assault and sexual battery cases?
- What would the budgetary impact be to expand the scope of the City’s proposed crime lab to include DNA testing capability?

NEW BACKGROUND INFORMATION

1. The \$750,000 appropriated by the 2014 Legislature to address the backlog of untested Code R kits is **one-time** money from the General Fund. These funds were appropriated in two different bills:
 - a. \$350,000 in H.B. 3 Appropriations Adjustments – Item 5, line 80
<http://le.utah.gov/~2014/bills/hbillenr/HB0003.pdf>
 - b. \$400,000 in S.B. 3 Current Fiscal Year Supplemental Appropriations – Item 5, line 80
<http://le.utah.gov/~2014/bills/sbillenr/SB0003.pdf>
2. The State Crime Lab supplies 1,000-1,200 Code R kits to hospitals annually, however, only 30% of those kits are submitted back for testing. The phenomenon is not unique to Utah. In 2013 the State Crime Lab tested approximately 270 Code R kits; current resource allocations at the State Crime Lab can handle 250-300 Code R kits per year. If municipalities statewide implement policies to test more or all Code R kits the total number of annual submissions is estimated by the State Crime Lab to increase to 900.
 - a. Under an outsourcing agreement for DNA analysis to private labs, the State Crime Lab will still handle screening and authorizing tests, review of test results and any DNA profile uploads to CODIS.
3. Prof. Julie Valentine of BYU conducted a study of sexual assault cases in Salt Lake County that looked at 270 randomly selected cases out of the 1,657 cases from 2003-2011 (Attachment VI). The study concluded 34% of sexual assault cases were screened by law enforcement agencies with the District Attorney's Office and of these cases 24.5% resulted in sexual assault charges filed, which would equate to 9% of all 1,657 cases resulted in criminal charges.
 - a. Note – this county-level study does not necessarily reflect the rate of screenings and criminal case filings for Salt Lake City.
4. An in-house trial of U-Quick was conducted at the State Crime Lab in 2012 which found processing times decreased from 120 days to 25 days. The U-Quick process saves time and resources in four ways:
 - a. Only the three samples most likely to yield DNA are tested, rather than testing all samples in the Code R kit (some kits have over a dozen samples).
 - b. These three samples go straight to DNA analysis and skip preliminary serology testing (identification of sample type such as blood, saliva, semen, etc...).
 - c. Samples are automatically sent for DNA analysis before law enforcement reviews cases.
 - d. Forensic scientists no longer need to review entire chart of samples to determine best ones to analyze, nor do they need to log all the contents of each Code R kit.
5. Two cities have seen litigation filed on behalf of victims whose kits were not tested.
 - a. One prominent class action lawsuit was filed against the **City of Memphis** alleging denial of due process and equal protection for:
 - i. Not determining if offenses were committed;
 - ii. Police personnel were not properly supervised or trained with respect to investigation of sexual assaults; and,
 - iii. Failing to properly screen charges.
 - b. However, **Salt Lake City** is in a different position because:
 - i. Salt Lake City has significantly fewer untested kits;
 - ii. SLCPD's ongoing review of untested rape kits reveals that certain kits have not yet been tested for reasons including that the identity of the assailant was known, suspect DNA was not found during exam, DA declined prosecution, suspect confessed, etc. This is evidence that the SLCPD was properly investigating sexual assault crimes.
6. **Council Staff Note:** Litigation has also been filed by accused individuals regarding collection of DNA at the time of arrest and their DNA profiles being kept in DNA databases. The ACLU alleges such practices violate the constitutional right to privacy and fourth amendment protection from unreasonable searches and seizures. Case law is unclear on the constitutionality of these DNA collection and storage practices, however, in June 2013 the U.S. Supreme Court ruled in *Maryland v. King*² that collection and analysis of DNA from persons arrested but not convicted of serious offenses does NOT violate the constitution.

² *Maryland v. King*, 133 S. Ct. 1958, 569 U.S., 186 L. Ed. 2d 1 (2013). Web:
http://www.supremecourt.gov/opinions/12pdf/12-207_d18e.pdf

Note: Information below was previously provided to the Council

ADDITIONAL & BACKGROUND INFORMATION

U-Quick Program

Upcoming changes in how the State Crime Lab processes DNA evidence from Code R kits are expected to affect SLCPD's processing procedures. A pilot program called U-Quick is being implemented in Salt Lake County this fall. It's based on Rapid DNA Service (RADS)³, a California program that saw processing times improve 5 to 10 times faster and cut costs substantially. Sexual Assault Nurse Examiners (SANE) prepare the Code R kit per usual procedures. The SANE nurse identifies three best samples to yield DNA (evidence triage) and submits them to the State Crime Lab for testing. The full rape kit is stored by law enforcement in case prosecutors request more testing. The RADS program has successfully processed 91% of cases. Only 9% required testing the full kit.⁴

DNA Lab Access to CODIS

Establishing an accredited DNA lab could be an expensive multi-year process. The FBI provides CODIS software for free to law enforcement associated laboratories that receive accreditation from the [American Society of Crime Laboratory Directors](#) (ASCLD). Only certain equipment is permissible for FBI standards (some machines can cost \$250,000), lead DNA analysts and technicians must have high levels of certification with commensurate salaries of \$100,000 or more, a detailed inventory system tracking evidence, procedures, and any corrective actions to fix mistakes must meet FBI standards. Lastly, the FBI routinely visits, runs proficiency testing, and audits labs with CODIS access for quality assurance.

CODIS Eligibility (See Attachment VII for FBI's CODIS Fact Sheet)

A DNA profile obtained from evidence is not automatically entered into CODIS. Utah and the FBI each have separate criteria to ensure DNA profiles reach a level of confidence that the DNA belongs to an offender, and that it was properly handled and tested. The State is more flexible than the FBI. Some local jurisdictions (cities and counties) have established Local DNA Index Systems (LDIS). Each state has a State DNA Index System (SDIS) and the FBI maintains a National DNA Index System (NDIS). NDIS + SDIS + LDIS = CODIS.

While partnering with a private lab could expedite processing, the private lab must be certified by the FBI to enter data into CODIS (which comes with a budgetary impact). The Administration's proposed RFI for a public/private partnership could address this issue.

Analysis of Tiny DNA Samples

Some untested Code R kits had samples too small to test based on prior technology. Advances in DNA testing now mean some of these kits could be reliably tested while preserving a large enough sample for defense attorneys to use for independent testing during discovery.

ATTACHMENTS

Attachment I:	Rape Statistics from SLCPD 4-15-14
Attachment II:	Policy Statements Inventory
Attachment III:	Consolidated Policy Statements
Attachment IV:	Victim Advocate Job Description
Attachment V:	PERF MOU
Attachment VI:	Sexual Assault Research Findings for SLCounty – Prof. Julie Valentine - Sept 2013
Attachment VII	FBI's CODIS Fact Sheet
Attachment VIII:	September 16, 2014 Straw Polls

³ A useful overview of the RADS program can be found at Eva Steinberger et al., "No Rape Case Goes Unanalyzed: A Rapid Approach to Sexual Assault Evidence," *The Police Chief* 80 (September 2013): p. 52-54.

http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display&article_id=3072&issue_id=92013

⁴ Ibid

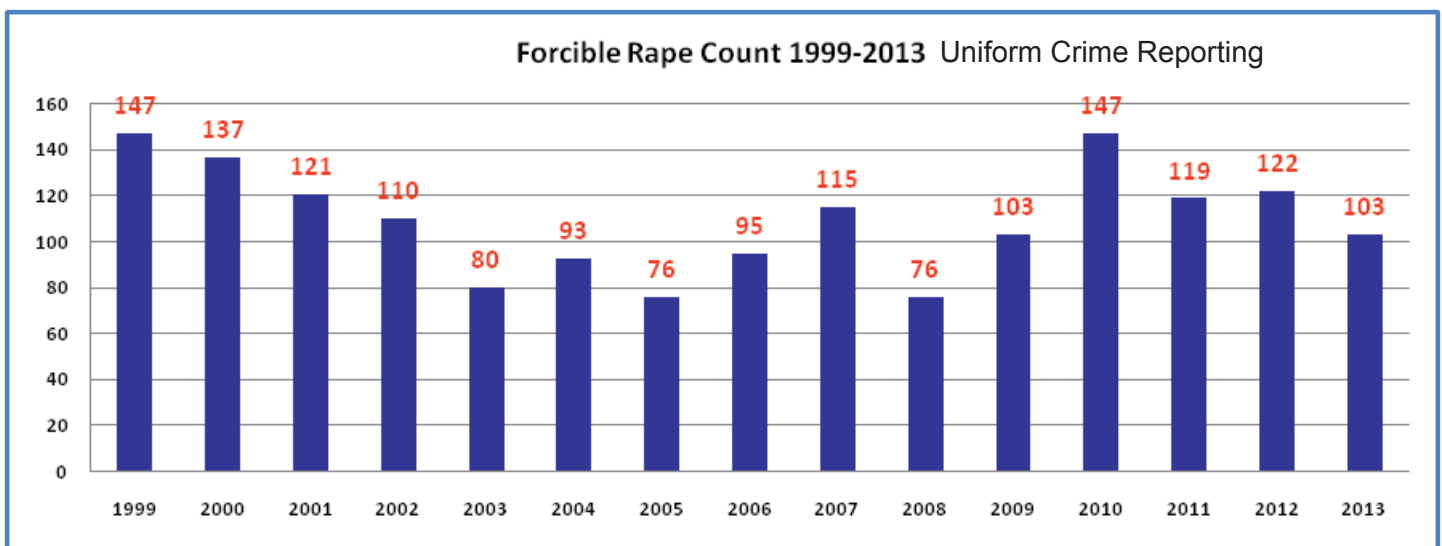


SALT LAKE CITY POLICE DEPARTMENT

CHRIS BURBANK *Chief of Police*

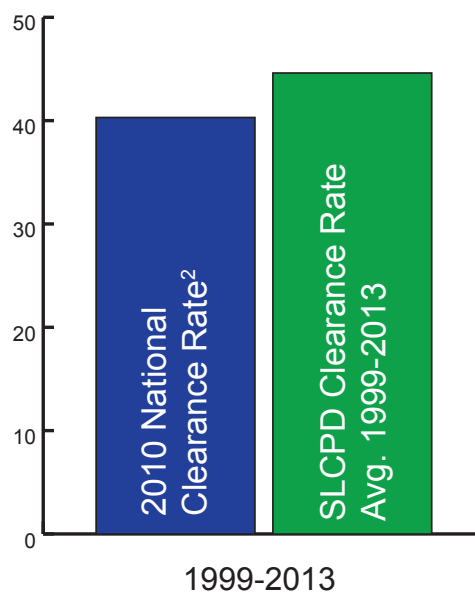
PUBLIC INFORMATION FOR IMMEDIATE RELEASE

April 15, 2014



The chart above shows Uniformed Crime Reporting figures for the period concerned.¹

The chart to the right compares national and local clearance rates.



Sources

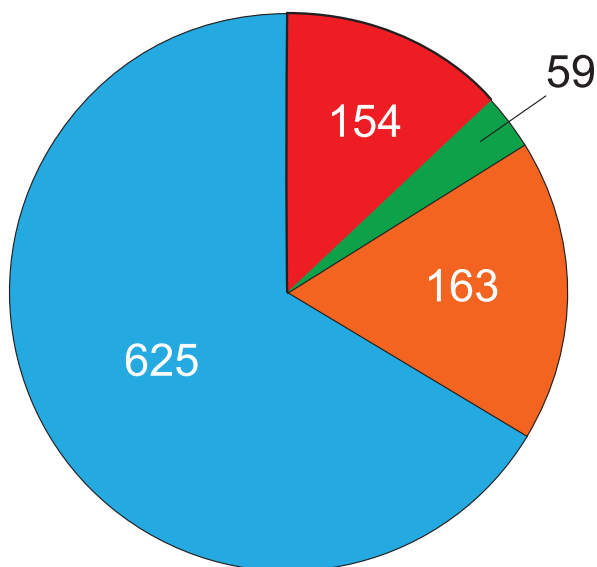
¹ FBI, Uniform Crime Reporting Statistics, Single Agency Reported Crime, <http://www.ucrdatatool.gov/Search/Crime/Local/RunCrimeJurisbyJuris.cfm>, accessed 4/15/2014.





² FBI Uniform Crime Reports, National Data, Clearance Figure—"Crimes Cleared by Arrest or Exceptional Means, 2010" <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/10Clearance.gif>, accessed 4/15/2014.



FROM JANUARY 1, 2004, TO DECEMBER 31, 2013:

942 Code R kits booked



-  Sent to State Lab
-  Tested and destroyed/adjudicated
-  Not tested but destroyed for various reasons, including uncooperative victims, statute changes
-  Total kits still in custody, not tested

2014 YEAR TO DATE

- 31 Code R kits booked
- 8 sent to State Lab
- 2 completed and returned to SLCPD

2013 TOTAL EVIDENCE BOOKED

- SLCPD booked 27,400 pieces of evidence
- Average DNA test cost \$1,100
- Potential DNA test costs for 2013: \$30,140,000



COMBINED DNA INDEX SYSTEM (CODIS) AND THE STATE CRIME LAB

CODIS is the acronym for the “Combined DNA Index System” and is the generic term used to describe the FBI’s program of support for criminal justice DNA databases as well as the software used to run these databases. The National DNA Index System or NDIS is considered one part of CODIS, the national level, containing the DNA profiles contributed by federal, state, and local participating forensic laboratories.

- Serology and DNA testing are two separate steps that take 2-3 months each. Serology indicates what type of biological material is present; DNA testing is then applied to build a genetic profile(s), including YSTR.
- Once completed, the results are not automatically entered into CODIS.

STATE LAB ISSUES:

The Utah Bureau of Forensic Services is the ASCLD/LAB International accredited state laboratory system that specializes in forensic science. It offers all services free of charge to the police agencies of Utah. The Utah State Crime Lab is the only lab authorized to make entries into the Utah and CODIS DNA databases.

- SLCPD must “pre-screen” cases in order for Utah State Crime Lab to agree to enter the DNA profile into CODIS. Investigators have to convince the lab that the DNA profile that was obtained is probative to an investigation. The probative standard being applied by the crime lab is arbitrary.
- When the state crime lab tells SLCPD that a profile has been entered into CODIS, it refuses to tell us which database (State or National) the profile has been entered into. SLCPD must submit a GRAMA request, the reply to which does not specify which database. The lab cites the DNA Act of 1994, which does not say anything about what should be accepted and what is unacceptable.
- Anna Palmer Case: A suspect DNA profile was developed by Sorenson Lab. SLCPD asked the State Crime Lab to enter it into the National CODIS database. The file remained for some time at the State Crime Lab. A few months later, investigators checked on CODIS results. State Crime Lab said there was no match. Six weeks later, the lab called to report they had finally entered the profile into CODIS and there was a match to a criminal in Idaho. The case was filed and prosecuted months after it could have been.
- State Crime Lab offers reports lacking in clarity. In the homicide of Debra Grahbher, the State Crime Lab report said: “A search was performed on the above sample and no hits were returned.” The reader is left wondering if the sample was searched in the State Database or the National Database. The report states “the above profile will not be maintained in CODIS.” If the sample is good enough to search through CODIS, it should be good enough to upload into the National CODIS database.

