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News for Immediate Release

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Auditor General DePasquale Plans Special Report on 1,852 Backlogged Untested Rape Kits Reported to Department of Health

Report will focus on process of handling rape kits, make recommendations to improve Act 27

HARRISBURG – Auditor General Eugene DePasquale today said his department will release a special report later this year on the 1,852 backlogged untested rape kits reported to the Department of Health under Act 27 of 2015.

“Behind these long-untested kits are victims who are awaiting justice,” DePasquale said. “I want to understand what legislative changes or additional funding may help bring that number down. The goal truly must be to get that number to zero.”

DePasquale also will review ways to ensure that labs and law enforcement agencies provide the appropriate information to DOH in the future.

Act 27 of 2015 requires state-approved laboratories and local law enforcement agencies to report the number of untested rape kits in their possession to the Department of Health. The law calls for two separate counts of the kits in the first year.

On May 3, [DOH reported](#) those two sets of numbers to the General Assembly as:

- 1,852 “backlogged” untested rape kits — meaning those kits that had been waiting for more than 12 months to be tested — held by local law enforcement agencies as of Dec. 31, 2015.
- 3,044 untested rape kits sitting on either local law enforcement agencies’ shelves or in state-approved labs as of Sept. 7, 2015. This number encompasses not only kits that are awaiting testing for an unresolved case, but also kits that are related to cases that have already received final dispositions (such as a guilty plea or a conviction). In the latter instance, law enforcement agencies must maintain all evidence in a closed case for specific time periods.

“For our special report, my team will talk to the major stakeholders required to execute the requirements of Act 27,” DePasquale said.

Among stakeholders required to execute Act 27’s requirements are Pennsylvania State Police, the Pennsylvania District Attorneys Association, Pennsylvania Coalition Against Rape, and the Chiefs of Police Association.

“We want to discover exactly what challenges all stakeholders are facing and how those challenges can be addressed to expedite the testing of these valuable evidence kits.

“Based on our preliminary research, we anticipate that one major challenge will be how to fund the testing of all of these kits. That will be one focus of our analysis,” DePasquale continued.

“In addition, we will work to offer recommendations to improve not only Act 27, but also the annual reporting process that Act 27 created.

“The value of having these kits tested promptly lies not only in achieving justice for previous victims, but also in protecting potential future victims,” DePasquale said. “This process could help identify repeat sexual offenders and rapists, which could assist in preventing future crimes.”

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EDITOR’S NOTE: A fact sheet on untested rape kits follows.

Untested Rape Kits Fact Sheet

Among the goals of Act 27 of 2015 was for the Department of Health to obtain a comprehensive count of the number of rape kits awaiting testing in Pennsylvania.

The law also provides a new timetable for rape kits to be collected from health care facilities, for them to be submitted for testing once victim consent has been obtained and for the labs to return the kits’ results.

Pennsylvania is among a number of states nationwide seeking to identify the number of backlogged untested rape kits, and determine how best to both resolve the current backlog, and prevent a future backlog.

While other states have reported backlogged or untested kits in the tens of thousands, the numbers in Pennsylvania appear to be considerably lower. For more information and comparative data, go to <http://www.endthebacklog.org>.

Act 27 reporting requirements

- By Jan. 31, 2016, local law enforcement agencies were to report to the Department of Health the number of “backlogged” rape kits in their possession as of Dec. 31, 2015.
 - “Backlogged” refers to any kit that has been sitting for more than 12 months without being tested.
- By March 7, 2016, local law enforcement agencies were to report to DOH the number of untested rape kits in their possession as of Sept. 7, 2015.
 - Law enforcement has one year to provide these kits to a lab for testing, assuming consent for testing has been given.
 - Labs have three years to test the kits.

The numbers

As of April 28, 2016, DOH had received the following reports on untested rape kits:

- For the initial report (all untested kits on shelves as of Sept. 7, 2015), local law enforcement agencies reported 3,044.
- For the annual report on “backlogged” kits (kits that have been sitting for more than 12 months without being tested), local law enforcement agencies reported 1,852.
 - PSP’s Bureau of Forensic Services had none of these kits to report; its average turn-around time for a kit is approximately 185 days.

About the data

- DOH and Pennsylvania State Police sent letters or reminders to all local law enforcement agencies in the commonwealth at varying times to remind them of the reporting requirements, and DOH posted the submission forms on its website.
 - Many larger cities responded, including:
 - Allentown
 - Erie
 - Lancaster
 - Philadelphia
 - Pittsburgh
 - Reading
 - Scranton
- The Pennsylvania District Attorneys Association also sent reporting reminder to its contacts.
- Because Act 27 does not define what constitutes “inventory” for the purpose of submitting data, local law enforcement agencies may have counted and reported different levels of kits.
 - For example, some agencies may have counted their “Jane Doe” kits, which are kits that have been collected but that have not yet received victim consent to be tested. Other agencies may not have counted these.
 - In all cases, the value in testing these kits lies in uploading the offenders’ DNA into CODIS, the FBI’s Combined DNA Index System, which can help identify if the offender has committed other violent crimes.

Sexual assault statistics can be found online through organizations such as RAINN (Rape, Abuse & Incest National Network) <https://rainn.org>