

What Happens If My Case Goes to Court?

Sexual assault in West Virginia is a felony, meaning it is considered a 'crime against the state.' In felony cases, the prosecuting attorney makes the decision whether or not to proceed. A victim does not make that decision, but can play an important role in obtaining a conviction. The following steps explain the court process.

- An investigation is conducted; a criminal complaint is filed before a magistrate.
- The perpetrator is arrested and brought before a magistrate for arraignment. The outcome can either be jail or bond.
- A preliminary hearing is held to determine whether or not there is "probable cause" in the case. If probable cause is found, the case will be bound over to the grand jury.
- The grand jury will meet, review the evidence, and decide if the case should proceed to trial. If the decision is that the case should go to trial, the grand jury will return an indictment.
- If indicted, the perpetrator is arraigned on the indictment and a trial date is set.
- At trial, both sides of the case are presented, and the perpetrator is found either innocent or guilty.
- If the perpetrator is found guilty (or pleads guilty), a sentencing date is set, and the perpetrator is sentenced for the crime.

24/7 Help From Rape Crisis Centers

Victim advocates from rape crisis centers can provide victims with **free and confidential information, referrals and emotional support**. They can help victims identify any immediate and longer-term concerns related to their safety and health and support them during any criminal justice proceedings. An advocate's role is to provide information so that victims can make informed decisions and to support victims in those decisions. Advocates can also connect victims with other services.

**Call your local rape crisis center...
Someone is waiting to listen and help.**

**CONTACT Huntington
Rape Crisis Center**
Huntington
1-866-399-7273

Family Refuge Center
Lewisburg
304-645-6334

**REACH
The Counseling Connection**
Charleston
304-340-3676

Hope, Inc.
Fairmont
304-367-1100

**Rape and Domestic Violence
Information Center**
Morgantown
304-292-5100

Sexual Assault Help Center
Wheeling
304-234-8519

Shenandoah Women's Center
Martinsburg
304-263-8292

Women's Aid In Crisis
Elkins
1-800-339-1185

Women's Resource Center
Beckley
304-255-2559

Or
The National Sexual Assault Hotline
1-800-656-HOPE

**West Virginia Foundation for Rape Information and
Services, Inc.**
www.fris.org

West Virginia Sexual Assault Kit Initiative Project

Seeking Justice



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What is the WV Sexual Assault Kit Initiative Project?

The U.S. Department of Justice established the National Sexual Assault Kit Initiative to address the thousands of sexual assault kits that were never submitted to crime labs for testing. In 2015, West Virginia became part of that national initiative through a partnership initiated by the WV Division of Justice and Community Services, WV State Police, WV Foundation for Rape Information and Services, and Marshall University Forensic Science Center. The goal is to test all unsubmitted kits, to develop policies to ensure all future kits are tested, to provide justice and closure for victims, and to hold offenders accountable for their actions.

What Happens with WV's Kits?

Every kit in the state that was collected *and reported to law enforcement* will be inventoried. Kits collected prior to January 1, 2015 will be tested at Marshall University Forensic Science Center. Kits collected January 1, 2015 and later will be tested at the WV State Police Crime Lab. Exclusions to kits being tested will be cases where a victim had recanted or if proof exists that no crime was committed.

When Will My Kit be Tested?

The testing is a multi-year process and will be conducted on a county by county basis. The sequencing of the testing has been determined by the project partners based on several factors, including the number of kits submitted by each county, regionalization, and the readiness of a county to investigate and prosecute cases.-

What Will Happen During the Testing Process?

The lab will be testing for a DNA sample. If DNA is found, it will be entered into the national DNA database, or CODIS. CODIS is a national database managed by the FBI that allows crime labs to compare DNA profiles from offenders who have left biological evidence at crime scenes.

What Happens Once DNA is Entered Into the National DNA Database?

Three possible outcomes exist:

- There is no other DNA in the database that matches the sample.
- There is DNA in the database that matches the sample, but the person identified as the “match” is unknown.
- There is DNA in the database that matches the sample and the person identified as the “match” is known.

What Happens If No DNA Is Found?

Just because DNA isn't found does not mean that an assault did not occur. Although it is very helpful, DNA is not *required* for a sexual assault conviction as it is only one piece of evidence in a case. Finding no DNA does eliminate DNA as a component of an investigation.

What Happens with the DNA Test Results?

Test results will be sent back to each county prosecuting attorney and the investigating law

enforcement agency. The decision whether or not to move forward with investigating and prosecuting each case ultimately is made by the county prosecutor. The results of the DNA testing may or may not be a factor in a case.

When and How Will I Be Contacted?

You will be contacted based on each county's victim notification guidelines. Some counties may only contact a victim if there is a DNA match in the case. Other counties may be contacting all victims whose kits are processed regardless of whether or not there are DNA findings. Each county will also establish a victim notification protocol that should address concerns such as privacy and safety. *If you know that your kit will be part of this testing initiative and you have a notification preference, you are encouraged to contact the prosecuting attorney and/or local rape crisis center to express that preference.*

What If I No Longer Want My Kit Tested?

The concept of probable cause is a basis for determining if a crime was committed and whether a case should enter the criminal justice system. The decision to move forward with prosecution is made by a prosecutor after examining the case in its entirety. The victim's interest in participating may be a factor in that decision.

If you have been a victim of sexual assault and would like information about your case, please call your county prosecutor's office or the rape crisis center in your area. A list of rape crisis centers can be found on the back of this brochure.

You may also call the SAKI Victim Information Line at 304-848-0444 for information and resources about sexual assault kit testing. This is not a crisis line or emergency line. If you have an emergency, call 911.