

SEXUAL ASSAULT EVIDENCE COLLECTION KIT (SAECK) ANNUAL SUMMARY REPORT

Fiscal Year 2024 Report



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1. Legislative Authority

Section 11 of Chapter 69 of the Acts of 2018, *An Act Relative to Criminal Justice Reform*, amended M.G.L. c. 6A by adding the following:

Section 18X. (a) The executive office of public safety and security shall establish and maintain a statewide sexual assault evidence kit tracking system. The secretary of public safety and security, hereinafter referred to as the secretary, in conjunction with the department of public health, shall convene a multidisciplinary task force composed of members that include law enforcement professionals, crime lab personnel, prosecutors, victim advocates, victim attorneys, survivors and sexual assault nurse examiners or sexual assault forensic examiners to help develop recommendations for a tracking system, methods to improve transportation of sexual assault evidence kits and funding sources. The secretary may contract with state or non-state entities including, but not limited to, private software and technology providers, for the creation, operation and maintenance of the system. A sexual assault evidence kit shall include the standardized kit for the collection and preservation of evidence in sexual assault or rape cases as designed by the municipal police training committee pursuant to section 97B of chapter 41.

(b) The statewide sexual assault evidence kit tracking system shall:

(i) track the location and status of sexual assault evidence kits throughout the criminal justice process, including: (1) the initial collection in examinations performed at hospitals or medical facilities; (2) receipt and storage at a governmental entity, including a local law enforcement agency, the department of state police, a district attorney's office or any other political subdivision of the commonwealth or of a county, city or town; (3) a hospital or medical facility that is in possession of forensic evidence pursuant to section 97B of chapter 41; (4) receipt and analysis at forensic laboratories; and (5) storage and any destruction after completion of analysis;

(ii) allow hospitals or medical facilities performing sexual assault forensic examinations, law enforcement agencies, prosecutors, the crime laboratory within the department of state police, or any crime laboratory operated by the police department of a municipality with a population of more than 150,000, and other entities in the custody of sexual assault kits to update and track the status and location of sexual assault kits;

(iii) allow victims of sexual assault to anonymously track and receive updates regarding the status of their sexual assault kits; and

(iv) use electronic technology or technologies allowing continuous access.

(c) Any public agency or entity, including its officials and employees, and any hospital and its employees providing services to victims of sexual assault may not be held civilly liable for damages arising from any release of information or the failure to release information related to the statewide sexual assault evidence kit tracking system, so long as the release was without gross negligence.

(d) Local law enforcement agencies shall participate in the statewide sexual assault evidence kit tracking system established in this section for the purpose of tracking the status of all sexual assault evidence kits in the custody of local law enforcement agencies and other entities contracting with local law enforcement agencies.

(e) The director of the crime laboratory within the department of state police and the director of any crime laboratory operated by the police department of a municipality with a population of more than 150,000 shall participate in the statewide sexual assault evidence kit tracking system established in this section for the purpose of tracking the status of all sexual assault evidence kits in the custody of the department of state police and other entities contracting with the department of state police or such crime laboratory operated by a police department of a municipality with a population of more than 150,000.

(f) A hospital or medical facility licensed pursuant to chapter 111 shall participate in the statewide sexual assault evidence kit tracking system established in this section for the purpose of tracking the status of all sexual assault evidence kits collected by or in the custody of hospitals and other entities contracting with hospitals.

(g) District attorney offices shall participate in the statewide sexual assault evidence kit tracking system established in this section for the purpose of tracking the status of all sexual assault evidence kits.

Section 18Y. Annually, on or before September 1st, the following reports regarding the previous fiscal year shall be submitted to the executive office of public safety and security by law enforcement agencies, medical facilities, crime laboratories, and any other facilities that receive, maintain, store or preserve sexual assault evidence kit. The reports shall contain: (i) the total number of all kits containing forensic samples collected or received; (ii) the date of collection or receipt of each kit; (iii) the category of each kit; (iv) the sexual assault that was reported to law enforcement; (v) whether or not the victim chose not to file a report with law enforcement (non-investigatory); (vi) the status of the kit; (vii) the total number of all kits remaining in possession of the medical facility, law enforcement or laboratory and all reasons for any kit in possession for more than 30 days; (viii) the total number of kits destroyed by medical facilities, law enforcement or laboratories, and reason for destruction; (ix) in the case of a medical facility, the date the kit was collected, the date the kit was reported to law enforcement and the date the kit was picked up by law enforcement; (x) in the case of law enforcement, the date the kit was picked up from a medical facility, the date the kit was delivered to the crime laboratory and, for kits belonging to another jurisdiction, the date that the jurisdiction was notified and the date it was picked up; and (xi) in the case of crime laboratories the date the kit was received, from which agency the kit was received, the date the kit was tested, the date the resulting information was entered into CODIS and the state DNA databases and all reasons a kit was not tested or a DNA profile was not created.

