

Governor Phil Murphy

# ICYMI: AG Platkin Issues Statewide Directive Requiring Longer Retention of DNA and Other Evidence from Medical Exams in Sexual Assault Cases

03/13/2023

*Law Enforcement Directive 2023-1 Also Establishes Statewide Guidelines for Tracking, Storing, and Determining When Sexual Assault Evidence is Submitted to Labs for Testing*

**TRENTON**—Attorney General Matthew J. Platkin today issued a statewide law enforcement directive to ensure that sexual assault survivors have access to the medical, investigative, and supportive services they need and deserve, and that evidence collected in sexual assault cases is preserved and processed in a victim-centered and efficient manner.

Attorney General Law Enforcement Directive 2023-1 requires longer retention of evidence, including DNA evidence, from sexual assault medical examinations not processed by a lab at the survivor's request, extending the current required retention period from five years to 20 years. The Directive also establishes statewide procedures and guidelines for tracking, storing, and determining how and when such evidence is submitted for testing, and limits circumstances in which law enforcement can decline to submit evidence for testing in cases where a survivor has consented to it. The Directive specifically prohibits law enforcement officers and prosecutors from declining to submit evidence for testing strictly because they believe the sexual act was consensual, they have no suspects, or the survivor filed a complaint against a current or former spouse or partner.

"This directive builds on our Administration's commitment to supporting survivors of sexual assault. The services enforced in this measure are essential in the safety and well-being of survivors, while also supporting law enforcement's efforts in identifying perpetrators," **said Governor Murphy**. "There is no room in our state for violence in any form, and we will continue to collaborate with Attorney General Platkin to further these values."

"We recognize that sexual assault is one of the most traumatic events an individual may experience and it is imperative that we preserve survivors' right to pursue justice at a time when they feel ready," **said Attorney General Platkin**. "The standards and procedures established in this Directive ensure that if or when that time comes – whether it's immediately after an assault or years down the road – their cases will be vigorously investigated by law enforcement and their opportunity to hold perpetrators accountable will not be foreclosed because evidence is no longer viable or has been destroyed."

"With this Directive we are empowering survivors of sexual assault to decide when – and if – they want to move forward with a criminal investigation," **said Director Pearl Minato, of the Division of Criminal Justice**. "The statewide standards and procedures we are establishing help ensure that law enforcement agencies throughout New Jersey are investigating and prosecuting sexual assault cases in a uniform manner that follows best practices and affords equal justice to survivors."

"This Directive is an important step forward in reducing the post-assault trauma survivors of sexual violence too often experience," **said Deputy Director Theresa Hilton, of the Division of Criminal Justice**. "Not only does it provide survivors with more time to process what has happened without being rushed to make important decisions about criminal matters, it ensures that those who do pursue criminal charges will not be thwarted by outdated and sexist policies that have historically driven law enforcement decisions in sexual assault cases, to the detriment of survivors."

The standards and procedures in the Directive were established in close collaboration with the Division of Violence Intervention and Victim Assistance (VIVA). Established by Attorney General Platkin in September 2022, VIVA was created to coordinate and advance the Office of the Attorney General's (OAG) victim-centered strategy by bringing together victim-related and violence intervention and prevention services currently dispersed throughout the Department of Law and Public Safety, and to play a lead role with respect to survivors of domestic and sexual violence, centralizing the Department's trauma-informed practices and advancing policies on behalf of individuals and communities impacted by violence.

"The FBI recognizes sexual assault as the second most violent crime, second only to murder. With the issuance of today's directive, New Jersey has created a survivor-centered policy that recognizes the traumatic impact of this particular type of victimization," **said Patricia Teffenhart, Executive Director of the Division of Violence Intervention and Victim Assistance**. "This is the first significant policy created in partnership between VIVA and the Division of Criminal Justice, affirming the Department's commitment to supporting survivors in their healing journey while creating expanded opportunities to hold accountable those who cause harm."

Pursuant to the Standards for Providing Services to Victims of Sexual Assault, physical evidence collected during the medical exam is placed in a Sexual Assault Forensic Evidence (SAFE) kit or, in certain circumstances, Drug-Facilitated Sexual Assault (DFSA) kits. These kits are referred to as unreported or "Hold" kits when the survivor has not consented to release the physical evidence to law enforcement or has allowed the evidence to be released but does not want it submitted for testing.