UTAH HB157 – RAPE KIT PROCESSING AMENDMENTS

Modifies the Victim’s Bill of Rights, giving victims the right to:

- be informed as to whether the DNA profile of the assailant was obtained and entered into CODIS;
- be informed if there is a match between the sample of the assailant and the profile contained in CODIS, unless the disclosure would impede or compromise an ongoing investigation;
- be informed by the law enforcement agency of a decision not to analyze DNA evidence where a perpetrator’s identity is in doubt;
- be informed, in writing, 60 days before destroying or disposing of evidence from an unsolved sexual assault case;
- be informed, by the law enforcement agency where the sexual offense is reported, of these rights, and the right to designate a person of the victim’s choosing to receive information from the law enforcement agency.

SALT LAKE SEXUAL ASSAULT NURSE EXAMINERS (SL SANE)

A nonprofit organization (501 (c)(3) created in 2001 to provide adolescent and adult victims of sexual violence with professional and compassionate medical care, as well as timely and thorough collection of forensic evidence immediately following sexual assault or rape. Each nurse is a currently licensed registered nurse with additional specialty training in the field of forensic nursing. Each nurse has participated in a mentoring program in the field of care of sexual assault victims.

After a sexual assault there is an immediate need to prevent the transmission of sexually transmitted infections, address pregnancy risk and provide emotional support and resources to help victims begin the process of healing. By providing sensitive care in a timely manner, SL SANE helps lessen the long-term physical and emotional complications of this devastating crime.



ABOUT VICTIMS

40% of victims are under age **18**

80% of victims are under age **30**



SEXUAL ASSAULT STATISTICS



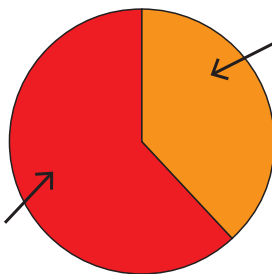
Every **2** minutes, another American is sexually assaulted.

Each year, there are about

237, 868 victims of sexual assault.

REPORTING

60% of sexual assaults are not reported to police.



97% of rapists will never spend a day in jail.

ABOUT OFFENDERS

Approximately **2/3** of assaults are committed by someone known to the victim

38% of rapists are a friend or acquaintance

Source: RAINN, the nation's largest anti-sexual violence organization
www.rainn.org/statistics

The Bureau of Justice Statistics (BJS) reports that **6** in **10** rape or sexual assault victims said that they were assaulted by an intimate partner, relative, friend or acquaintance.

A study of sexual victimization of college women showed that **9** out of **10** victims knew the person who sexually victimized them. [1]

One research project found that **34 %** of women surveyed were victims of sexual coercion by a husband or intimate partner in their lifetime. [2]



Draft Policy Statements - Code R Kits

1. Sexual assault is a serious crime and Salt Lake City vigorously pursues justice for victims of all serious crimes.
2. All victims deserve closure and certainty that DNA evidence is actively processed and recorded.
3. There is potentially valuable information in each Code R kit and Salt Lake City should test DNA evidence from all kits – new and old.
4. Even DNA evidence from known suspects can have evidentiary value in other cases.
5. Processing DNA evidence from Code R kits in a timely manner may identify serial rapists or perpetrators of other serious crimes.
6. Decisions about testing DNA evidence from Code R kits should not be unduly influenced by budget constraints. In addition, the costs of testing DNA evidence from all Code R kits should be fully funded without delaying DNA analysis of other investigations.
7. The Salt Lake City Council affirms that a higher public purpose is served by testing DNA evidence from all Code R kits, at least through the U-Quick process, despite the expense associated with DNA evidence testing and differing views about when to test it.
8. Increased funding should translate into immediate testing of DNA evidence from Code R kits to prevent exacerbating the backlog of untested kits.
9. A completion deadline should be set for testing DNA evidence from all old Code R kits.
10. Salt Lake City places a high priority on maximizing efforts to get Code R kit test results entered in appropriate DNA databases.
11. Timely testing of DNA evidence is in the public interest.
12. The degree to which a victim continues to collaborate with police should not be a determining factor in whether DNA evidence from Code R kits is processed and recorded in DNA databases.
13. DNA evidence from Code R kits should be processed and recorded in DNA databases whether or not a victim was impaired at the time of the assault.
14. Salt Lake City supports efforts of the State Crime Lab, the State Legislature, the Sexual Assault Kit Processing Work Group, Salt Lake City Police Department, other local government agencies, and private organizations to develop creative solutions that meet the goals of timely justice for sexual assault victims.
15. The statewide backlog of untested Code R kits affects multiple law enforcement agencies in Utah which causes delays in testing Salt Lake City's cases at the State Crime Lab.
16. Municipalities and partners should work together to advocate for increased State funding and resources proportionate to the number of Code R kits, and evaluate opportunities for collaboration at the local level.
17. A new DNA lab, whether Salt Lake City owned, or a public-private partnership, should utilize a sustainable model that other municipalities could replicate.
18. Changes in funding and processing at the State Crime Lab, including the U-Quick program, should be considered when Salt Lake City evaluates testing options.
19. Salt Lake City should not wait on additional State action to start testing DNA evidence from Code R kits.

20. Salt Lake City recognizes that testing DNA evidence from all kits may increase demands on the City's Prosecutor and Justice Court. An increase in testing DNA evidence from Code R kits should coincide with an allocation of necessary resources and policy changes for increased prosecutions.
21. Opportunities for collaboration between the District Attorney and the City Prosecutor regarding prosecution of sexual assault cases that do not rise to the felony level should be considered.
22. A continued collaborative partnership with law enforcement and the District Attorney is essential.
23. Salt Lake City's Code R kit processing procedures should be based on best practices and not average processing rates elsewhere in the county.
24. Recent advances in understanding how sexual assault affects victims, such as disruptions to memory processes and PTSD symptoms, should be integrated when reviewing current Code R kit processing procedures.

Policy Statements – 10/21/14

The City Council affirms the following:

1. Sexual assault is a serious crime and Salt Lake City vigorously pursues justice for victims of all serious crimes.
2. Budget and resources constraints are a reality, but timely testing of DNA evidence from all Code R kits, at least through the U-Quick process, serves a higher public interest by working toward justice for victims and getting valuable evidence into the system.
3. DNA evidence from known suspects can have evidentiary value in other cases, so a high priority should be placed on maximizing efforts to get Code R kit test results entered into the appropriate DNA databases in a timely manner.
4. The statewide backlog of untested Code R kits affects multiple law enforcement agencies in Utah, which causes delays in testing Salt Lake City's cases at the State Crime Lab.
5. Testing DNA evidence is only part of the investigative process.
6. Increasing the number of sexual assault investigations will increase demands on the City Police Department, City Prosecutor, County District Attorney and the court system.
7. All victims deserve closure and certainty that cases are pursued, and that DNA evidence is actively processed and recorded.

Based on the above statements, the City Council supports the following policies:

1. Due to the potentially valuable information in each Code R kit, DNA evidence from all kits – new and old – should be tested, with a completion deadline set for testing all old kits.
2. Sexual assault investigations should be based on pursuing timely justice for every victim rather than on processing rates elsewhere in the country.
3. Salt Lake City should not wait on additional State action to start testing DNA evidence from Code R kits.
4. Victim's rights are a high priority:
 - a) The degree to which a victim continues to collaborate with police, or whether or not a victim was considered impaired at the time of the assault, should not be a determining factor in whether DNA evidence from Code R kits is processed and recorded in DNA databases.
 - b) Recent advances in understanding how sexual assault affects victims, such as disruptions to memory processes and post-traumatic stress disorder should be integrated into sexual assault investigative procedures.
5. Collaboration with other partners in the processing of cases is a high priority:
 - a) Changes in funding and processing at the State Crime Lab, including the U-Quick process, should be considered when Salt Lake City evaluates testing options.
 - b) Municipalities and partners should work together to advocate for increased funding and resources proportionate to the number of Code R kits, and evaluate opportunities for collaboration at the State and local level, including potential for private partnerships.
 - c) A new DNA lab, whether Salt Lake City owned or a public-private partnership, should utilize a sustainable model that other municipalities could replicate.
 - d) Opportunities for collaboration between law enforcement, the District Attorney and the City Prosecutor regarding prosecution of sexual assault and sexual battery cases should be explored, with the goal of increased prosecutions against perpetrators.
6. An increase in testing DNA evidence from Code R kits and sexual assault investigations should coincide with an allocation of additional necessary resources to guarantee that other criminal investigations will not be delayed and that the backlog is addressed.



Salt Lake City Corporation, Human Resources Department

Job Title: **Victim Advocate - Victim Advocate Program**
Job Code Number: **001765**
Pay Level: **022** FLSA: **Non-Exempt** EEO Code: **5**
Bargaining Unit: **300** Benchmark: **Police Information Specialist**

JOB SUMMARY:

Under the direction of the Victim Advocate Program Coordinator assists victims and witnesses of all crime categories. Assesses needs, provides information, makes appropriate referrals and services. Acts as a liaison for victims between law enforcement, prosecution, and other agencies. Provides support to staff by performing a variety of tasks related to assigned cases.

TYPICAL DUTIES:

1. Provides crisis interventions for victims of violent crimes.
2. Provides need assessment from information obtained through client intake documentation, client interview and information gathered in the initial background histories. Evaluates needs and makes appropriate referrals for counseling, housing, shelter, legal assistance, and other services as needed.
3. Assist victims in obtaining protective orders. Assists in filing victim reparation forms, victim/witness statements, medical release forms and other documentation pertinent to their case.
4. Follows-up on all assigned cases assigned. Review incident report to determine advocacy needs. Access court computer systems; state, county and local police computer systems, researching case histories on victims, criminal histories of offenders, and all other police related activity involving both parties.
5. Attends weekly staff meetings to discuss problematic cases, updated department and program policies, identify service gaps, develop action plan.
6. Attends appropriate court proceedings to support the victim. Makes necessary arrangements for non-English speaking participants, accommodates hearing impaired and other disabilities. Monitors court activity. Informs victim/witness of court dates and any changes.
7. Serve as a liaison for victim with law enforcement and prosecutors.
8. Coordinate efforts and information with local battered women shelters.
9. Manage assigned cases of victims and witnesses, including detailed documentation, and appropriate statistical data base information.
10. May be required to act as a trainer. May be required to attend national, state and local conferences regarding victim assistance.

Victim Advocate - Victim Advocate Program - Cont.

11. Perform other job related duties as assigned.

MINIMUM QUALIFICATIONS:

1. Graduation from an accredited college or university with a Bachelor degree in Social or Behavioral Science and 1 year work related experience. Or, graduation from an accredited two-year college, with an Associate degree in Social or Behavioral Science and 3 years work related experience. Experience and education may be substituted on a year-for year basis.
2. Effective interpersonal skills, to work with individuals in crisis situations.
3. Ability to communicate effectively, orally and in writing.
4. Working knowledge of domestic violence issues, judicial processes, and resources for victims of crimes.
5. Possession of a valid Utah Driver's License or driving privilege card.
6. Successful completion of the required Civil Service examination process.

WORKING CONDITIONS:

1. Considerable exposure to stressful situations, as a result of human behavior, in dealing with a variety of different types of individuals and community organizations.
2. May be required to work non-traditional hours including evenings and weekends. In addition, work regularly scheduled shifts providing crisis intervention, handling crisis lines and other services.
3. Exposure to potentially hostile environments.

A TEN YEAR PERSONAL, CRIMINAL AND EMPLOYMENT BACKGROUND CHECK IS REQUIRED FOR THIS POSITION.

The above statements are intended to describe the general nature and level of work being performed by persons assigned to this job. They are not intended to be an exhaustive list of all duties, responsibilities and skills required of personnel so classified. ***All requirements are subject to possible modification to reasonably accommodate individuals with disabilities.***

Position Review Information

Date: 11/25/13

Departmental Approval: Candace Roberts

HR Consultant Approval: Candace Roberts

Compensation Approval: David Salazar

Notes: Position is not eligible for union representation

Memorandum of Agreement

TO: Chief Christopher Burbank, Salt Lake City Police Department (SLCPD)

FROM: Chuck Wexler, Police Executive Research Forum (PERF)

DATE: August 6, 2014

SUBJECT: PERF project funded by the Office on Violence Against Women (OVW) - *Defining Success in Responding to Sexual Violence: Establishing Performance Measures and Quality Assurance Standards for Law Enforcement Agencies to Improve the Reporting and Investigation of Sexual Assault*

Background:

The Police Executive Research Forum (PERF) and the Women's Law Project (WLP) are partnering together on a national, 36-month project to provide technical assistance to Stop Violence Against Women ("STOP") Program grantees and other law enforcement agencies, in developing and implementing comprehensive policies, procedures, practices, and services that will improve their overall handling of sexual assault cases.

Project Overview:

PERF proposes to work closely with the Salt Lake City Police Department (SLCPD) as one of four national test sites on the Office on Violence Against Women (OVW) funded project, *Defining Success in Responding to Sexual Violence: Establishing Performance Measures and Quality Assurance Standards for Law Enforcement Agencies to Improve the Reporting and Investigation of Sexual Assault*. PERF and WLP will work collaboratively with SLCPD to identify challenges in the police response to and handling of sexual assault cases, and to create an action plan to address those issues. PERF and WLP will assist SLCPD in implementing the action plan and any promising practices; and collecting outcome data related to the implementation; while also providing other technical assistance as needed. PERF will work with SLCPD to document the collaboration and implementation process, including obstacles encountered, required changes to policies or practice, improvements in police responses to sexual assault, lessons learned, and overall outcomes.

The project will culminate in a National Summit tentatively scheduled for summer 2015, with participation by all of the involved organizations. During this Summit, stakeholders from SLCPD will share their challenges, the changes they implemented, and the results realized. PERF will facilitate discussion of the lessons learned, key considerations, best practices, and next steps to move the field forward. From the summit, PERF and WLP will produce a national comprehensive guidebook outlining the issues, recommendations, outcomes and any promising practices identified during the project.

In order to address these issues in the most comprehensive manner and to preserve the integrity of the technical assistance, PERF (and its partners) and SLCPD agree to the following:

Overall:

- SLCPD, PERF, and PERF project partners (the Women's Law Project, the Office on Violence Against Women, and consultants from here on are referred to as "PERF Project Team.") agree to work collaboratively for the duration of the project (August 2014 through September 2015)¹;
- SLCPD will assign a specific point of contact to coordinate directly with the PERF Project Team during the course of this project;
- The PERF Project Team and SLCPD will coordinate site visits, conference calls, and other communications to review all aspects of police work related to sexual assault. This may include but is not limited to information regarding dispatch, first responders, investigators, department structure/chain of command, self-audit mechanisms, and any preventative programs;
- The PERF Project Team and SLCPD will coordinate with other Salt Lake City and Salt Lake County justice system players to assess and identify steps for the criminal justice response to be well coordinated, victim centered, and holistic;
- SLCPD and the PERF Project Team will consult with local victims service providers, advocates, and sexual assault nurse examiners to develop or enhance existing partnerships;
- The PERF Project Team will keep all individual case information and other sensitive materials gathered about SLCPD confidential during the course of the technical assistance, and will not share the data without explicit consent from SLCPD;
- The PERF Project Team and SLCPD will collaboratively identify areas for improvement throughout the course of the technical assistance and will continually refine plans to best serve the needs of sexual assault victims in Salt Lake City;
- The PERF Project Team will document the action plan development, implementation process, outcomes, and lessons learned from the technical assistance work in Salt Lake City for use in a national publication (with review and input from SLCPD);
- SLCPD will participate in OVW sponsored trainings and events that are identified and selected collaboratively by the PERF Project Team and the SLCPD;
- SLCPD will participate in a national meeting alongside representatives from the other technical assistance sites to report lessons learned and progress made as a result of the project; and
- The PERF Project Team will notify SLCPD of any changes to the project tasks or timeline.