The executive office of public safety and security shall compile the information in a summary report that includes a list of all agencies or facilities that failed to participate in the audit. The annual summary report shall be made publicly available on the executive office of public safety

and security's website and shall be submitted to the governor, the attorney general, the clerks of the house of representatives and the senate, and the house and senate chairs of the joint committee on the judiciary.

The executive office of public safety and security may obtain information from the tracking system established in section 18X and by additional means, such as manual counts and review of records such as case files.

2. SAECK Tracking System

Pursuant to M.G.L. c. 6A, § 18X, the Executive Office of Public Safety and Security (hereinafter “EOPSS”) was granted the authority to establish and maintain a statewide sexual assault evidence collection kit (hereinafter “SAECK”) tracking system. Law enforcement agencies, the Massachusetts State Police Crime Laboratory (hereinafter “MSPCL”) and any crime lab operated by a police department of a municipality with a population of more than 150,000, a medical facility or medical facility licensed pursuant to G.L. c. 111, and the state’s district attorneys are statutorily required to participate in this statewide tracking system. The tracking system records the progress of SAECK(s) from initial collection at a medical facility through testing at a crime laboratory. Pursuant to M.G.L. c. 6A, § 18Y, EOPSS is required to report out all information from the tracking system each fiscal year.

The Policy Center is managed by EOPSS and responsible for overall TRACK-KIT® system functionality. The Policy Center monitors users’ performance and statutory compliance. The Policy Center does not provide information on SAECKs or Toxicology Kits to Survivors or the public. A Survivor can contact the Policy Center if they are having difficulty using the tracking system after first seeking assistance from either the Medical Facility or a Law Enforcement Agency.

The TRACK-KIT® system is designed to allow for ease of use by all users: medical service providers, law enforcement agencies, laboratories, survivors, and prosecuting agencies. Some of the noteworthy features of the system are:

- The ability to track the location and status of a SAECK and toxicology kit through the entire process, from medical service provider to law enforcement agency, to the laboratory, and to storage;
- Privacy and anonymity for survivors;
- The ability to monitor agency-level workflow;
- Secure, easy-to-use website for each type of user;
- Mobile-friendly;
- Tracks kit location and status;
- Sends email notifications to ensure compliance with legislative timelines;
- Visualizes performance metrics in dashboards;
- Provides automatic inventory management to ensure a facility does not run out of kits;
- End-to-end audit trail of all activity;

- Multi-channel 24/7 end-user support;
- Training and user documentation is tailored for each type of user; and
- Survivors are able to access localized resource information.

3. Fiscal Year 2024 System Enhancements

During Fiscal Year 2024 EOPSS made the following system enhancements to the TRACK-KIT® system:

1. Admin Overview Massachusetts Report Revisions
 - a. In Fiscal Year 2024, the EOPSS Policy Center worked with the TRACK-KIT® system vendor, Invita®, to enhance the system to assist in preparing this report. Historically, this report has been compiled by conducting manual data cleans and extracts of the system. With this enhancement, it will no longer require manual extracts – minimizing human error and allowing for a quicker turnaround time for fiscal year reporting and public transparency.
2. Ability to Discard Uncollected Kits at the Policy Center

Survivors have the right to decline a kit collection at any point during the process. When this occurs after a kit has been opened and the barcode has been scanned by medical facility staff, the kit must be discarded from the TRACK-KIT® system. Historically, the Policy Center would need to log a ticket with the vendor for the removal of the kit in the TRACK-KIT® system. This process can take days and sometimes weeks. With this enhancement, the Policy Center can now discard the kit as soon as they are alerted via SANE or Hospital Staff. The Policy Center will never discard a collected kit from the TRACK-KIT® system.
3. Add Date filter to 'LEA Compliance – Pickup from Medical Facility Threshold' Dashboard

