

5/11/2017----Idaho Chief, Sheriff, or law enforcement representative:

Below is an important notification ISPFS put together regarding Idaho statute changes related to sexual assault kit retention by Idaho law enforcement agencies. We provided it in Word and PDF formats so you could easily share the document. Please read thoroughly and let me know if you have questions. Immediately below is information from State Representative Melissa Wintrow regarding this legislation that she worked with our collaborative group to draft and ultimately she sponsored in the legislature:

*Dear Colleagues,*

*I want to thank you for your hard work and committed service to our state. I know that you all work very hard to maintain safe communities where everyone can thrive. You have some of the toughest jobs on the planet!*

*I appreciate all you do and just wanted to thank everyone who helped create and pass the legislation that provides processing and preservation standards to evidence of sexual assault. I wanted to clarify that the intent of this legislation is retroactive in that all evidence that is currently in our possession falls under the timelines for destruction in the new law.*

*I have received a number of emails and cards from citizens thanking the team who passed this. While it is only a piece of the puzzle in supporting victims and providing justice, it means so much to victims to know that law enforcement cares and will do everything we can to solve the crime.*

*This is a crime that has been historically shrouded in silence and stigma; as you know, it is so hard for victims to come forward due to the intrusive nature of the crime and the amount of shame that they face, even though it's no fault of their own. It's very scary to report to law enforcement, even though they may be caring and approachable. Thus, every step we take to demonstrate our commitment to support victims and provide justice goes a long way.*

*I have worked in the past as a direct advocate for victims of sexual violence; when I first started work at Boise State in 2000, a team of administrators, law enforcement and community partners worked together with me to develop policies and protocols for the campus. At that time, this was a major step and paved the way to hire a Title IX officer. There is so much we can do when we work together, across offices and departments.*

*I look forward to working with you in the future. I would be open to visiting with more LE officers, so please let me know if I can ever join a meeting or visit your jurisdiction to listen and learn more from your teams.*

*Representative Melissa Wintrow*

*District 19 House Seat B*

*208-332-1076*

Questions regarding the Idaho Kit Tracking System (IKTS) should be addressed to Ms. Nicole Smith at ISPFS HQ. Her email is [Nicole.smith@isp.idaho.gov](mailto:Nicole.smith@isp.idaho.gov) and her phone number is 208-884-7280

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## Sexual Assault Kit Updates

In the 2017 Idaho Legislative session, statute 67-2919 was amended (bill H0146). There were several changes that are important for law enforcement agencies. ISPFS has been informed that the legislative intent **was for this legislation to apply to all kits currently in possession of law enforcement entities in Idaho** (not just kits collected after July 1, 2017).

### Changes in retention standards for sexual assault kits in Idaho:

Sexual assault evidence kits will need to be stored (tested or untested) for the following durations:

- (a) For death penalty cases, until the sentence in the case has been carried out and no unapprehended persons associated with the offense exist;
- (b) For felony cases, including anonymous sexual assault kits, 55 years from the date of collection or until the sentence in the case is completed, whichever occurs first; and
- (c) For cases where there is no evidence to support a crime being committed, when it is no longer being investigated as a crime or when an adult victim expressly indicates that no further forensic examination or testing occur, 10 years from date of collection.

\*If there is a written (hard copy or email) request to your agency from a victim of sexual assault, a parent or guardian if the victim is a minor, or a relative if the victim is deceased AND your agency has current contact information, your agency must provide **written** notification of the destruction or disposal of a sexual assault evidence kit and any other sexual assault case evidence no later than sixty (60) days before the date of the destruction or disposal.

\*\*A victim of sexual assault, a parent or guardian if the victim is a minor, or a relative if the victim is deceased, may petition a court to preserve a sexual assault evidence kit and its contents for longer than the time prescribed in this statute.

Idaho State Police Forensic Services (ISPFS) maintains the Idaho Kit Tracking System (IKTS) web-based software. There is a field for destruction date in the IKTS software. Law enforcement agencies will be responsible for entering/updating the IKTS “planned destruction date” for sexual assault kits in the custody of the agency as soon as possible. **However, ISPFS will not be responsible for written actual and prior notification of victims.** If a written request is provided to the agency for notification under this section, and contact information has been updated with your agency, the agency must make formal written actual and prior notification victim notification regardless if the information is also available in the IKTS system.

**Changes in victim notification required:**

If a law enforcement agency submits a sexual assault evidence kit to the state lab **AND there is a written (hard copy or email) request, the law enforcement agency must notify** the victim of the sexual assault, a parent or guardian if the victim is a minor at the time of notification, or a relative if the victim is deceased, of the following:

- (a) When the sexual assault evidence kit is submitted to the state laboratory;
- (b) When any evidence sample DNA profile is entered into the Idaho DNA database; and
- (c) When a DNA match occurs; provided however, that such notification shall state only that a match has occurred and shall not contain any genetic or other identifying information; and
- (d) When there is any change in the status of their case or reopening of the case.