Assessment:

- SLCPD will provide the PERF Project Team with access to data and files necessary to complete a comprehensive assessment of data and case management related to sexual assault reports;
- The PERF Project Team will keep all data and other information gathered from the assessment private and will not release the information to outside sources without SLCPD's prior knowledge;

¹ Please see the attached Phase Description for a detailed list of the project phases.

- The PERF Project Team will conduct both on and offsite reviews of pertinent qualitative information including interviews and focus groups with staff members (such as command staff, SVU personnel, patrol officers and supervisors, and dispatch employees), case files for sexual assault reports and investigations, training materials for all levels of staff related to sexual assault reports, any policies or procedures related to reports of sexual assault, and interviews with local partners in responding to and preventing sexual assault;
- The PERF Project Team will regularly communicate with SLCPD on project progress and findings during the assessment phase; and
- The PERF Project Team will compile findings and recommendations from the assessment into a document for review by SLCPD.

Implementation and Outcome Measures:

- SLCPD will carefully review PERF's findings and recommendations assessment document;
- SLCPD will work collaboratively with PERF to identify areas for improvement and refinement as well as an action plan for the agency to implement to address these areas;
- The PERF Project Team will deliver ongoing on and off site technical assistance to SLCPD throughout implementation of the action plan for one year;
- The PERF Project Team will identify outside resources (such as trainings, conferences, materials) that may be helpful to SLCPD during the technical assistance process;
- The PERF Project Team will work with SLCPD to establish meaningful, non-burdensome outcome measures to sustain improvements made;
- The PERF Project Team will work closely with SLCPD to document ongoing processes, updates, and lessons learned from the development and implementation of the action plan; and
- SLCPD will work collaboratively with local partners to strengthen the system-wide approach to responding to and preventing sexual assault.

Developing a Publication and National Meeting:

- SLCPD will provide input to the PERF Project Team on a national publication which will detail any recommendations and/or guidelines for improving the police response to sexual assault;
- SLCPD will share details with PERF on the development and implementation process during this technical assistance project, as well as any outcomes or lessons learned to be included in the national publication;
- SLCPD representatives will participate in a national meeting to report lessons learned and progress made as a result of the project; and
- The PERF Project Team will provide SLCPD with a draft of the national report prior to publication for review and feedback.

Confidentiality:

- The PERF Project Team agree to keep individual case information and other sensitive materials gathered during the course of the project confidential unless otherwise specified by SLCPD;

- SLCPD agrees to be identified in the PERF publication and to actively participate in the PERF national meeting with the understanding that SLCPD will be consulted on any material that will be used that concern the department;
- During publication development and national meeting planning, PERF will work directly with SLCPD to develop materials for dissemination;
- The PERF Project Team will provide SLCPD with drafts of any materials for dissemination regarding the technical assistance work in Salt Lake City for review and approval; and
- The PERF Project Team will only reference work with SLCPD to outside parties with the expressed consent of SLCPD.

Salt Lake City Police Department:


Christopher Burbank
Chief of Police

9/24/14
Date

Police Executive Research Forum:


Chuck Wexler
Executive Director

9/24/14
Date

**National Institute of Justice (NIJ) sexual assault nurse examiners' (SANE) Toolkit
Research Findings, September 2013, for Salt Lake County**

Contact Information:

Principal Investigator – Julie Valentine MS, RN, CNE, SANE-A
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801-573-0640 (cell) 801-422-3164 (office)
Julie-valentine@byu.edu

ORCA student researchers: Alyssa Lark and Michael Worthington

BACKGROUND: The National Institute of Justice (NIJ) funded creation of this research toolkit to measure prosecution outcomes in sexual assault cases when a sexual assault nurse examiner (SANE) program exists in a community. It is believed that one outcome of SANE programs is higher prosecution rates, although this outcome has not been evaluated in any large scale. The toolkit was piloted in six sites in the United States and published in February 2013. The NIJ hopes multiple sites across the country will utilize the toolkit to create a national database of criminal case outcomes in sexual assault cases.

Document access:

Document Title: Evaluating the Work of Sexual Assault Nurse Examiner (SANE) Programs in the Criminal Justice System: A Toolkit for Practitioners
Document No.: 240917

Award Number: 2009-MU-MU-0002

URL: <https://www.ncjrs.gov/pdffiles1/nij/grants/240916.pdf>

Document Title: Implementation of a Sexual Assault Nurse Examiner(SANE) Practitioner Evaluation Toolkit

Document No.: 240916

Award Number: 2009-MU-MU-0002

URL: <https://www.ncjrs.gov/pdffiles1/nij/grants/240917.pdf>

METHOD: 2241 charts of patients seen for a sexual assault examination in Salt Lake County from 2003 to 2011 were reviewed to create a study population of 1657 cases meeting all necessary study criteria. (Study criteria: patient over 18 years of age, patient consented to a forensic medical examination, and patient agreed to interview with law enforcement.) From the eligible pool of cases, 30 random cases per year were selected per research randomization protocol outlined in the toolkit, creating 270 random study cases. The cases were divided into their respective law enforcement (LE) agencies. Memorandums of Understandings were established with eleven LE agencies in Salt Lake County. The LE agencies provided suspects' names only for cases referred to the District Attorney (DA). The final criminal case outcome for each of the referred cases was searched through the court docketing system with assistance of the Salt Lake County District Attorney's Office. Final criminal case outcome data was entered into the NIJ SANE toolkit excel statistical program to generate research percentages.

As this research study utilized a random sampling technique, we can infer the findings from the study sample to the population of sexual assault cases between 2003 to 2011 in Salt Lake County, Utah.

RESULTS:

- **In Salt Lake County, 34% of sexual assault cases from 2003 – 2011 were screened by law enforcement agencies with the District Attorney's office (66% of cases were not screened).**
- **Out of cases referred to Salt Lake County District Attorney's office from 2003 – 2011, 24.5% resulted in sexual assault charges filed and 75.5% were declined.**
- **The results of criminal case outcomes during these years are as follows:**
 - **91% not charged**
 - **3% charged but later dropped**
 - **5% pled or plea bargain reached**
 - **0% trial with acquittal**
 - **1% trial with conviction.**
- **In Salt Lake County from 2003 to 2011,**
 - **94% of sexual assault cases were *not* prosecuted**
 - **6% of sexual assault cases were prosecuted.**

These percentages are compared with other urban sites participating in the toolkit research. Additionally, qualitative data was obtained as many LE agencies listed why cases were not screened with the DA's office. Qualitative data is counted and categorized.

CHARTS AND TABLES

I. LAW ENFORCEMENT INFORMATION

CHART A

Between 2003 – 2011, 34% of sexual assault cases were screened by law enforcement with the District Attorney's Office, 66% of sexual assault cases were not screened. Of those cases that were screened, an average of 24.5% resulted in charges filed and 75.5% resulted in no charges filed.

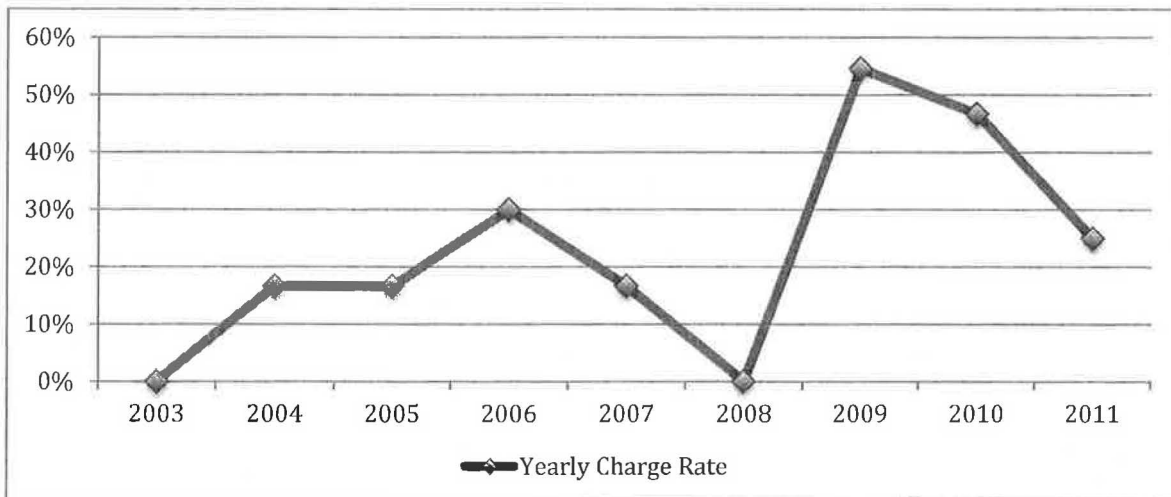
NIJ SANE Research Cases per year and percent in which cases were declined by DA:

YEAR	% Declined
2003	100%
2004	83.33%
2005	83.33%
2006	70.00%
2007	83.33%
2008	100%
2009	45.45%
2010	53.33%
2011	75.00%
Total	75.53%

Without 2009 and 2010, percentage of screened cases that were declined is 85.29%

GRAPH A

Graph A displays the percentage of cases Law Enforcement Agencies in Salt Lake County screened with Salt Lake District Attorney's office per year (2003 – 2011) in which charges against a defendant were filed:



II. CRIMINAL CASE OUTCOMES:

**CHART B - Percentages of
Criminal Case Outcomes
2003 – 2011 with Findings
from Other Programs:**

	Salt Lake County	Other Urban Sites
<i>By Outcome</i>		
Not charged	91%	82-84%
Charged but later dropped	3%	4-7%
Pled or plea bargain reached	5%	7-13%
Trial with Acquittal	0%	1%
Trial with Conviction	1%	1%
<i>By Category</i>		
Not Charged	91%	82-84%
Charged	9%	16-18%
TOTAL	100%	
Not Prosecuted	94%	85-91%
Prosecuted	6%	9-15%
TOTAL	100%	
Not Successfully Prosecuted	94%	87-92%
Successfully Prosecuted	6%	8-13%
TOTAL	100%	

When other sites including rural and mid-sized communities are included in the “Not charged” percentage, the percentage is 86% for “Not charged” for ALL sites that have implemented the NIJ SANE toolkit.

CHART C - Percentages of Criminal Case Outcomes by Year

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
By Outcome		2003	2004	2005	2006	2007	2008	2009	2010	2011
Not charged		100%	93%	93%	90%	97%	100%	80%	77%	93%
Charged but later dropped		0%	0%	3%	3%	3%	0%	3%	7%	3%
Pled or plea bargain reached		0%	3%	3%	7%	0%	0%	13%	13%	3%
Trial with Acquittal		0%	0%	0%	0%	0%	0%	0%	3%	0%
Trial with Conviction		0%	3%	0%	0%	0%	0%	3%	0%	0%
	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
By Category		2003	2004	2005	2006	2007	2008	2009	2010	2011
Not Charged		100%	93%	93%	90%	97%	100%	80%	77%	93%
Charged		0%	7%	7%	10%	3%	0%	20%	23%	7%
TOTAL		100%	100%	100%	100%	100%	100%	100%	100%	100%
Not Prosecuted		100%	93%	97%	93%	100%	100%	83%	83%	97%
Prosecuted		0%	7%	3%	7%	0%	0%	17%	17%	3%
TOTAL		100%	100%	100%	100%	100%	100%	100%	100%	100%
Not Successfully Prosecuted		100%	93%	97%	93%	100%	100%	83%	87%	97%
Successfully Prosecuted		0%	7%	3%	7%	0%	0%	17%	13%	3%
TOTAL		100%	100%	100%	100%	100%	100%	100%	100%	100%

CHART D – Percentage of Case Outcomes by Category Over Time

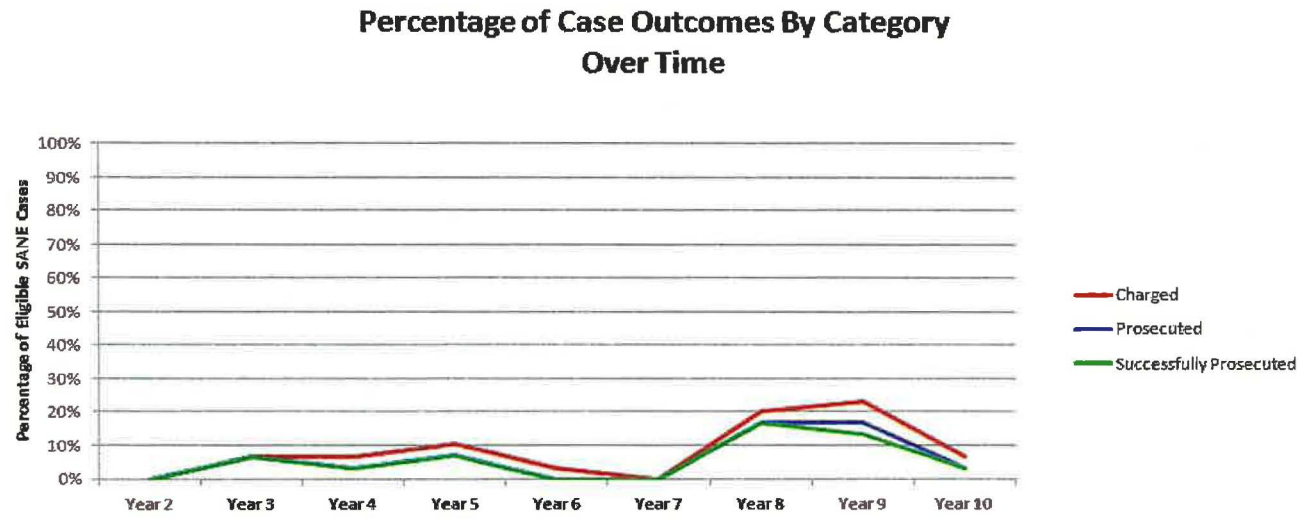
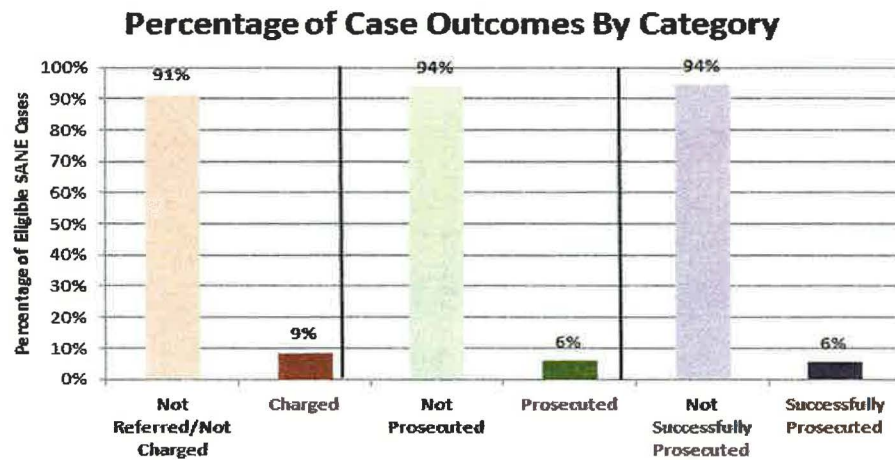


CHART E – Percentage of Case Outcomes By Category



III. Qualitative Data

75% of the random cases in the study that were not screened with the district attorney's office had a reason written by law enforcement explaining why a case was not screened. The reasons were categorized and counted as follows:

CHART F – Reasons Stated for not Screening a case with District Attorney's Office

Written Reason for not Screening a Case	Number
Victim did not want to pursue	25
Unable to contact victim	24
Unknown suspect*	21
Uncooperative victim	15
Insufficient evidence	13
Case cancelled by victim	5
<i>Possible False Report</i>	4
Inconsistent statements by victim	4
Code R/state crime lab did not find seminal fluid	3
Victim has no memory of the incident	2
Victim had mental illness	2
<i>Victim admitted to making a false report</i>	2
Reason unknown	2
Investigative leads exhausted	1
DNA collected in Code R kit ruled out suspect	1
Victim did not know if sexual assault happened	1
Low functioning victim, did not articulate force	1
<i>Victim claimed consensual sex, no crime committed</i>	1
<i>No sexual assault occurred</i>	1
<i>Victim arrested – False report</i>	1
<i>Victim stated that she was not sexually assaulted</i>	1
TOTAL	130

*The Utah Bureau of Forensic Services (UBFS) investigated those cases with the reason of "Unknown suspect" listed and found that 50% of those Code-R kits were submitted for analysis.