This enhancement allows for additional oversight and support to law enforcement agencies that have exceeded their statutorily mandated turnaround times, specifically the requirement to pick up a kit within three (3) business days of notification from a medical facility. Prior to this enhancement, this information was displayed using the average, from a historical perspective. We are now able to view this information from point in time, specifically the current fiscal year. The Policy Center will be able to periodically review this data and notify these law enforcement agencies when an issue is potentially arising, and communication/outreach can begin immediately. This enhancement will allow any noncompliance issues, and thus delays of relaying information to Survivors, to be resolved quickly. Additionally, if a law enforcement agency is inquiring about their agency's overall compliance, the Policy Center is now able to use this enhancement to provide this information in a timely manner.
4. Add Date filter to 'LEA Compliance – Lab Submission Due Date Threshold' Dashboard

Identical to the enhancement above, this enhancement allows for additional oversight and support to law enforcement agencies that have exceeded their statutorily mandated turnaround times, specifically the requirement to submit a kit to the appropriate crime laboratory within seven (7) business days of pickup from a medical facility. Prior to this enhancement, this

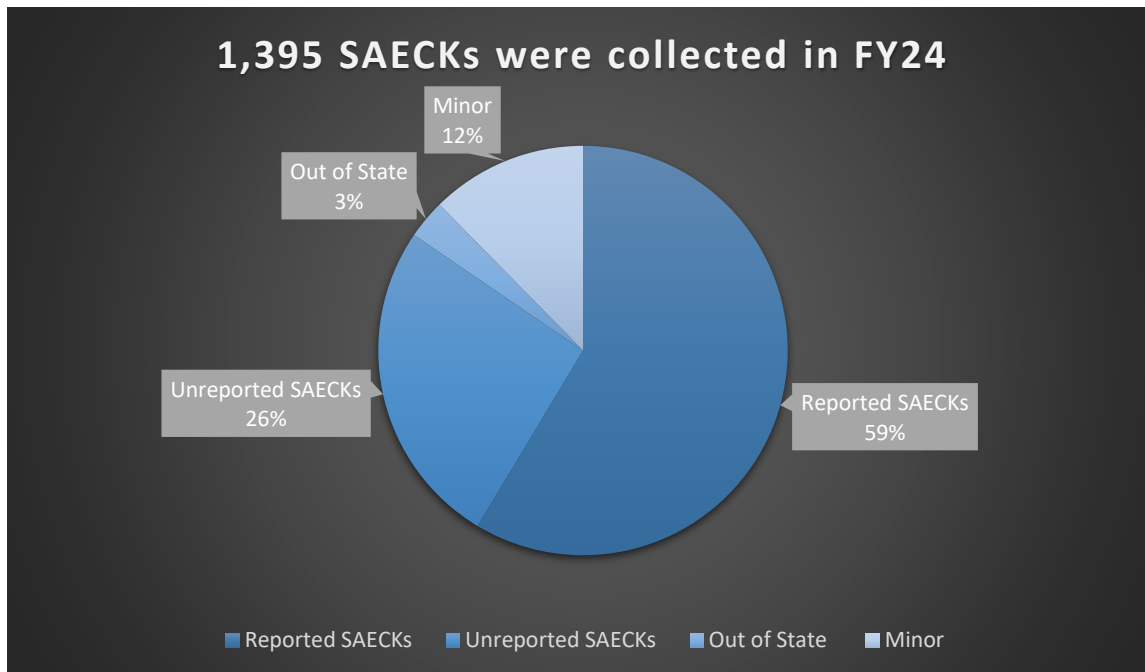
information was displayed using the average, from a historical perspective. Prior to this enhancement, this information was displayed using the average, from a historical perspective. We are now able to view this information from point in time, specifically the current fiscal year. The Policy Center will be able to periodically review this data and notify these law enforcement agencies when an issue is potentially arising, and communication/outreach can begin immediately. This enhancement will allow any noncompliance issues, and thus delays of relaying information to Survivors, to be resolved quickly. Additionally, if a law enforcement agency is inquiring about their agency's overall compliance, the Policy Center is now able to use this enhancement to provide this information in a timely manner.