\*As used in this subsection, "notify" shall include updates to a website used by the Idaho state police forensic services laboratory for sexual assault evidence kits.

The notifications identified in sections (a) through (c) will be handled by ISPFS in the IKTS system. This information will be available to the victim on the IKTS website regardless if a written request is submitted to law enforcement agency. The notification in section (d) will be the responsibility of the law enforcement agency and will not be in the IKTS system.

## HOW TO ENTER PLANNED DESTRUCTION DATE IN IKTS

1. Go to the IKTS website at [www.isp.idaho.gov/SexualAssaultKitTracking/](http://www.isp.idaho.gov/SexualAssaultKitTracking/) and click Login

Sexual Assault Kit Tracking

serial number

### This site tracks sexual assault kits issued by the State of Idaho



ESTO PERPETUUM

**Authorizing Legislation**

This website enables the tracking of sexual assault evidence kits\* in the state of Idaho in compliance with Idaho Code Chapter 29, Title 67, Section 67-2919.

*\*"Sexual assault evidence kit" means a set of materials, such as swabs and tools for collecting blood samples, used to gather forensic evidence from a victim of reported sexual assault and the evidence obtained with such materials.*

[Sexual Assault Victim Notification Form and Waiver](#)



**Instructions**

Victims of sexual assault can view the history and current status of their sexual assault evidence kit by entering the sexual assault evidence kit tracking # in the "serial number" box above and clicking the adjacent search button with the magnifying glass icon (Q)

Authorized medical, law enforcement, county prosecutor, and lab personnel should select "Login" and enter their unique Username and Password to manage the status of sexual assault evidence kits under the jurisdiction of their agency.

## 2. Click on a kit serial # link

Sexual Assault Kit Tracking  Home Search Manage Help   Logout

### Test Law Enforcement Agency Dashboard

Incoming **0** Pending Submission **2** At Lab **0** Analyzed **1** Not Meeting Criteria **1**

Serial #	LE Case #	Received On	Received By
<a href="#">13000</a>	2017-2222	03/01/2017	Law

**3. Using the new legislative guidelines, calculate and enter the Planned Destruction Date based on the Collection Date and Victim Type listed**

Sexual Assault Kit #13000 Kit Timeline Send Kit... Destroy Kit...

Case Number ↑ 2017-2222	Investigator ↑ Det Jones	Crime ↑ Rape	Crime Date ↑ 02/14/2017
Outsourced Lab Name	Collection Date (Victim Type) 02/15/2017 (Named)	Planned Destruction Date ↓ 02/15/2072	Notify Victim Prior to Destruction ⓘ <input type="checkbox"/>

**\*Please remember, if the Victim Type indicates (Anonymous), the Planned Destruction date should be 55 years from date of collection**

Law Enforcement Data

Case Number ↑ 1110000	Investigator ↑ Det Jones	Crime ↑ Rape	Crime Date ↑ 03/29/2017
Outsourced Lab Name	Collection Date (Victim Type) 03/29/2017 (Anonymous)	Planned Destruction Date ↓ 03/29/2072	Notify Victim Prior to Destruction ⓘ <input type="checkbox"/>

## Appendix of Kit Retention Examples

### Example 1:

- Sexual assault kit collected 5/1/2005
- Suspect charged and sentenced to death
- Planned destruction date will be at least 60 days after the execution (therefore the most accurate destruction date will likely not be entered in IKTS until after the execution)
- Execution carried out 2/1/2017 = earliest planned destruction date (if no other unapprehended individuals exist) is 60 days after execution...4/1/2017

### Example 2:

- Sexual assault kit collected 6/15/1992
- Jane/John Doe (anonymous reporting) kit
- Planned destruction date = 6/15/2047

### Example 3:

- Sexual assault kit collected 10/1/2005
- Suspect charged with a felony
- Offender sentenced to 20 years
- Planned destruction date = Will be at least 60 days after the sentence has been completed (therefore the most accurate destruction date will likely not be entered in IKTS until after completion of sentence)

### Example 4:

- Sexual assault kit collected 9/5/2007
- Law enforcement/prosecutor determined no crime was committed
- Planned destruction date = 9/5/2017

### Example 5:

- Sexual assault kit collected 6/20/1996
- Offender sentenced to life in prison
- Planned destruction date = 6/20/2051 (may be updated if sentence is reduced or offender dies earlier)