The italicized reasons listed in the above chart indicate that the sexual assault was a false report. Multiple evidence-based studies indicate that between 2-8% of sexual assault cases are false (Lonsway, Archambault, & Lisak, 2009 ; Lisak, Gardinier, Nicksa, & Cote, 2010). This rate is similar to false reports of other crimes. Out of the 130 cases in which the reason for not screening with prosecution was written, ten cases (designated with the italicized text in the above chart) are assumed to be false reports. This is 8% of the cases.

References

- Lisak, D., Gardinier, L., Nicksa, S.C., Cote, A. M. (2010). False allegations of sexual assault: An analysis of ten years of reported cases. *Violence Against Women*, 16. doi: 10.1177/1077801210387747
- Lonsway, K.A., Archambault, J., Lisak, D. (2009). False reports: Moving beyond the issue to successfully investigate and prosecute non-stranger sexual assault. *The National Center for the Prosecution of Violence Against Women*, 3(1).



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Frequently Asked Questions (FAQs) on the CODIS Program and the National DNA Index System

Please note that these questions and responses refer specifically to the National DNA Index System; state DNA databases operate in accordance with the applicable state law and questions concerning the operation of a particular state DNA database should be directed to that state.

CODIS

Q: What is CODIS?

A: CODIS is the acronym for the “Combined DNA Index System” and is the generic term used to describe the FBI’s program of support for criminal justice DNA databases as well as the software used to run these databases. The National DNA Index System or NDIS is considered one part of CODIS, the national level, containing the DNA profiles contributed by federal, state, and local participating forensic laboratories.

CODIS DNA Databases

Q: How do these DNA databases using CODIS work?

A: For example, in the case of a sexual assault where an evidence kit is collected from the victim, a DNA profile of the suspected perpetrator is developed from the swabs in the kit. The forensic unknown profile attributed to the suspected perpetrator is searched against their state database of convicted offender and arrestee profiles (contained within the Convicted Offender and Arrestee Indices, if that state is authorized to collect and database DNA samples from arrestees). If there is a candidate match in the Convicted Offender or Arrestee Index, the laboratory will go through procedures to confirm the match and, if confirmed, will obtain the identity of the suspected perpetrator. The DNA profile from the evidence is also searched against the state’s database of crime scene DNA profiles called the Forensic Index. If there is a candidate match in the Forensic Index, the laboratory goes through the confirmation procedures and, if confirmed, the match will have linked two or more crimes together. The law enforcement agencies involved in these cases are then able to share the information obtained on each of the cases and possibly develop additional leads.

Q: What happens after there is a hit in the DNA database?

A: CODIS was designed to compare a target DNA record against the DNA records contained in the database. Once a match is identified by the CODIS software, the laboratories involved in the match exchange information to verify the match and establish coordination between their two agencies. The match of the forensic DNA record against the DNA record in the database may be used to establish probable cause to obtain an evidentiary DNA sample from the suspect. The law enforcement agency can use this documentation to obtain a court order authorizing the collection of a known biological reference sample from the offender. The casework laboratory can then perform a DNA analysis on the known biological sample so that this analysis can be presented as evidence in court.

Q: How do laboratories count CODIS hits?

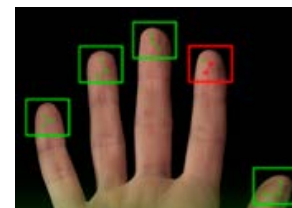
A: The procedure used for counting hits gives credit to those laboratories involved in analyzing and entering the relevant DNA records into CODIS. CODIS hits are tracked as either an offender hit (where the identity of a potential suspect is generated) or as a forensic hit (where the DNA profiles obtained from two or more crimes scenes are linked but the source of these profiles remains unknown). These hits are counted at the state and national levels. CODIS was established by Congress to assist in providing investigative leads for law enforcement in cases where no suspect has yet been identified, therefore a CODIS hit provides new investigative information on these cases. The hits are reported as “Investigations Aided” thus enabling the FBI to measure the effectiveness of both the CODIS software and National DNA Index System. See <http://www.fbi.gov/about-us/lab/codis/ndis-statistics> for NDIS Statistics by State.

Q: Do laboratories track conviction rates based on the CODIS hit?

A: Laboratories that participate in the National DNA Index System are not required to track local or state conviction rates based on CODIS hits. As discussed above, CODIS was designed to assist law enforcement by providing potential investigative information in those cases in which crime scene evidence has yielded a DNA profile but no suspect has been identified. Once the hit information is provided to law enforcement, neither the FBI nor the local laboratory is typically notified as to the resolution of the investigation aided case.

Q: Why do laboratories only send out the hit notifications to the law enforcement contributor?

A: A law enforcement agency sends the crime scene evidence to the forensic DNA laboratory for analysis and production of a DNA record. At the time of the hit, there may not be an open or active investigation or other judicial proceeding and therefore, the submitting law enforcement agency becomes the laboratory’s



Biometric Analysis

- Combined DNA Index System (CODIS)
- Federal DNA Database
- Latent Print
- DNA Casework Unit (DCU)

Forensic Response

- Chemical, Biological, Radiological, & Nuclear Sciences
- Crime Scene Documentation
- Evidence Response Team
- Hazardous Evidence Response
- Operational Response
- Scientific Response
- Technical Hazards Response

Forensic Science Support

- Evidence Control
- Forensic Imaging

Scientific Analysis

- Chemistry
- Counterterrorism & Forensic Science Research
- Cryptanalysis & Racketeering
- Firearms/Toolmarks
- Questioned Documents
- Trace Evidence

Terrorist Explosive Device Analytical Center (TEDAC)

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point of contact for hit notification.

Q: What DNA information is stored in these databases?

A: The DNA profile also known as a DNA type is stored in the database. For Forensic STR DNA analysis, the DNA profile consists of one or two alleles at the 13 CODIS Core Loci.

Q: Is any personal information relating to the convicted offenders, arrestees or detainees stored in these DNA databases?

A: No names or other personal identifiers of the offenders, arrestees, or detainees are stored using the CODIS software[1]. Only the following information is stored and can be searched at the national level:

- (1) The DNA profile—the set of identification characteristics or numerical representation at each of the various loci analyzed;
- (2) The Agency Identifier of the agency submitting the DNA profile;
- (3) The Specimen Identification Number—generally a number assigned sequentially at the time of sample collection. This number does **not** correspond to the individual's social security number, criminal history identifier, or correctional facility identifier; and
- (4) The DNA laboratory personnel associated with a DNA profile analysis.

Q: What precautions are taken for safeguarding the information in these DNA databases?

A: The computer terminals/servers containing the CODIS software are located in physically secure space at a criminal justice agency. Access to these computers is limited to only those individuals authorized to use CODIS and approved by the FBI. Communications between participating federal, state, and local laboratories occur over a wide area network accessible to only criminal justice agencies approved by the FBI.

Pursuant to federal law (the DNA Identification Act of 1994), DNA data is confidential. Access is restricted to criminal justice agencies for law enforcement identification purposes. Defendants are also permitted access to the samples and analyses performed in connection with their cases. If all personally identifiable information is removed, DNA profile information may be accessed by criminal justice agencies for a population statistics database, for identification research and protocol development purposes, or for quality control purposes. The unauthorized disclosure of DNA data in the National DNA database is subject to a criminal penalty not to exceed \$250,000.

The National DNA Index System

Q: What is the National DNA Index System or NDIS?

A: NDIS is the acronym for the "National DNA Index System" and is one part of CODIS—the national level—containing the DNA profiles contributed by federal, state, and local participating forensic laboratories. NDIS was implemented in October 1998. All 50 states, the District of Columbia, the federal government, the U.S. Army Criminal Investigation Laboratory, and Puerto Rico participate in NDIS.

The DNA Identification Act of 1994 (42 U.S.C. §14132) authorized the establishment of this National DNA Index. The DNA Act specifies the categories of data that may be maintained in NDIS (convicted offenders, arrestees, legal, detainees, forensic (casework), unidentified human remains, missing persons and relatives of missing persons) as well as requirements for participating laboratories relating to quality assurance, privacy and expungement.

Q: What are the specific requirements for a state's participation in the National DNA Index?

A: The DNA Identification Act (42 U.S.C. §14132(b)) specifies the requirements for participation in the National DNA Index System (NDIS) and the DNA data that may be maintained at NDIS (convicted offender, arrestees, legal, detainees, forensic (casework), unidentified human remains, missing persons and relatives of missing persons). The DNA Identification Act requires the following:

That the laboratories participating in the National DNA Index comply with the Quality Assurance Standards issued by the FBI Director;

That the laboratories submitting the DNA records are accredited by a nonprofit professional association of persons actively engaged in forensic science that is nationally recognized within the forensic science community;

That the laboratory submitting the DNA record undergoes an external audit every two years to demonstrate compliance with the FBI Director's Quality Assurance Standards;

That the laboratory is a federal, state, or local criminal justice agency ("or the Secretary of Defense in accordance with section 1565 of title 10, United States Code"); and

That access to the DNA samples and records is limited in accordance with federal law.

States seeking to participate in NDIS sign a Memorandum of Understanding with the FBI Laboratory documenting their agreement to abide by the DNA Identification Act requirements as well as record-keeping and other operational procedures governing the uploading of DNA data, expungements, CODIS users, audits, etc.

Q: Are there approved accrediting agencies?

A: Federal law requires that laboratories submitting DNA data to NDIS are accredited by a nonprofit professional association of persons actively engaged in forensic science that is nationally recognized within the forensic science community. The following entities have been determined to satisfy this definition: the American Association for Laboratory Accreditation (A2LA), the American Society of Crime Laboratory

Directors/Laboratory Accreditation Board (ASCLD/LAB) and Forensic Quality Services (ANSI-ASQ National Accreditation Board FQS).

Q: What are the access requirements for the DNA samples and records?

A: The DNA Identification Act, §14132(b)(3), specifies the access requirements for the DNA samples and records “maintained by federal, state, and local criminal justice agencies (or the Secretary of Defense in accordance with section 1565 of title 10, United States Code)” ...and “allows disclosure of stored DNA samples and DNA analyses only—

- (A) to criminal justice agencies for law enforcement identification purposes;
- (B) in judicial proceedings, if otherwise admissible pursuant to applicable statutes or rules;
- (C) for criminal defense purposes, to a defendant, who shall have access to samples and analyses performed in connection with the case in which such defendant is charged; or
- (D) if personally identifiable information is removed, for a population statistics database, for identification research and protocol development purposes, or for quality control purposes.”

Q: What if a state’s law on access to the DNA samples and profiles is different from the federal provisions?

A: If a state has signed the Memorandum of Understanding with the FBI to participate in NDIS, that state has agreed to comply with the Federal DNA Identification Act, including the limited access requirements. To the extent that these access and disclosure provisions of the Federal DNA Act conflict with a state’s DNA database law, the state has agreed to the provisions of the Federal DNA Act superseding the state law for purposes of NDIS participation. That is, if a state DNA database law permits access to the DNA samples and analyses in the state DNA database for purposes not contained in the Federal DNA Act (i.e., humanitarian purposes), and that state is participating in NDIS, then the state has agreed to comply with the more restrictive federal access provisions.

Q: Is the defendant entitled to access the DNA samples and analyses of other individuals?

A. Under the DNA Identification Act, the defendant may have access to the samples and analyses performed in connection with his or her case for criminal defense purposes [42 U.S.C. §14132(b)(3)(C)]. This provision permits access to the results of, any analyses of samples taken from the defendant and any analyses developed from the crime scene evidence, in the case for which the defendant is charged. This provision does not authorize access for the defendant to samples and analyses that were not developed in connection with his or her case (such as other offenders’ DNA profiles). Nor does this provision in the Federal DNA Act authorize access for the defendant to all of the DNA records in the National DNA Index System.

Q: Are there any sanctions for states that participate in the National DNA Index System if the state does not comply with the Federal DNA Identification Act?

A: Under the Federal DNA Identification Act, access to the National DNA Index System (NDIS) “is subject to cancellation if the quality control and privacy requirements described in subsection (b) are not met” [42 U.S.C. §14132(c)]. This means that if an NDIS participating laboratory or state does not comply with the FBI Director’s Quality Assurance Standards for Forensic DNA Databasing and Testing Laboratories and/or the limited access provisions of the Federal DNA Act, that NDIS participating laboratory or state may lose its ability to search, store, and maintain its DNA records in NDIS.

DNA Data Requirements

Q: What DNA data is accepted at NDIS?

A: Currently, DNA data generated through PCR Short Tandem Repeat (STR) technology, Y chromosome STR (Y STR) technology, and Mitochondrial DNA (mtDNA) technology are accepted at NDIS.

Y STR and mtDNA data is only searched with the missing person related indexes.

The National DNA Index no longer searches DNA data developed using restriction fragment length polymorphism (RFLP) technology.

Q: Are there specific data requirements for the DNA records submitted to NDIS?

A: Yes. There are several requirements for the DNA data submitted to NDIS:

1. The DNA data must be generated in accordance with the FBI Director’s Quality Assurance Standards;
2. The DNA data must be generated by a laboratory that is accredited by an approved accrediting agency;
3. The DNA data must be generated by a laboratory that undergoes an external audit every two years to demonstrate compliance with the FBI Director’s Quality Assurance Standards;
4. The DNA data must be one of the categories of data acceptable at NDIS, such as convicted offender, arrestee, detainee, legal, forensic (casework), unidentified human remains, missing person or a relative of missing person;
5. The DNA data must meet minimum CODIS Core Loci requirements for the specimen category;
6. The DNA PCR data must be generated using PCR accepted kits; and
7. Participating laboratories must have and follow expungement procedures in accordance with federal law.