4. Fiscal Year 2024 Summary

a. General

All agencies and facilities are required to submit annual reports to EOPSS containing the data points outlined in G.L. c. 6A, § 18Y. Given the remarkable aspects and features of the TRACK-KIT® system, the required data has been consistently reported to EOPSS throughout Fiscal Year 2024. As such, EOPSS has been tracking the information prior to the deadline of September 1, as set forth in the statute, and was able to query the data that is the basis for this report. As a result of this feature, no facility or agency failed to submit the information required in section 18Y.

During Fiscal Year 2024, a total of 1,395 SAECKs were administered to survivors and entered into the TRACK-KIT® system. Forty – nine (49) of the total SAECKs entered into TRACK-KIT® pertain to incidents outside the jurisdiction of the Commonwealth. Of the remaining 1,346 SAECKs that involved incidents in the Commonwealth, 931 of the incidents were reported to law enforcement and 415 were unreported. Of the 1,346 SAECKs, 197 SAECKs were administered to survivors 15 years of age or younger.



b. Kit Processing

Medical Facilities and Law Enforcement Agencies

The TRACK-KIT® system allows for monitoring and notification in compliance with G.L. c. 41, § 97B 1/2. Specifically, the system allows for the medical provider to notify the law enforcement agency that a SAECK was collected within 24 hours of the examination. Local law enforcement agencies then have three business days to take possession of the SAECK. The law enforcement agencies are required by law to submit the SAECK to the appropriate crime laboratory within seven business days of taking possession.

In accordance with G.L. c. 6A, § 18Y (vii), EOPSS is required to report “the total number of all kits remaining in possession of the medical facility, law enforcement or laboratory and all reasons for any kit in possession for more than 30 days.” Of the 1,395 SAECKs administered and entered into the TRACK-KIT® system, four (4) remained at a medical facility for more than 30 days for the following reasons:

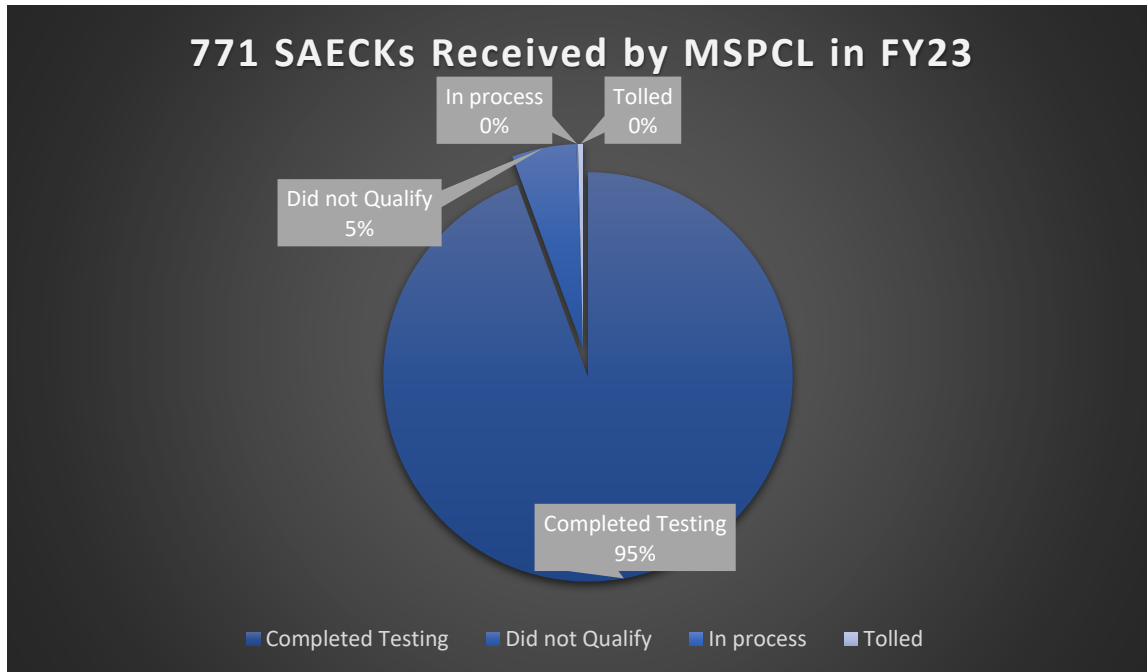
1. The assault occurred out of state and the out-of-state law enforcement agency was unresponsive or delayed in picking up the SAECK;
2. SAECK was missing information; and
3. The medical facility delayed entering the kit into TRACK-KIT®, therefore, delaying law enforcement notification for pick-up.