In 2019, the State Auditor within the Office of Legislative Services issued a report to evaluate whether there was a SAFE kit testing backlog in New Jersey. While no backlog was identified, the report recommended changes to policies for handling and tracking SAFE kits.

In response to this report, the Division of Criminal Justice (DCJ) created a SAFE Kit Working Group whose goal was

to assess the feasibility of implementing a statewide tracking system and explore options for standardizing the tracking of SAFE kits. The recommendations of this working group were reviewed by the leadership within DCJ, VIVA, and OAG, and that collective expertise informed this Directive.

In 2023, as required by N.J.S.A. 52:17B-245, the Attorney General today issued a report on a survey of SAFE kits in New Jersey from 2018 through 2020. The results of the survey also informed this Directive.

In addition to extending the required retention period for SAFE/DFSA kits not turned over to law enforcement, the Directive also:

- establishes conditions under which SAFE/DFSA kits must be stored, including temperature protocols;
- requires that all SAFE/DFSA kits released to law enforcement, shall be submitted to the laboratory as soon as possible, but no later than ten (10) calendar days after collection unless provided with a written extension of time by the head of the prosecution agency for good cause. And even when a written extension is granted, reported kits shall be submitted to the laboratory no later than 10 days after the initiation of charges;
- mandates that in circumstances where a survivor initially consents to release a SAFE/DFSA kit to law enforcement but then withdraws consent before the kit has been processed by the lab, the kit be retained for the same 20-year period it would have been afforded if the kit were unreported;
- standardizes information required to be documented in the processing of the SAFE/DFSA kits to ensure efficiency, credibility, and confidence in the storage of kits in New Jersey, and to ensure the anonymity of survivors who undergo a medical exam that involves collection of evidence in the aftermath of sexual assault, but who decline to report to law enforcement; and
- requires individual law enforcement to report to the Office of the Attorney General an inventory of all kits in its custody biannually to ensure ongoing accountability for all kits collected and to accurately evaluate the timeline for SAFE/DFSA kit processing in New Jersey.

The Directive is the latest step taken by Attorney General Platkin to address and combat violent crime in a victim-centered approach that seeks to minimize re-traumatization associated with the criminal justice process by providing the support of victim advocates and service providers, and empowering survivors as engaged participants in process.

“As we vigorously prosecute offenders of sexual assault cases to ensure justice is served and our communities are safer, it is imperative that the victim’s rights and overall well-being is sacrosanct in our endeavors,” said **Jeffrey H. Sutherland, President of the County Prosecutors Association of New Jersey.**

“The road to recovery is, often, far too long for survivors of sexual assault. Our victims are in the midst of the most traumatic experience of their lives, and they deserve time to process what has happened to them,” said **Kendra Hyland, Forensic Nurse Examiner/Special Assault Response Team Coordinator at Hudson County Prosecutor’s Office.** “Expanding the retention of DNA and other medical records puts New Jersey in line with the National Retention Standard, affording Forensic Examiners and their teams an appropriate amount of time to assist victims and see that justice is served on their behalf.”

“Partners commends the Office of the Attorney General, the Division of Criminal Justice, and the Office of Violence Intervention and Victim Assistance for its commitment to improving justice for survivors of sexual violence, as evidenced by this important Directive as well as conducting and releasing the SAFE kit survey,” said **Trish Perlmutter, Policy Counsel at Partners.** “The Directive’s requirement to submit SAFE and DFSA evidence for analysis, no matter the victim’s relationship with the assailant or law enforcement’s opinion about whether the sexual act was consensual, represents an important step towards reducing bias against survivors of sexual violence.”

“This Directive represents a significant step in providing equal justice for victims of sexual assault,” said **Richard D. Pompelio, Executive Director/Law Director of the New Jersey Crime Victims’ Law Center.** “No longer will victims of these horrendous crimes be faceless strangers in a justice process that is constitutionally mandated to treat them with fairness, compassion, and respect.”