Q: What are the 13 core CODIS loci?

A: The 13 core CODIS loci are:

- CSF1PO
- FGA
- THO1
- TPOX

VWA

- D3S1358
- D5S818
- D7S820
- D8S1179
- D13S317
- D16S539
- D18S51
- D21S11

Q: What are the minimum loci requirements for the STR DNA data submitted to NDIS?

A: The minimum CODIS Core Loci required for submission of DNA data to NDIS vary by specimen category. Generally, the 13 CODIS Core Loci are required for submission of convicted offender, arrestee, detainee, and legal profiles. The 13 CODIS Core Loci and Amelogenin are required for relatives of missing person profiles.

All 13 CODIS Core Loci must be attempted for other specimen categories with the following limited exceptions:

- For forensic DNA profiles, all 13 CODIS Core Loci must be attempted but at least 10 CODIS Core Loci must have generated results for submission to and searching at NDIS.
- For Missing Person and Unidentified Human Remains, all 13 CODIS Core Loci must be attempted.

Q: What are the requirements for submission of mtDNA data to NDIS?

A: Hypervariable region I ("HV1"; positions 16024-16365) and hypervariable region II ("HV2"; positions 73-340) are required for the submission of mtDNA data to NDIS.

Q: Are there additional requirements for forensic (casework) DNA records?

A: Forensic (casework) DNA samples are considered crime scene evidence. To be classified as a forensic unknown record, the DNA sample must be attributed to the putative perpetrator. Items taken directly from the suspect are considered deduced suspect samples, not forensic unknowns, and are not eligible for upload to NDIS.

Q: Are there any additional requirements for missing persons-related DNA records?

A: For missing person, relatives of missing person and unidentified human (remains) samples, additional DNA technologies (such as mtDNA, Y STR) should always be considered, as appropriate. For purposes of this discussion, "as appropriate" means if relevant. For example, if the missing person is a female, then Y STR technology would not be relevant. The lack of an additional technology will not render a sample ineligible for entry into CODIS but use of an additional appropriate technology will ensure the most robust search possible.

Additionally, creation of a Pedigree Tree for the missing persons-related DNA record is strongly encouraged. A Pedigree Tree is a graphical representation of the relationship of the missing person with two or more relatives. The more robust Pedigree Trees have at least one relative that is a biological mother, biological father, or biological child of the missing person.

Q: What are the expungement requirements?

A: Laboratories participating in the National DNA Index are required to expunge qualifying profiles from the National Index under the following circumstances:

1. For convicted offenders, if the participating laboratory receives a certified copy of a final court order documenting the conviction has been overturned; and
2. For arrestees, if the participating laboratory receives a certified copy of a final court order documenting the charge has been dismissed, resulted in an acquittal or no charges have been brought within the applicable time period.

Partial Matches and Familial Searches

Q: How is the National Database searched?

A: The Forensic Index is searched against the Convicted Offender Index at moderate stringency. Moderate stringency is defined as a search that requires all alleles to match, but the target and candidate profiles can contain a different number of alleles.

Q: Why is the National Database searched at moderate stringency?

A: DNA profiles obtained from crime scene evidence may be partially degraded and/or contain DNA from more than one individual. Additionally, different laboratories use different DNA typing kits in developing submitted evidence. The national database is searched at moderate stringency in order to address these potential scenarios and allow the ultimate detection of full, high stringency (exact) matches that might otherwise not have been identified.

Q: Is searching at moderate stringency a form of familial searching?

A: No. As stated above, conducting a moderate stringency search is an effective means of searching forensic profiles from crime scene evidence that contain DNA from more than one individual (a forensic mixture), forensic DNA that is partially degraded or to accommodate the use of different DNA typing kits by different laboratories. This should not be confused with attempting to search for similar but not matching profiles already stored within the National DNA Index System – a type of database searching the FBI does not conduct.

Q: What is a partial match at NDIS?

A: Occasionally a partial match between a forensic profile and an offender profile is observed during a routine NDIS database search. The FBI defines a partial match as a moderate stringency candidate match between two single source profiles having at each locus all of the alleles of one sample represented in the other sample. (See below illustration). A “partial match” is not an exact match of the two profiles. A forensic scientist, when evaluating whether a candidate match is a viable match and should be processed through to confirmation, discovers that the candidate offender profile is, in fact, excluded as the possible source of the profile obtained from crime scene evidence but that, because of a similarity in alleles between the forensic unknown and the candidate offender profile, believes that a close biological relative of the offender may be the source of the forensic unknown.

The following illustrates a hypothetical partial match as seen in the SWGDAM Recommendations to the FBI Director on the “Interim Plan for the Release of Information in the Event of a ‘Partial Match’ at NDIS” at http://www.fbi.gov/about-us/lab/forensic-science-communications/fsc/archive/oct2009/standard_guidelines/swgdam.html (with correction at <http://www.fbi.gov/about-us/lab/forensic-science-communications/fsc/communications/swgdamv3/swgdam.html>).

Locus	Forensic Unknown	Candidate Offender	Match Stringency
D8S1179	13	13, 14	Moderate
D21S11	28, 31.2	28, 31.2	High
D7S820	12	10, 12	Moderate
CSF1PO	10, 12	10	Moderate
D3S1358	15, 17	15, 17	High
TH01	8	7, 8	Moderate
D13S317	9, 12	9	Moderate
D16S539	11, 12	12	Moderate
VWA	17	15, 17	Moderate
TPOX	8, 11	8	Moderate
D18S51	24	16, 24	Moderate
D5S818	9, 12	12	Moderate
FGA	24, 25	24, 25	High

Q: Can partial match information at NDIS be disclosed?

A: Since a partial match is not an exact profile match to an offender profile and therefore cannot be subject to NDIS defined confirmation procedures, the FBI has authorized procedures for the release of partial match information. NDIS Laboratories that identify a partial match resulting from an NDIS search and wish to identify the offender profile should refer to Appendix G of the NDIS Operational Procedures Manual and contact the FBI's CODIS Unit for further information.

Q: Is there any guidance on how to address these partial matches?

A: At the FBI's request, the Scientific Working Group on DNA Analysis Methods (SWGDAM) reviewed the scientific issues relating to partial matches and developed recommendations to assist in the evaluation of this information. Those recommendations are available in Forensic Science Communications at http://www.fbi.gov/about-us/lab/forensic-science-communications/fsc/archive/oct2009/standard_guidelines/swgdam.html (with correction at <http://www.fbi.gov/about-us/lab/forensic-science-communications/fsc/communications/swgdamv3/swgdam.html>).

Q: How successful are partial matches at locating potential suspects?

A: As explained in SWGDAM's recommendations “Moderate stringency CODIS matches, in general, have very low efficiency in locating true relatives in offender databases. There is little useful probative value in the majority of partial matches using the current CODIS searching rules and algorithms. There are two main reasons for this: (1) true siblings will very rarely share alleles at all 13 CODIS loci; (2) as offender DNA databases get large, the number of unrelated people that do share at least one allele at all loci increases very rapidly. The original intent for allowing moderate stringency CODIS searches was the realization and acknowledgment that crime scene profiles often may be partially degraded and/or contain DNA from more than one contributor. Additionally, different primer sets may have been used between profiles. Allowing the detection of partial matches can help accommodate these two scenarios and allow the ultimate detection of full, high-stringency matches that might otherwise not have been found.” The Committee's complete list of recommendations is available at http://www.fbi.gov/about-us/lab/forensic-science-communications/fsc/archive/oct2009/standard_guidelines/swgdam.html (with correction at <http://www.fbi.gov/about-us/lab/forensic-science-communications/fsc/communications/swgdamv3/swgdam.html>).

communications/fsc/communications/swgdamv3/swgdam.html).

Q: Are partial matches the same as familial searches?

A: No. A partial match, as indicated above, is the spontaneous product of a routine database search where a candidate offender profile is not identical to the forensic profile but because of a similarity in the number of alleles shared between the forensic profile and the candidate profile, the offender may be a close biological relative of the source of the forensic profile. Familial Searching is an intentional or deliberate search of the database conducted after a routine search for the purpose of potentially identifying close biological relatives of the unknown forensic sample associated with the crime scene profile.

Q: Are familial searches performed at NDIS?

A: No, familial searching is not currently performed at NDIS. See also Federal Register Vol. 73, No. 238 (December 10, 2008 at page 74937).

Q: Are familial searches performed at the state level?

A: Each jurisdiction must determine whether or not they are authorized to perform familial searching, and if so, the criteria and procedures governing their use of this searching process. The FBI does not regulate this type of search at the state level. California, Colorado, Texas, Virginia and Wyoming currently perform familial searching (see, for example, policies/procedures available at http://ag.ca.gov/cms_attachments/press/pdfs/n1548_08-bfs-01.pdf and Colorado Bureau of Investigation - DNA Familial Search Policy). Please note that these jurisdictions use specially designed software (not CODIS software) to perform familial searching of their databases. Two jurisdictions, Maryland (§ 2-506) and the District of Columbia (§ 22-4151), have passed laws specifically prohibiting familial searching. These laws are available at <http://law.justia.com/codes/maryland/2010/public-safety/title-2/subtitle-5/2-506/> and <http://government.westlaw.com/linkedslice/default.asp?rs=gvt1.0&vr=2.0&sp=dcc-1000>, respectively.

For additional information on familial searching, please see <http://www.fbi.gov/about-us/lab/codis/familial-searching>.

Expert Systems

Q: What are Expert Systems and are they approved for use in generating DNA data for NDIS?

A: An Expert System is a software program or set of software programs that interprets the data generated from a DNA analysis instrument (or platform) in accordance with laboratory defined quality assurance rules and accurately identifies the data that does and does not satisfy such rules. Portions of the technical review required by the FBI Director's Quality Assurance Standards may be accomplished by an NDIS approved and internally validated Expert System.

The following Expert Systems are approved for use on offender samples and known reference samples at NDIS. There are no Expert Systems approved for use on casework (forensic unknown) samples.

NDIS Approved Expert Systems
GeneMapper®/ID
GeneMapper®/ID-X
i-Cubed™
OSIRIS
TrueAllele™

If you have a question concerning a specific Expert System; please contact the FBI's CODIS Unit.

PCR STR Kits

Q: What are the PCR kits accepted for use at NDIS?

A: Following are the most frequently used PCR kits accepted at NDIS (listed by manufacturer):

- Applied Biosystems (AB) AmpFISTR®Profiler Plus® (Part Number 4303326)
- AB AmpFISTR®COfiler® (Part Number 4305246)
- AB AmpFISTR®Profiler Plus® and AmpFISTR®COfiler® (Part Number 4305979)
- AB AmpFISTR®Profiler Plus®ID (Part Number 4330284)
- AB AmpFISTR®Profiler Plus®ID and AmpFISTR®COfiler® (Part Number 4330621)
- AB AmpFISTR®Identifier® (Part Number 4322288)
- AB AmpFISTR®Identifier® Direct (Part Number 4408580)
- AB AmpFISTR®Identifier® Plus (Part Number 4427368)
- Promega PowerPlex®1.1 (Catalog numbers DC6091/6090)
- Promega PowerPlex®1.2 (Catalog numbers DC 6101/6100)
- Promega PowerPlex®2.1 (Catalog numbers DC 6471/6470)
- Promega PowerPlex®16 (Catalog numbers DC 6531/6530)
- Promega PowerPlex®16 BIO (Catalog numbers DC 6541/6540)
- Promega PowerPlex®16 HS (Catalog numbers DC 2100/2101)

- Promega PowerPlex®18 D (Catalog numbers DC 1802/1808)
- Promega PowerPlex® Fusion (Catalog numbers DC 2402/2408)
- AB AmpFISTR® MiniFiler™ (Part Number 4373872)
- AB AmpFISTR® Yfiler® (Part Number 4373872)
- Promega Powerplex® Y (Catalog numbers 6760/6761)
- Promega Powerplex® Y23 (Catalog numbers DC2305/DC2320)
- AB GlobalFiler™Express (Part Numbers 4474665 & 4476609)
- AB GlobalFiler™ (Part Number 4476135)

If you have a question concerning a specific PCR kit; please contact the FBI's CODIS Unit.

Q: What is the process for PCR kits, loci and Expert Systems to be approved for use at NDIS?

A: Laboratories that participate in the National DNA Index and who have validated the kits, loci, or Expert System in their laboratories may request that the FBI approve the kit, loci or Expert System. The validation data and other supporting documentation must accompany the request.

International Searches

Q: How are International DNA databases searched?

A: Requests for a search of an international DNA database should be directed to your state CODIS administrator. The state CODIS administrator will forward the request to their state liaison Interpol contact. Those requesting an international search must use the Interpol DNA Profile Search Request Form available at <http://www.interpol.int/INTERPOL-expertise/Forensics/DNA>.

Q: Can the National DNA Index System be searched by international agencies?

A: An international law enforcement agency may submit a request for a search of the National DNA Index either through the FBI's legal attaché responsible for that jurisdiction or through Interpol. Requests for such a search will be reviewed by the NDIS Custodian to ensure compliance with the Federal DNA Identification Act (criminal justice agency status, authorized specimen category and participation in quality assurance program) as well as the inclusion of a sufficient number of CODIS Core Loci for effective searching.

Outsourcing Offender/Arrestee or Casework Samples

Q: Are there specific requirements for outsourcing offender/arrestee or casework samples?

A: Requirements for the outsourcing of DNA samples are contained in Standard 17 of the *Quality Assurance Standards for Forensic DNA Testing and Databasing Laboratories*. For law enforcement agencies seeking to outsource offender and/or casework samples, the technical specifications of the outsourcing agreement must have the prior approval of the technical leader of the NDIS participating laboratory that will be entering that DNA data into CODIS. At a minimum, the outsourced laboratory must follow the FBI's *Quality Assurance Standards* and be accredited. Standard 17 of the *Quality Assurance Standards* also requires the completion of an on-site visit of the vendor laboratory prior to the beginning of the outsourced analyses and a technical review of the outsourced DNA records by the NDIS participating laboratory. Please refer to the FBI's *Quality Assurance Standards for Forensic DNA Testing and Databasing Laboratories* for additional information concerning the use of contract employees to perform the technical review of DNA records.

Quality Assurance Standards

Q: What are the Quality Assurance Standards?

A: Compliance with the *Quality Assurance Standards* or QAS issued by the FBI Director is required by federal law in order for a laboratory to participate in and contribute DNA records to the National DNA Index System.

The QAS describe the minimum standards for a laboratory's quality program if performing forensic DNA analysis and/or databasing. The minimum standards cover the following areas: organization, personnel, facilities, evidence or sample control, validation, analytical procedures, equipment calibration and maintenance, reports, review, proficiency testing, corrective action, audits, safety, and outsourcing. For example, the Standards require that DNA examiners undergo external proficiency testing on a semiannual basis.

Q: Do the approved accrediting agencies use the Quality Assurance Standards?