Of the 1,395 SAECKs administered and entered into the TRACK-KIT® system, twenty-three (23) SAECKs remained at a law enforcement agency for more than 30 days for the following reasons:

- a. Staffing limitations;
- b. Kit awaited transfer to appropriate jurisdiction;
- c. Change in kit status regarding reported and unreported; and
- d. Ongoing investigation and more information was needed.

Crime Laboratories: The Massachusetts State Police Crime Laboratory

The MSPCL was due to receive 771 SAECKs that were collected between July 1, 2023, and June 30, 2024. Of the 771 kits, the MSPCL physically received 755 kits. The sixteen (16) other SAECKs were entered into the TRACK-KIT® system, but not received as it was determined prior to arrival at the MSPCL that the incident was not reported to law enforcement and/or the incident occurred outside the jurisdiction of the Commonwealth. Of the 755 kits the MSPCL physically received, upon receipt of further information, twenty (20) did not qualify for testing, one (1) remains in progress and the remaining were either tested or tolled.¹



In Fiscal Year 2024, eight (8) SAECKs were designated as tolled kits, which required the MSPCL to await further information from the prosecuting attorney’s office to either proceed with testing or mark the kit as administratively closed. The prosecuting attorney’s office was unresponsive on six (6) kits and the kit was halted for testing. The MSPCL received approval from the prosecuting attorney’s office to proceed on two kits: one (1) has been tested and one (1) remains in process. Because the regulations prohibit testing without the prosecuting attorney’s approval, the MSPCL makes every effort to obtain this

¹ A SAECK is considered tolled when the most forensically probative item of evidence has been identified as so limited in quantity that it would be consumed by DNA testing, causing a delay in testing pending further information from the prosecuting attorney’s office as designated in 515 CMR 8.00.

necessary information on tolled kits. In situations in which the prosecuting attorney's office is unresponsive, the MSPCL does not proceed with DNA testing and marks the kit as "administratively closed" pursuant to the applicable regulations.

For purposes of the 30-day timeframe, the MSPCL distinguishes between kits that are in its possession and kits that are tested. For example, the MSPCL may complete testing within 30 days, but the kit may remain at the laboratory for more than 30 days because the law enforcement agency has yet to retrieve the kit. Similarly, a kit could be returned to a law enforcement agency within 30 days but the MSPCL's testing is still ongoing and may exceed 30 days.² The breakdown below addresses both scenarios and are values that are independent of each other.

MSPCL SAECKs in MSPCL Possession for More Than 30 Days

Of the 755 kits the MSPCL received, 176 SAECKs remained in the laboratory's physical possession for more than 30 days for the following reasons:

1. SAECK report was not submitted to the lab when kit was submitted and as such, testing cannot begin until SAECK investigative report is submitted to the lab;
2. SAECKs were tested in less than 30 days but awaited pickup from the law enforcement agency³; and
3. Kit remained in custody during processing.⁴

MSPCL SAECKs Where Testing Took More Than 30 Days

Although Section 18Y does not require EOPSS to report the number of kits that were not tested within 30 days, EOPSS provides this data point in the interest of transparency in summarizing the MSPCL's efforts during Fiscal Year 2024. Of the 755 SAECKs the MSPCL received, thirteen (13) SAECKs were not tested within 30 days for the following limited reasons:

1. Staffing limitations and shipping schedule for offsite processing; and
2. Complex testing that required additional time to complete analyses.

Crime Laboratories: The Boston Police Crime Laboratory

The Boston Police Department Crime Laboratory (BPDCL) received 162 SAECKs that were collected between July 1, 2023, and June 30, 2024. Of the 162 kits involving incidents, the BPDCL determined that, upon further examination, two (2) kits did not qualify for testing because the incident was not reported

² For example, an item could be tested and awaiting results.

³ There is no designated time period set forth in the statute by which the law enforcement agency is required to retrieve the kit from the lab. As such, some kits remain in the possession of the lab for more than 30 days.