## Governor Phil Murphy

## Statewide

<a href="/governor/">Home (/governor/)</a>	<b>Key Initiatives</b>	<b>Social</b>	<b>NJ Home</b>
<b>Administration</b>	Economy & Jobs	Facebook	<a href="https://www.nj.gov">(/www.nj.gov)</a>
Governor Phil Murphy	<a href="/governor/initiatives/#Economy">(/governor/initiatives/#Economy)</a>	<a href="https://www.facebook.com/governorphilmurphy/">https://www.facebook.com/governorphilmurphy/</a>	<b>Services A to Z</b>
<a href="/governor/admin/about/">(/governor/admin/about/)</a>	Education	Twitter	<a href="https://www.nj.gov/njgov/alphaserv.html">(/www.nj.gov/njgov/alphaserv.html)</a>
Lt. Governor Sheila Oliver	<a href="/governor/initiatives/#Education">(/governor/initiatives/#Education)</a>	<a href="https://twitter.com/GovMurphy">https://twitter.com/GovMurphy</a>	<b>Departments/Agencies</b>
<a href="/governor/admin/lt/">(/governor/admin/lt/)</a>	Environment	Instagram	<a href="https://www.nj.gov/njgov/deptserv/">(/www.nj.gov/njgov/deptserv/)</a>
First Lady Tammy Snyder	<a href="/governor/initiatives/#Environment">(/governor/initiatives/#Environment)</a>	<a href="https://www.instagram.com/govmurphy/">https://www.instagram.com/govmurphy/</a>	<b>FAQs</b>
Murphy	Health	Snapchat	<a href="https://www.nj.gov/faqs/">(/www.nj.gov/faqs/)</a>
<a href="/governor/admin/fl/">(/governor/admin/fl/)</a>	<a href="/governor/initiatives/#Health">(/governor/initiatives/#Health)</a>	<a href="https://www.snapchat.com/add/philmurphy">https://www.snapchat.com/add/philmurphy</a>	<b>Contact Us</b>
Cabinet	Law & Justice	YouTube	<a href="https://www.nj.gov/nj/feedback.html">(/www.nj.gov/nj/feedback.html)</a>
<a href="/governor/admin/cabinet/">(/governor/admin/cabinet/)</a>	<a href="/governor/initiatives/#Justice">(/governor/initiatives/#Justice)</a>	<a href="https://www.youtube.com/njgovernorsoffice">https://www.youtube.com/njgovernorsoffice</a>	<b>Privacy Notice</b>
Office of Health Care	Transportation	<b>Contact Us</b>	<a href="https://www.nj.gov/nj/privacy.html">(/www.nj.gov/nj/privacy.html)</a>
Affordability and	<a href="/governor/initiatives/#Transportation">(/governor/initiatives/#Transportation)</a>	Scheduling Requests	<b>Legal Statement &amp;</b>
Transparency	<b>News &amp; Events</b>	<a href="/governor/contact/scheduling/">(/governor/contact/scheduling/)</a>	<b>Disclaimers</b>
<a href="/governor/admin/affordablehealthcare/index.shtml">(/governor/admin/affordablehealthcare/index.shtml)</a>	Press Releases	Contact Us	<a href="https://www.nj.gov/nj/legal.html">(/www.nj.gov/nj/legal.html)</a>
Boards, Commissions &	<a href="/governor/news/news/562023/governor-conducts-annual">(/governor/news/news/562023/governor-conducts-annual)</a>	<a href="https://www.nj.gov/nj/accessibility.html">https://www.nj.gov/nj/accessibility.html</a>	<b>Accessibility Statement</b>
Authorities			

- (/governor/admin/bca/) Photos
- Internship Opportunities (https://www.flickr.com/photos/govmurphy)
- (/governor/admin/internship.shtml) Public Addresses
- Governor's Residence - (/governor/news/addresses)
- Drumthwacket Executive Orders
- (http://drumthwacket.org/) (/infobank/eo/056murphy/approved/eo\_archive.html)
- Administrative Orders
- (/governor/news/ao/approved/ao\_archive.shtml)
- Direct Appointments
- (/governor/news/appointments)
- Advice and Consent
- Appointments
- (/governor/news/acappointments)
- Statements on
- Legislation
- (/governor/news/statements/approved/statements\_archive.shtml)
- Administration Reports
- (/governor/news/adminreports/approved/archive.shtml)
- Transition Reports
- (/governor/news/reports/approved/reports\_archive.shtml)
- Press Kits
- (/governor/news/press)

(/nj.gov/opra/)

Copyright © State of New Jersey, 1996-2023  
 Office of Governor PO Box 001  
 Trenton, NJ 08625  
 609-292-6000

(https://my.state.nj.us/openam/UI/Login)

(https://tech.nj.gov/)