A: The approved accrediting agencies use the FBI's Quality Assurance Standards when performing audits of forensic DNA and databasing laboratories.

Q: What is the most recent version of the Quality Assurance Standards?

A: The Quality Assurance Standards were revised in 2011 and the revisions were effective September 1, 2011; please see <http://www.fbi.gov/about-us/lab/codis/codis> for links to the Quality Assurance Standards and Audit Documents.

For progress updates on Rapid DNA as the FBI works to establish the proper foundation for its use of this technology through validation, guidelines, training, etc., please see our [RAPID DNA Analysis page](#).

[1] Available metadata, such as the date of birth, may be included in missing person records stored at NDIS.

Attachment VIII

Date: 9/16/14	Topic: Sexual Assault Adjudication Process Improvements				
Council Member (order of seating)	#1 Test all sexual assault evidence collection kits which have not been submitted by SLCPD to date, and request from the Administration estimated costs and a recommended timeframe for testing options.	#2 Test all new sexual assault evidence collection kits moving forward, and request from the Administration estimated costs and a recommended timeframe for testing options.	#3 Request for information (RFI) on a collaboration for DNA lab services with municipalities, other than the State.	#4 Request SLCPD informally consult with an expert about the interviewing, intake, and training side of sexual assault processing. Findings will be reported to the Council.	#5 Request Administration proceed on two recommended RFI's: 1. Feasibility of City owned DNA Lab, and 2. Public private partnership DNA Lab
Kyle LaMalfa	Yes	Yes	Yes	Yes	Yes
Erin Mendenhall	Yes	Yes	Yes	Yes	Yes
Lisa Adams	Yes	Yes	Yes	Yes	Yes
Charlie Luke	Yes	Yes	Yes	Yes	Yes
Luke Garrott	Yes	Yes	Yes	Yes	Yes
Stan Penfold	Yes	Yes	Yes	Yes	Yes
James Rogers	Yes	Yes	Yes	Yes	Yes
Pass/Fail	Pass	Pass	Pass	Pass	Pass
Final Count; (Yes-No)	7-0	7-0	7-0	7-0	7-0

***Note:** Revised straw poll results compiled by Council staff with clarified language 9/18/14

Date: 9/16/14	Topic: Sexual Assault Adjudication Process Improvements				
Council Member (order of seating)	#6 Council Staff ask City Prosecutor for suggestions and what policies and resources could facilitate processing sexual assault cases at the municipal level.	#7	#8	#9	#10
Kyle LaMalfa	Yes				
Erin Mendenhall	Yes				
Lisa Adams	Yes				
Charlie Luke	Yes				
Luke Garrott	Yes				
Stan Penfold	Yes				
James Rogers	Yes				
Pass/Fail	Pass				
Final Count; (Yes-No)	7-0				



CHRIS BURBANK
CHIEF OF POLICE

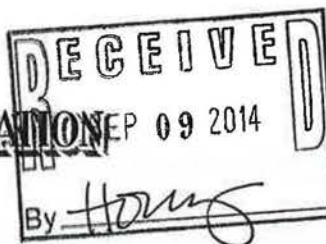
SALT LAKE CITY CORPORATION

POLICE DEPARTMENT

SEP 09 2014

SLC COUNCIL OFFICE

CITY COUNCIL TRANSMITTAL



RALPH BECKER
MAYOR

David Everitt, Chief of Staff

Date Received: 09/09/2014

Date sent to Council: 09/09/2014

TO: Charlie Luke, Chair, Salt Lake City Council

Date: September 8, 2014

FROM: David Everitt, Chief of Staff

SUBJECT: Standards and practices regarding the processing of DNA evidence associated with Code R Kits

STAFF CONTACT: Chris Burbank, Chief of Police, 801-799-3802

COUNCIL SPONSOR: Council requested item

DOCUMENT TYPE: Informational

BACKGROUND/DISCUSSION: The Council office requested information regarding the Police Department's investigation of rape cases, and in particular the approach to processing Code R Kits and relevant DNA evidence.

In the spring of this year, the SLCPD was questioned about backlog and storage of hundreds of Code R Kits. The Chief responded to the questions and consequently a process was set up to review the cases of the kits that remain in storage in the Department.

In addition, in response to concerns raised by the Council and the public, the Police Department has been exploring opportunities to address concerns through a variety of other approaches. Individuals throughout the Department have been assigned to research various aspects of the concerns raised, and to provide accurate information to policy makers for their consideration.

SCANNED TO: *Wager*
SCANNED BY: *Hung*
DATE: *09/09/2014*

Historical background

Forensic DNA testing has unquestionably changed the way the criminal justice system evaluates sexual assault evidence. This change did not occur immediately but rather incrementally over the last twenty-five years. In the late 1980's and through most of the 1990's, testing was limited to those biological stains (e.g., blood, semen, saliva) that contained a large amount of DNA, which meant that only those cases that met this threshold could be tested. Otherwise, there was an insufficient sample for obtaining a DNA profile. Furthermore, computer technology was not capable of networking and searching seemingly unrelated cases in an expeditious manner.

In the early 2000's, the convergence of better DNA testing technology, computing capability, and federal funding created a network known as CODIS (Combined DNA Indexing System) that allowed the practical and efficient comparison of DNA profiles collected from sexual assault evidence (and other crimes as well). In recent years, CODIS has become more sophisticated through the use of additional genetic tools that have increased the variety of searchable crime scene samples. In the same time frame, states passed laws that increased the number of offender samples. The combination of these factors resulted in the development of an effective tool that has become part of a standard investigative practice for most law enforcement agencies.

In light of these new technological developments, jurisdictions around the country have recently begun to re-evaluate untested sexual assault evidence.

SLCPD's approach to processing Code R Kits

Currently, SLCPD submits DNA for testing from Code R Kits when doing so could help identify a potential perpetrator, and does not submit DNA for testing from Code R Kits when doing so would be duplicative or unnecessary.

Reevaluation of untested Code R Kits: In response to the Council's concerns, the Police Department assigned a team of detectives to review every pending case to determine if any Kits had been stored that should have been tested at the outset of the investigation. That review is ongoing. To date, approximately 80 cases have been re-evaluated, and the summaries have been placed online for the public to review.

The Chief, in cooperation with his Command Staff, also evaluated the process for determining whether a Code R Kit that has not been submitted for DNA identification should be stored, and also evaluated the process to determine the length of storage. In that evaluation, it has been found that many Kits are stored because of an inherent insecurity about purging evidence. Additionally, Utah laws regarding the retention of evidence have not always been clear. The statute of limitations has changed several times, and the law regarding this has been somewhat hazy.¹

¹ The Department will, in the future, convene a committee to review cases to determine if and how long each piece of DNA evidence will be stored if it is not sent for immediate testing.

When does SLCPD submit DNA samples for testing? Some of the DNA samples associated with Code R Kits are not processed because a) the perpetrator is already in custody, b) the victim does not want to pursue the case, or c) the case is a "he said/she said" dispute and the alleged perpetrator is clearly identified.

In contrast, when neither the victim nor SLCPD can conclusively identify a potential perpetrator, then the DNA evidence from a Kit is processed as soon as possible so that a search of CODIS can take place. It is standard Departmental practice to compare DNA acquired from a recently administered Kit to the logged DNA of suspects and perpetrators from other unrelated cases in CODIS in this scenario.

When the victim identifies an alleged perpetrator, and the SLCPD investigation determines that the individual accused may be the perpetrator, then that person is arrested and their DNA is entered into CODIS as part of the standard state procedure for all arrestees (at which point the search for matches with DNA from unrelated cases can take place). In this scenario, frequently the accused admits to sexual contact with the victim but claims that it was consensual, which means that DNA evidence is not necessary to place the accused at the scene of the alleged crime. Thus the Code R Kit is not submitted for DNA testing because the accused's DNA is already sampled and will be entered into CODIS. On the other hand, if the accused denies sexual contact with the victim, the DNA from the Code R Kit is then submitted for testing to determine if the accused did in fact have sexual contact with the victim.

What the City can do to shorten the time needed to process DNA

There is a frustratingly long backlog on testing DNA that factors into the need to triage which samples are submitted immediately (not specifically DNA from Code R Kits but all evidentiary DNA samples) versus those that are stored without being tested. The State's backlog can be six months to over a year to complete a test, and out of a desperate need for faster processing times in urgent situations, the City has been using a local lab to test DNA evidence—averaging around \$1,150 per test. It has been historically financially challenging to test the DNA from all Kits automatically when the immediate need for the test - which is to identify the perpetrator of the crime at hand - is already moot because, as cited above, the DNA results from the test are not needed to obtain a conviction in that immediate case.

Partner with a private lab. Consequently, for nearly a year the Chief has been exploring ways to bypass the State's backlog and find an avenue to have DNA tested at a reduced cost through a partnership with a private lab. The Justice Department, however, requires that the FBI must certify any lab that is used for DNA testing related to criminal matters. Therefore, the Police Department is recommending that the City Council consider approving the following approach:

- In order to fully contemplate the spectrum of options, the City develops two separate RFIs for simultaneous response. The first would call for a consultant to

analyze the feasibility of creating an SLC-owned DNA lab. This consultant would evaluate the costs, staffing needs, and the process necessary to have the lab CODIS certified by the FBI. The second RFI would call for an existing DNA lab that is either already CODIS certified for DNA analysis, or capable of and willing to partner with Salt Lake City to become FBI certified for CODIS entry.

- Once the RFI responses are evaluated and vetted, the City determines which direction would be most appropriate and develops an RFP accordingly.
- SLCPD would propose a budget for Council consideration for startup funding for the project, depending on the choice of approaches. (Attached is a sample of an RFP.)

Expand the scope of CODIS profiles. Another issue that the department is seriously considering is the legal question of loading into CODIS the DNA profiles of individuals who have been identified, but never convicted of sexual assault. SLCPD will continue to research this issue to determine which DNA profiles should be uploaded into CODIS.

Participate in external analyses. In the process researching this information, SLCPD became aware of a study by the Police Executive Research Foundation (PERF) and the Women's Law Project (WLP) that contemplates these very issues. PERF has invited SLCPD to participate in their study named *"Defining Success in Responding to Sexual Violence: Establishing Performance Measures and Quality Assurance Standards for Law Enforcement Agencies to Improve the Reporting and Investigation of Sexual Assault"*. Information about the study is attached.

Streamline public access to evidence. Last, in order to enhance the City's ability to share information with the public, SLCPD would use "evidence.com" to store all digital evidence, including all sexual assault related digital evidence. This would improve the ability to release the information to the public in a timely and transparent manner. Rather than creating DVDs with images and video clips, the requestor would receive a login and password that grants access to the necessary evidence that has been approved for viewing. The \$30,000 cost is an estimate since actual costs are determined by the amount of space the evidence uses. This cost would be an annual cost and would increase over time as evidence increases.

The Salt Lake City Police Department continually evaluates current practices and welcomes ideas that improve the way the Department approaches all of its operations. We look forward to continuing the conversation with the City Council, and to the study by PERF so that Salt Lake City may better serve the public, and specifically the victims of sexual assault.

Respectfully,



Chris Burbank
Chief of Police



COUNTY OF ALAMEDA

GENERAL SERVICES AGENCY-PURCHASING DEPARTMENT

ADDENDUM No. 2

to

RFQ No. 900670

for

DNA ANALYSIS

**Specification Clarification/Modification and Recap of the Networking/Bidders Conferences
Held on February 24, 2010 and February 25, 2010**

NOTICE TO BIDDERS

THIS COUNTY OF ALAMEDA, GENERAL SERVICES AGENCY (GSA), RFQ ADDENDUM HAS BEEN ELECTRONICALLY ISSUED TO POTENTIAL BIDDERS VIA E-MAIL. E-MAIL ADDRESSES USED ARE THOSE IN THE COUNTY'S SMALL LOCAL EMERGING BUSINESS (SLEB) VENDOR DATABASE OR FROM OTHER SOURCES. IF YOU HAVE REGISTERED OR ARE CERTIFIED AS A SLEB PLEASE ENSURE THAT THE COMPLETE AND ACCURATE E-MAIL ADDRESS IS NOTED AND KEPT UPDATED IN THE SLEB VENDOR DATABASE. THIS RFQ ADDENDUM WILL ALSO BE POSTED ON THE GENERAL SERVICES AGENCY (GSA) CONTRACTING OPPORTUNITIES WEBSITE LOCATED AT [HTTP://WWW.ACGOV.ORG/GSA/PURCHASING/BID_CONTENT/CONTRACTOPPORTUNITIES.JSP](http://www.acgov.org/gsa/purchasing/bid_content/contractopportunities.jsp).

The following Sections have been modified to read as shown below. Changes made to the original RFP document are in **bold** print and highlighted, and deletions made have a ~~strike through~~.

*** ATTENTION: A revised Exhibit B-Bid Form is attached to this Addendum.***

- **New Line 4: Semen Unknown**; tests per year: **60**.
- Line 19: ~~Sexual Assault Kit Screening~~ changed into Line 20.
- **Line 20: Sexual Assault Items Screening (Fluids, Tissue Samples, etc.)**.
- The numbering of the listed items has modified accordingly; total count: **22** lines.

Bidders will submit their cost proposals on the **Exhibit B-Bid Form [Revised]** attached.

Exhibit O, Current Fee Schedule has been added and is attached to this Addendum.

County of Alameda, General Services Agency – Purchasing
RFQ No. 900670, Addendum No. 2

Page 2 of 10
March 24, 2010

RESPONSES TO WRITTEN QUESTIONS

Q1) Will the County provide the pricing schedule and the names of the vendor laboratories for your most recent forensic DNA testing contracts?

A1) Current vendor lab is Forensic Analytical Sciences, Inc. Their price schedule is attached to this Addendum as Exhibit O, Current Fee Schedule.

Q2) Section D, Page 6, Item 6 states the DNA contract laboratory will comply with the following:
“Complete all testing within their own laboratory, as opposed to subcontracting with other laboratories.”

Section R, Page 16, Item 2b states the DNA contract laboratory will comply with the following:
*“Bidders not meeting the small or emerging local business requirements set forth above do not qualify for a bid preference **and** must subcontract with one or more County certified small and/or emerging local businesses for at least twenty percent (20%) of Bidder’s total bid amount in order to be considered for the contract award. Bidder, in its bid response, must submit written documentation evidencing a firm contractual commitment to meeting this minimum local participation requirement. Participation of a small and/or emerging local business must be maintained for the term of any contract resulting from this RFQ. Evidence of participation shall be provided immediately upon request at any time during the term of such contract.”*

Will this requirement be waived by the County? If the County does not waive this requirement, would the County provide the Bidder with a list of County certified small and/or local emerging businesses (SLEB) that will meet the participation requirement for this DNA testing?

A2) **It is the Bidders’ responsibility to identify portions of work suitable for subcontracting either through joint venture or partnering with vendors certified by County as Small, Local, Emerging Business (SLEB) for the identified areas. If this is not possible, a bidder may apply for a waiver and cite what they believe are the limitations and challenges preventing them from meeting the SLEB requirement. The County will review their request and, in the opinion of the County, waive the requirement, if appropriate and in the best interest of the County.**

Exhibit F must be completed and submitted with both the prime and the SLEB signatures evidencing a firm commitment to meet the subcontracting requirements, as stated in the RFQ. A request for waiver shall be submitted along with the RFQ proposal using Exhibit I as a format. The Bidder shall include a detailed description of their attempts to locate a SLEB subcontractor including dates and times, phone and email contact. The Purchasing Department will pass that information along to the Office of Acquisition Policy (OAP) for a decision. Bidder should keep in mind that, if other bidders are able to identify appropriate subcontracting opportunities, a request for a waiver may be denied.