⁴ The evidence box remained at the MSPCL in the event other evidence needed testing or the kit was delayed in being placed in outgoing regardless of testing status.

to law enforcement and/or the incident occurred outside the jurisdiction of the Commonwealth. Of the 160 kits involving reported incidents, the BPDCL was instructed to halt testing on zero (0) kits.

Because the BPDCL exclusively tests SAECKs from assaults within the City of Boston, it encounters no delays in pickup or obtaining required investigative information, as the MSPCL does. Therefore, for the 30-day timeframe, the BPDCL does not distinguish between kits that are in its possession and kits that are tested.

BPDCL SAECKs Where Testing Took More Than 30 Days

Although Section 18Y does not require EOPSS to report the number of kits that were not tested within 30 days, EOPSS provides this data point in the interest of transparency in summarizing the BPDCL's efforts during Fiscal Year 2024. Of the 162 SAECKs the MSPCL received, fifty (50) SAECKs were not tested within 30 days for the following limited reasons:

1. Competing work related non-testing responsibilities, and/or scheduled time off for staff;
2. Staffing vacancies;
3. Kit submission, processing, and prioritization workflow; and
4. Complex testing that required additional time to complete analyses.

c. CODIS Submission

The DNA samples contained in the SAECKs are processed and analyzed by the laboratories in order to create DNA profiles. If the DNA profiles meet specific criteria established by the FBI, the profiles may be entered into the state and national DNA database (CODIS).

The MSPCL was able to develop 514 DNA profiles, 244 of those profiles met the specific criteria established by the FBI for CODIS submission and were uploaded into the database. The other 270 profiles that were developed did not meet state and federal CODIS eligibility requirements.

The BPDCL was able to develop 69 DNA profiles, 30 of those profiles met the specific criteria established by the FBI for CODIS submission and were uploaded into the database. The other 39 profiles that were developed did not meet state and federal CODIS eligibility requirements.

Both the MSPCL and BPDCL were unable to create DNA profiles for the remaining SAECKs due to the following reasons:

1. The case was unreported;
2. There were no kit items to test;
3. The DNA quantity was not sufficient for analysis; and
4. Testing was tolled due to limited quantity of evidence.

d. Destroyed Kits

In accordance with G.L. c. 6A, § 18Y (viii), EOPSS is required to report “the total number of kits destroyed by medical facilities, law enforcement or laboratories, and reason for destruction.” TRACK-KIT® provides data on collected and uncollected destroyed kits.⁵ No medical facility, law enforcement agency or laboratory destroys collected SAECKs. As with all other fiscal years, in Fiscal Year 2024, no collected kits were destroyed. Collected and reported SAECKs are preserved pursuant to G.L. c. 41, §§ 97B and 97B 1/2, which require the preservation of the SAECKs for not less than 15 years. Collected and unreported SAECKs are similarly preserved for the duration of the statute of limitations for all sexual assault and rape cases.

Uncollected kits⁶ may be destroyed for a limited number of reasons. In Fiscal Year 2024, 199 uncollected SAECKs were designated as discarded in TRACK-KIT®. Nine (9) SAECKs were utilized for training purposes and properly disposed of after use and sixty (60) arrived at the medical facility damaged or with a broken seal and thus were unable to be used and were properly destroyed. One hundred and twenty-nine (129) Kits were not able to be located by Medical Facility upon arrival of shipment.

5. Conclusion

For the fifth consecutive year, EOPSS has received full participation from every facility and agency required to submit information into the tracking system. The high standard of compliance is a testament to the efficiency and usability of the software program and the dedication of our key stakeholders to continuously advance and exceed the expectations of the legislative mandate. EOPSS is grateful to our medical, scientific, and law enforcement partners for their ongoing commitment to the successful implementation of the SAECK tracking system.

The MA TRACK-KIT® team, along with STACS DNA, will continue to monitor the system, remain responsive to the needs of all users, and update the system as needed. EOPSS will continue to work with its partners in an effort to maintain the successful reduction in turnaround times and improved service to stakeholders to assist them in compliance with the TRACK-KIT® system. Whether by attending webinars, outreach through the policy centers, hosting informational sessions, or being available 24/7, EOPSS will continue to provide resources and assistance to stakeholders and survivors to ensure all needs are met.

⁵ TRACK-KIT® designates destroyed kits as “discarded” kits.

⁶ Uncollected kits are SAECKs in the medical facility’s inventory that have not been administered to a Survivor.