**County of Alameda, General Services Agency – Purchasing
RFQ No. 900670, Addendum No. 2**

Page 3 of 10
March 24, 2010

- Q3) Section D, Page 6, Item 6 states that subcontracting is not allowed; yet, partnerships are allowed. What is the difference between subcontracting and a partnership, as it relates to this RFQ?
- A3) **Subcontracting is not allowed in regards to the DNA testing itself, which is lab work. Bidders are expected to make their own decision of what type of collaboration with SLEB vendors they choose: joint venture or partnership in related activities.**
- Q4) A private non-profit laboratory located in Contra Costa County cannot meet the criteria to be certified as a SLEB vendor. When submitting the bid referencing Exhibits E, G, H, J and K, shall the Bidder indicate that they are intentionally not submitted due to qualification issues?
- A4) **Bidders must address all exhibits contained in the RFQ. Exhibits provide details about the required information and bid responses will be completed accordingly. Incomplete responses may compromise the bidders' participation to this project. Even if not located in the County, bidders shall complete Exhibits E and G with applicable information. Also, bidders are required to submit a fully executed Exhibit F form evidencing their firm commitment to comply with the SLEB subcontracting requirement. Bidders have to agree to First Source Program, so each bidder should fill out and submit Exhibit H (both pages). Exhibits J and K have been intentionally omitted.**
- Q5) Will Contractor be responsible for both inbound and outbound shipping costs?
- A5) **The County will pay for outgoing shipping only.**
- Q6) What evidence of insurance is required when submitting a bid response? Does the Bidder need to just state that they meet all the evidence requirements?
- A6) **Bidders must provide proof of insurance with their bid responses. Exhibit C-County of Alameda Minimum Insurance Requirements-Section D, Item 8 states the following:**
"Before commencing operations under this Agreement, Contractor shall provide Certificate(s) of Insurance and applicable insurance endorsements, in form and satisfactory to County, evidencing that all required insurance coverage is in effect. The County reserves the rights to require the Contractor to provide complete, certified copies of all required insurance policies. The require certificate(s) and endorsements must be sent to:
- Department/Agency issuing the contract
- With a copy to Risk Management Unit (125 – 12th Street, 3rd Floor, Oakland, CA 94607)"
- Q7) Referencing Vendor Qualifications (page 5): There is neither a request in this RFQ to submit proof that these qualifications are met by the submitting bidder, nor does Exhibit M require it. Is the submitting bidder expected to provide proof? Could inclusion be part of the requirement under Section E of the checklist?
- A7) **Each bidder has responsibility to verify its compliance with the Specifications, Terms and Conditions set forth in RFQ No. 900670. Details on how to proceed are explained in Exhibit M, Paragraph E.**

County of Alameda, General Services Agency – Purchasing
RFQ No. 900670, Addendum No. 2

Page 4 of 10
March 24, 2010

- Q8) Section D, Page 6, Item 5 states the DNA contract laboratory will comply with the following:
“Provide live consultation services at no cost to the County.”
Does this include testimony? Can “live consultation” be over the telephone/teleconference?
- A8) **Testimony is included when needed by the District Attorney’s Office (DAO), who will also decide if live consultation can be over the telephone/teleconference.**
- Q9) Section C, Page 5, Item 4 and Exhibit B, Page 2: mtDNA is included on the bid sheet. Is this service a requirement to bid?
- A9) **Yes.**
- Q10) Section D, Page 6, Item 9 states the DNA contract laboratory will comply with the following:
“The County requires that bidders have the ability to process a minimum of 10 (ten) cases per month with an average of 105 (one hundred-five) tests per month. This represents the basis of the estimated cumulative total for all tests listed in Exhibit B-Bid Form.”
Do tests refer to samples? Approximately how many cases/month will be the average?
- A10) **The County requires the laboratories to assess their capacity of processing a minimum of ten (10) cases/month. Tests basically refer to samples. The numbers in the Exhibit B-Bid form are for informative purpose only and no minimum or maximum commitment is guaranteed or implied by the County. The County does not know exactly the number of cases per month. The estimates are provided so bidders can bid on a uniform volume of work.**
- Q11) Section D, Page 6, Bullet 3 states the DNA contract laboratory will comply with the following:
“Efficient record keeping.”
How does the County expect this specific requirement to be addressed?
- A11) **‘Efficient record keeping’ is synonymous with ‘Well organized evidence preservation.’ This requirement is defined by the FBI Quality Audit Document and is expected to be addressed in compliance with the FBI Standards for Forensic DNA Testing Laboratories, Chapter 7, evidence Control, Standards 7.1 and 7.2, as follows:**

Standard 7.1

- ***The laboratory shall have and follow a documented evidence control system to ensure the integrity of physical evidence. This system shall ensure that:***
 - ***Evidence is marked for identification.***
 - ***Chain of custody for all evidence is maintained.***
 - ***The laboratory follows documented procedures that minimize loss, contamination, and/or deleterious {harmful} change of evidence.***
 - ***The laboratory has secure areas for evidence storage.***

County of Alameda, General Services Agency – Purchasing
RFQ No. 900670, Addendum No. 2

Page 5 of 10
March 24, 2010

Standard 7.2

- ***Where possible, the laboratory shall retain or return a portion of the evidence sample or extract.***
 - ***The laboratory shall have a procedure requiring that evidence sample/extract(s) are stored in a manner that minimizes degradation.***

Q12) Section H, Page 8, Paragraph 1 states the DNA contract laboratory will comply with the following:

"All questions will be addressed and the list of attendees will be included in an RFQ Addendum following the networking/bidders conferences in accordance with the Calendar of Events."

If a bidder cannot be in attendance at the networking/bidders conference, is it still possible to get the RFQ Addendum?

A12) All bidders listed in Exhibit L will be emailed a copy of the Addendum regardless of their attendance at the Networking/Bidders Conferences. The Addendum No. 1, and any additional Addenda that are issued, will also be posted on the County website with the initial RFQ No. 900670.

Q13) Page 14, Section O, Item 4 states: The DNA contract laboratory will comply with the following:
"The County reserves the right to award to a single or multiple contractors."

How many laboratories will be awarded the contract?

A13) The number of laboratories awarded the contract will be determined after the receipt of bid responses and their evaluation.

Q14) Will Forensic Quality Service-International's accreditation satisfy the accreditation requirement?

A14) Yes, in lieu of the typical American Society of Crime Lab Directors' accreditation.

Q15) What is the anticipated delivery cycle for each batch of cases (i.e. batch #1, received on March 1, 2010, is due on April 1, 2010 with a thirty (30) day turn-around-time (TAT))? Will the 2nd batch of cases arrive during the latter part of March or April?

A15) This is to be decided according to the priorities of cases in process. ETS could send another batch in only one (1) week after the first batch was sent to the lab, if the circumstances required.

Q16) Is the 30-day TAT considered a hard timeline?

A16) Yes.

**County of Alameda, General Services Agency – Purchasing
RFQ No. 900670, Addendum No. 2**

Page 6 of 10
March 24, 2010

Q17) What are the penalties for not meeting the deadline?

A17) TAT delay may justify a reduction in price paid for the test. These terms will be determined by mutual agreement between ETS and the Contractor(s). The reduced price will be charged on the invoice accordingly.

Q18) Are there any incentives for work completed ahead of schedule?

A18) No.

Q19) Are the cases in a batch pre-screened?

A19) As per ETS' determination, cases may be screened prior to being sent for DNA work.

Q20) If screening of items is required (such as clothing), do substrate controls need to be taken of that item as well?

A20) No.

Q21) Will substrate controls need to be processed along with the item?

A21) No.

Q22) The DNA contract laboratory will comply with the following:

Page 6, section D, Item 7: *"The awarded contractor may be required to serve as a subcontractor to the Crime Laboratory as defined by Standard 17 of the Standards for Forensic DNA Testing Labs document."*

Does the ACSO anticipate the need to use the vendor laboratory as a subcontractor laboratory? And if so, what would be the anticipated increase in case workload?

A22) The size of the workload is dependent on each case so the Alameda County Sheriff's Office (ACSO) cannot provide an estimate of the potential workload.

Q23) Will cases submitted as subcontract work be held to the thirty (30) day TAT requirement?

A23) This is not known at this time. It will be determined by ETS during the contract negotiations.

Q24) When can the evidence from a batch of cases be returned to ACSO?

A24) As soon as the tests and reports are completed they can be returned to ACSO.

Q25) When can the unused extracted DNA (including reagent blanks) be returned to ACSO?

A25) As soon as the tests and reports are completed materials can be returned to ACSO.

Q26) How long must the vendor laboratory maintain custody of amplified product?

A26) Custody would generally be maintained for one (1) year. However, the requesting agency or the DAO must be notified prior to disposal.

**County of Alameda, General Services Agency – Purchasing
RFQ No. 900670, Addendum No. 2**

Page 7 of 10
March 24, 2010

Q27) If zero (0) DNA is detected at quantization, can work stop on that sample?

A27) The work may be stopped on the basis of the analyst's judgment that further testing would not yield results.

Q28) Is Promega chemistry permitted (i.e., PowerPlex 16 and/or PowerPlex Y)?

A28) For DNA profiles to be entered into CODIS, chemistry must be similar to that being used by the ACSO Crime Laboratory (ACSO-CL) which is currently "Identifiler."

Q29) What percentage of cases will be reanalyzed and reviewed by Alameda County (including Y-STRs and MiniFiler)?

A29) Any cases to be entered into CODIS must be reviewed prior to entry.

Q30) What is the reconciliation process if there is a difference of opinion in interpretation?

A30) Any DNA profiles entered into CODIS by the ACSO-CL must meet the ACSO-CL's criteria. The ACSO-CL DNA Technical Lead is the final arbiter of what profiles may be entered.

Q31) The price template requests fees for mitochondrial DNA (mtDNA) testing. However, the RFQ does not state that the ability to do mitochondrial testing is a mandatory requirement. Please confirm that the ability to do mitochondrial DNA testing is a mandatory requirement.

A31) Yes, it is mandatory as required by ETS. ACSO-CL will not technically review any mitochondrial DNA case because it is not performing work in this area.

Q32) Please confirm that it is acceptable to provide 'per item pricing' for sexual assault (rather than 'per kit pricing'), similar to what is asked for on the other two screening line items which are on a per item basis (small and large items).

A32) Please see the Exhibit B-Bid Form [Revised] attached to this Addendum.

Q33) The section of the price template requesting STR pricing does not contain a line item for unknown's containing semen. Please confirm that it is expected that DNA analysis will be conducted on items containing semen (e.g., sexual assault items) and it is acceptable to add a line item to the template for STR analysis of semen containing evidence. Please note the cost to do STR analysis of semen containing samples is different than that of blood or mixed stain analysis.

A33) Please see the Exhibit B-Bid Form [Revised] attached to this Addendum.

County of Alameda, General Services Agency – Purchasing
RFQ No. 900670, Addendum No. 2

Page 8 of 10
March 24, 2010

RESPONSES TO VERBAL QUESTIONS

Q34) What activities can be subcontracted out?

A34) DNA Testing will not be subcontracted. The bidder must determine what services could be subcontracted as a business matter.

Q35) Where can Bidders apply for a SLEB waiver?

A35) Bidders can apply for a waiver through the GSA-Office of Acquisition Policy (OAP). The County recommends bidders to contact Linda Moore, OAP (510-208-2717) for assistance and clarification prior to submitting the bid.

Q36) Should the application for waiver be submitted to OAP before bid is submitted?

A36) Bidders who are not SLEB certified by County or do not belong to any of the except categories described in the RFQ (pages 16-17) may use Exhibit I-Exceptions, Clarifications, Amendments for requesting SLEB waiver.

Q37) Are all 501(c)3 organizations exempt from the SLEB requirements?

A37) Yes.

Q38) For laboratories that cannot perform all the testing, can a partial bid be submitted?

A38) Yes.

Q39) Are Bidders required to submit Standard Operating Procedure (SOP) with the bid response?

A39) SOP can be submitted later.

Q40) Must all documents be submitted in Word format and not in PDF?

A40) Yes, please submit your electronic copy in Word format, not PDF. Also, the electronic copy on CD, DVD or flash drive shall be readable on a Windows based desktop system.

Q41) Do you have a mechanism in place to evaluate quality?

A41) Yes. Reference Section C, Page 5 -Vendor Qualifications.

Q42) Will the contract be awarded on the basis of cost alone?

A42) The RFQ will be solely awarded based on the cost of services provided.

Q43) Can employee resumes be copied and pasted to bid?

A43) Yes, bidders can copy and paste employee resumes into the proper place on bid.

Q44) Has the County taken into consideration the laboratories' capacity to process cases (i.e., minimum versus maximum)?

**County of Alameda, General Services Agency – Purchasing
RFQ No. 900670, Addendum No. 2**

Page 9 of 10
March 24, 2010

A44) No. If the laboratory can handle the number of specified cases, it would qualify to submit a bid in response to this RFQ. The RFQ is just a sampling based on minimum requirements. Numbers are estimates only and are based on the requirements of the ETS.

Q45) What is the difference between “rush” and “express” delivery?

A45) The difference is in the TAT (i.e., 5 days versus 10 days).

Q46) Items need more lines than kits. Can there be more than two (2) lines?

A46) Please see the Exhibit B-Bid Form [Revised] attached to this Addendum.

Q47) Can the Bidder submit more than one (1) Exhibit B?

A47) Yes. More versions of Exhibit B [Revised] of the same bid are acceptable.

**County of Alameda, General Services Agency – Purchasing
RFQ No. 900670, Addendum No. 2**

Page 10 of 10
March 24, 2010

The following participants attended the Bidders' Conferences:

Company Name	Representative	Contact Information
Serological Research Institute 3053 Research Dr. Richmond, CA 94806	Brian Wraxall	Phone: (510) 223-7374
		E-Mail: bwraxall@serological.com
		Prime Contractor: Yes
		Subcontractor:
		Certified SLEB: No
Serological Research Institute 3053 Research Dr. Richmond, CA 94806	Ledia McVeigh	Phone: (510) 223-7374
		E-Mail: lediam@serological.com
		Prime Contractor: Yes
		Subcontractor:
		Certified SLEB: No
Forensic Analytical Sciences 3777 Depot Rd., Suite 403 Hayward, CA 94545	Eleanor Salmon	Phone: (510) 266-8167
		E-Mail: esalmon@forensica.com
		Prime Contractor: Yes
		Subcontractor:
		Certified SLEB: Yes
Orchid Cellmark, Inc. 13988 Diplomat Dr., Suite 100 Dallas, TX 75234	Carol Sybrowsky	Phone: (800) 872-5227
		E-Mail:
		Prime Contractor: Yes
		Subcontractor:
		Certified SLEB: No

COUNTY OF ALAMEDA, GENERAL SERVICES AGENCY-PURCHASING EXHIBIT A – BID ACKNOWLEDGEMENT

RFQ No. 900670, Addendum No. 2

The County of Alameda is soliciting bids from qualified vendors to furnish its requirements per the specifications, terms and conditions contained in the above referenced RFQ number. This Bid Acknowledgement must be completed, signed by a responsible officer or employee, dated and submitted with the bid response. Obligations assumed by such signature must be fulfilled.

1. **Preparation of bids:** (a) All prices and notations must be printed in ink or typewritten. No erasures permitted. Errors may be crossed out and corrections printed in ink or typewritten adjacent and must be initialed in ink by person signing bid. (b) Quote price as specified in RFQ. No alterations or changes or any kind shall be permitted to Exhibit B, Bid Form. Responses that do not comply shall be subject to rejection in total.
2. **Failure to bid:** If you are not submitting a bid but want to remain on the mailing list and receive future bids, complete, sign and return this Bid Acknowledgement and state the reason you are not bidding.
3. **Taxes and freight charges:** (a) Unless otherwise required and specified in the RFQ, the prices quoted herein do not include Sales, Use or other taxes. (b) No charge for delivery, drayage, express, parcel post packing, cartage, insurance, license fees, permits, costs of bonds, or for any other purpose, except taxes legally payable by County, will be paid by the County unless expressly included and itemized in the bid. (c) Amount paid for transportation of property to the County of Alameda is exempt from Federal Transportation Tax. An exemption certificate is not required where the shipping papers show the consignee as Alameda County, as such papers may be accepted by the carrier as proof of the exempt character of the shipment. (d) Articles sold to the County of Alameda are exempt from certain Federal excise taxes. The County will furnish an exemption certificate.
4. **Award:** (a) Unless otherwise specified by the bidder or the RFQ gives notice of an all-or-none award, the County may accept any item or group of items of any bid. (b) Bids are subject to acceptance at any time within thirty (30) days of opening, unless otherwise specified in the RFQ. (c) A valid, written purchase order mailed, or otherwise furnished, to the successful bidder within the time for acceptance specified results in a binding contract without further action by either party. The contract shall be interpreted, construed and given effect in all respects according to the laws of the State of California.
5. **Patent indemnity:** Vendors who do business with the County shall hold the County of Alameda, its officers, agents and employees, harmless from liability of an nature or kind, including cost and expenses, for infringement or use of any patent, copyright or other proprietary right, secret process, patented or unpatented invention, article or appliance furnished or used in connection with the contract or purchase order.
6. **Samples:** Samples of items, when required, shall be furnished free of expense to the County and if not destroyed by test may upon request (made when the sample is furnished), be returned at the bidder's expense.
7. **Rights and remedies of County for default:** (a) In the event any item furnished by vendor in the performance of the contract or purchase order should fail to conform to the specifications therefore or to the sample submitted by vendor with its bid, the County may reject the same, and it shall thereupon become the duty of vendor to reclaim and remove the same forthwith, without expense to the County, and immediately to replace all such rejected items with others conforming to such specifications or samples; provided that should vendor fail, neglect or refuse so to do the County shall thereupon have the right purchase in the open market, in lieu thereof, a corresponding quantity of any such items and to deduct from any moneys due or that may there after come due to vendor the difference between the prices named in the contract or purchase order and the actual cost thereof to the County. In the event that vendor fails to make prompt delivery as specified for any item, the same conditions as to the rights of the County to purchase in the open market and to reimbursement set forth above shall apply, except when delivery is delayed by fire, strike, freight embargo, or Act of God or the government. (b) Cost of inspection or deliveries or offers for delivery, which do not meet specifications, will be borne by the vendor. (c) The rights and remedies of the County provided above shall not be exclusive and are in addition to any other rights and remedies provided by law or under the contract.
8. **Discounts:** (a) Terms of less than ten (10) days for cash discount will considered as net. (b) In connection with any discount offered, time will be computed from date of complete, satisfactory delivery of the supplies, equipment or services specified in the RFQ, or from date correct invoices are received by the County at the billing address specified, if the latter date is later than the date of delivery. Payment is deemed to be made, for the purpose of earning the discount, on the date of mailing the County warrant check.
9. **California Government Code Section 4552:** In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder.
10. **No guarantee or warranty:** The County of Alameda makes no guarantee or warranty as to the condition, completeness or safety of any material or equipment that may be traded in on this order.

THE undersigned acknowledges receipt of above referenced RFQ and/or Addenda and offers and agrees to furnish the articles and/or services specified on behalf of the vendor indicated below, in accordance with the specifications, terms and conditions of this RFQ and Bid Acknowledgement.

Firm:
Address:
State/Zip

By: _____ Date: _____ Phone: _____

Printed Name Signed Above: _____

Title: _____

EXHIBIT B – ADDENDUM No. 2

COUNTY OF ALAMEDA

RFQ No. 900670
For
DNA ANALYSIS

BID FORM [REVISED]

Cost shall be submitted on Exhibit B as is. No alterations or changes of any kind are permitted. Bid responses that do not comply with this requirement will be subject to rejection in total. The cost quoted below shall include all taxes and all other applicable charges and is the cost the County will pay for any contract that will result of this bid. No minimum or maximum number of tests are guaranteed or implied. The number of actual tests may vary based on actual crimes committed in the County and the related cases pending investigation. Flat fee refers to a single fixed fee for each test, regardless of usage.

#	TEST TYPE	Approximate Quantity (tests per year)	YEAR 1		YEAR 2		YEAR 3		TOTAL COST FOR 3 YEARS
			Flat Fee	Estimated Price for Year 1	Flat Fee	Estimated Price for Year 2	Flat Fee	Estimated Price for Year 3	
		(A)	(B)	(C) = A x B	(D)	(E) = A x D	(F)	(G) = A x F	(H) = C + E + G
	STR								
1.	Reference Sample	60							
2.	Blood Unknown	60							
3.	Mixed Stain Unknown	60							
4.	Semen Unknown	60							
	Y-STR								
5.	Reference Sample	60							
6.	Blood Unknown	60							
7.	Mixed Stain Unknown	60							
8.	Bone Unknown	60							
9.	Hair Unknown	60							
	Minifiler								
10.	Reference Sample	60							
11.	Blood Unknown	60							

EXHIBIT B – ADDENDUM No. 2
COUNTY OF ALAMEDA

#	TEST TYPE	Approximate Quantity (tests per year)	YEAR 1		YEAR 2		YEAR 3		TOTAL COST FOR 3 YEARS
			Flat Fee	Estimated Price for Year 1	Flat Fee	Estimated Price for Year 2	Flat Fee	Estimated Price for Year 3	
		(A)	(B)	(C) = A x B	(D)	(E) = A x D	(F)	(G) = A x F	(H) = C + E + G
12.	Mixed Stain Unknown	60							
13.	Bone Unknown	60							
14.	Hair Unknown	60							
	mtDNA								
15.	Reference Sample	60							
16.	Blood Unknown	60							
17.	Mixed Stain Unknown	60							
18.	Bone Unknown	60							
19.	Hair Unknown	60							
	General Testing								
20.	Sexual Assault Items Screening (Fluids, tissue samples, etc.)	60							
21.	Small Items Screening [swab] (Blood, Semen, Saliva)	60							
22.	Bulk/Large Items (Bulk Clothing, Comforters, etc.)	60							
TOTAL									

EXHIBIT B – ADDENDUM No. 2
COUNTY OF ALAMEDA

EXHIBIT B
COUNTY OF ALAMEDA

RFQ No. 900670

For

DNA ANALYSIS

BID FORM [REVISED]

The prices in the following table will NOT be included in the evaluation of the total cost. Bidder may add to this table other applicable fees it may charge.

TEST TYPE	FLAT FEE (\$)
Other Fees	
Rush Fee	
Express Processing Fee	
Cancellation Fee	

Bidder agrees that the price(s) quoted are the maximum they will charge during the term of any contract awarded.

COMPANY: _____ DATE: _____

SIGNATURE: _____ PRINT: _____ TITLE: _____

RFQ No. 900670 – Addendum No. 2

EXHIBIT L VENDOR BID LIST

Below is the Vendor Bid List for this project consisting of vendors who have responded to RFI No. 900670 and/or been issued a copy of this RFQ. This Vendor Bid List is being provided for informational purposes to assist bidders in making contact with other businesses as needed to develop local small and emerging business subcontracting relationships to meet the requirements of the Small Local Emerging Business (SLEB) Program (described within this RFQ). For additional information regarding the SLEB Program, please visit our website at <http://www.acgov.org/auditor/sleb/> and/or contact the Auditor-Controller's Office of Contract Compliance (OCC) located at 1221 Oak St., Rm. 249, Oakland, CA 94612 at Tel: (510) 891-5500, Fax: (510) 272-6502 or via E-mail at ACSLEBcompliance@acgov.org

Vendors who attended the Networking/Bidders Conferences have been added to the Vendor Bid List. Please see the RFQ sections entitled 'Calendar of Events' and 'Networking/Bidders Conferences' for additional information. The Networking/Bidders Conferences scheduled for all current projects are posted on the GSA Calendar of Events website at http://www.acgov.org/calendar_app/DisplayListServlet?site=Internet&ag=GSA&ty=PUR. This RFQ Addendum is being issued to all vendors on the Vendor Bid List; the following revised vendor list includes contact information for each vendor attendee at the Networking/Bidders Conferences.

RFQ No. 900670 - DNA Analysis

Business Name	Contact Name	Contact Phone	Address	City	St	Email
BRT Laboratories	Alison Shao	(410) 225-9595	400 W. Franklin Street	Baltimore	MD	shao@brtlabs.com
Chromosomal Lab	Jim Bentley	(623) 434-0292	1825 W. Crest Lane	Phoenix	AZ	jbentley@chromosomal-labs.com
Forensic Analytical	Terri Ghio	(510) 266-8138	3777 Depot Road, #403	Hayward	CA	tghio@forensica.com
N. CA Drug Testing Clinic	Dr. Mersedeh Eghdami	(510) 491-5782	26250 Industrial Blvd. #32	Hayward	CA	cdldrugtesting@aol.com
Orchid Cellmark	Carla Dellavalle	(214) 271-8406	13988 Diplomat Drive, # 100	Farmers Branch	TX	cdellavalle@orchid.com
Orchid Cellmark	John Rader	(214) 271-8406	13988 Diplomat Drive, # 100	Farmers Branch	TX	jrader@orchid.com
SERI	Ledia McVeigh	(510) 223-7374	3053 Research Drive	Richmond	CA	serimain@serological.com
Sorenson Forensics	Rick Barlow	(801) 462-1460	2495 South West Temple	Salt Lake City	UT	rbarlow@sorensonforensics.com
Strand Analytical	Ted Schenberg	(317) 455-2100	5770 Decatur Blvd.	Indianapolis	IN	tschenberg@strandlabs.com
Bode Technology Group	Teresa Smith	(703) 646-9875	10430 Furnace Road, #107	Lorton	VA	contracts@bodetech.com
Trinity DNA Solutions	Candy Zuleger	(850) 623-1984	5697 Industrial Solutions	Milton	FL	candy@trinitydna.com

EXHIBIT O

CURRENT FEE SCHEDULE

Fee Schedule (US Funds)
Effective March 19, 2010

Consulting & General Analytical Services

Forensic Pathologist	\$375.00/ hour
Forensic Scientist	\$250.00/ hour
Forensic Technician	\$125.00/ hour

- **Please note that there is a 4-hour minimum charge per case. This includes a non-refundable \$250.00 case set-up and evidence handling fee.**
- Consulting and General Analytical Services include case review, analysis, documentation of work, report generation, quality assurance review, court or deposition preparation, and discovery preparation.

PCR-based DNA Typing Services

Routine turnaround time

STRs - single system (Cofiler or Profiler Plus)	\$900.00/sample*
STRs - single system (Y-Filer)	\$1,250.00/sample*
STRs - multisystem (Cofiler and Profiler Plus)	\$1,250.00/ sample*
Problematic samples (e.g. bone, teeth)	call for quotation

* Per sample rates incorporate DNA extraction and quantitation.

Case review, evidence screening time, work documentation, report generation, consultation and quality assurance review will be billed at hourly consulting rates.

Gunshot Residue Analysis by Scanning Electron Microscopy

• 2 Disk Kit - includes sampling of ammunition primer	\$750.00
• 3 Disk Kit - includes sampling of ammunition primer	\$1,000.00
• 4 Disk Kit - includes sampling of ammunition primer	\$1,250.00

Case review, evidence screening time (e.g. clothing sampling), and consultation will be billed at hourly consulting rates.

Depositions and Court Testimony

Alameda County agencies: court and deposition time will be billed at consulting rates, portal-to-portal❖

Outside Alameda County: court and deposition time will be billed at consulting rates in ½ day or full day increments (normally 4 or 8 hours)❖

❖**Change of pre-arranged Court/ Deposition time requires 24 hour notice otherwise normal rates will apply.**

Billing Policy for Travel & Extraordinary Case Related Expenses

Clients will be billed at cost plus 15% for special materials, supplies, and any travel related expenses (including but not limited to airfare, airline change fees, hotel, meals, car rental or local transportation, parking fees & tolls) as required for the performance of case related services. **Mileage will be billed at \$0.50 per mile.** Travel time will be billed at the regular hourly rate, portal to portal, unless covered in Deposition and Court Testimony time as above (not to exceed 10 hours per day where extensive or overnight travel or waiting is required).

Terms and Conditions

Unless specifically waived (e.g. government agencies or court-ordered funding), we require a retainer, payable in advance, in the amount of \$1,000.00 minimum.

Forensic Analytical Sciences, Inc.
(Fees are subject to change without notice.)

Defining Success in Responding to Sexual Violence: Establishing Performance Measures and Quality Assurance Standards for Law Enforcement Agencies to Improve the Reporting and Investigation of Sexual Assault

The Police Executive Research Forum (PERF) and the Women's Law Project (WLP) are partnering on a three-year project to provide technical assistance to law enforcement agencies, in developing and implementing comprehensive policies, procedures, practices, and services that will improve their response to sexual assault cases.

PERF and the WLP will work with four law enforcement agencies to assess their current policies, procedures and practices related to sexual assault investigations. Based on the results of the assessment and technical assistance needs, PERF then will work with the agencies to develop comprehensive performance measures, internal guidelines and quality assurance mechanisms designed to improve each agency's overall response to victims of sexual assault. Information reviewed and gathered during this process will be confidential and no agency data, information or practices will be released publicly without the express consent of the participating agency.

Through this project, participating agencies will create an action plan, adapt and implement promising practices, collect data, revise policies and procedures as needed, develop quality control and audit functions, and improve training. PERF and WLP will work with each agency to document the process, including obstacles encountered, changes to policies or practice, improvements in police responses to sexual assault, lessons learned, and overall outcomes.

We also will assist the four agencies with their implementation of the new FBI definition of rape, including assistance with communication strategies as they advise the public and news media that the new and more expansive FBI definition of rape likely will result in "spikes" in their rape statistics.

The project will culminate in a National Summit at which executives and project teams from the four agencies will share the guidelines they implemented, the lessons learned and the results realized. At this Summit, PERF will facilitate discussion of the lessons learned, key considerations, best practices, and next steps to move the field forward.