



An evaluation of what caused Pennsylvania’s backlog of kits, whether the backlog can be cleared within the mandated three years, and how to prevent future backlogs from occurring.

September 2016



Executive summary

Across the nation, states are grappling with the problem of untested rape kits. In the last few years, hundreds of thousands of these kits have been discovered in police departments and labs nationwide, and efforts have been made to test most, if not all, of the kits.

The benefits of collecting the DNA from these valuable kits and uploading the evidence into the FBI's combined DNA database, known as CODIS, have been documented nationally: Statistics show that rapists tend to be serial criminals, meaning an increased likelihood exists that an offender's DNA will already be stored in CODIS. Entering the DNA information found in these backlogged kits provides a greater possibility that a match will be found, therefore identifying an offender and allowing for criminal charges to be filed — and potentially preventing future crimes.

In Pennsylvania, Act 27 of 2015 required local law enforcement agencies and crime labs to report two numbers to the state Department of Health:

- how many rape kits overall they had awaiting testing (at least 3,044), and
- how many of those kits were “backlogged,” meaning they had been waiting 12 months or more to be tested (1,852).

Though Act 27 provided much-needed methodology for counting rape kits, guidelines for submission of the kits to be tested and a three-year timeframe to eliminate the backlog, it failed to provide any additional resources for involved parties or an incentive for local law enforcement agencies to comply with the mandates. If Pennsylvania is serious about eliminating its backlog, then it needs to act immediately to provide the necessary tools to do so.

The challenges associated with fulfilling Act 27's requirements underscore a well-known problem in Pennsylvania: All levels of government are financially strapped, so when a costly but critical mandate is passed, compliance with the new requirements creates a huge strain. None of the major stakeholders — in this case, Pennsylvania State Police (PSP), the Department of Health (DOH), the three major public crime labs and local law enforcement agencies, among others — have extra money sitting in their coffers. Then again, neither does the state government. This situation underscores the impact of that challenge.

This report addresses three major areas of concern that were found during an eight-month review into what caused the backlog of kits, whether the backlog can be cleared within the legally mandated three years, and how to prevent future backlogs from occurring:

1. **When the General Assembly passed the legislation that became Act 27, it failed to provide any resources to either the Department of Health (DOH), which was required to collect the information, or the state crime labs to test these kits.**

As a result, DOH could allocate no additional resources to inform local law enforcement agencies of the need to report their untested rape kits, and most local law enforcement agencies did not report their number of untested kits because they received inadequate information.

Long-term underfunding also contributed to the Philadelphia Office of Forensic Science having backlogged kits that date to the 1990s and the Allegheny County Office of the Medical Examiner having a two-and-a-half-year backlog on all cases and a static number of staff for years. Current

underfunding means the Allegheny County Office of the Medical Examiner might not be able to meet the future requirement of testing all rape kits within six months of submission.

While limited federal dollars are helping to prevent a full-on crisis in Pennsylvania, more state resources are needed to address the problems.

We recommend four courses of action:

1. The state should provide funding to pay for more resources, such as staff members and technological equipment, to ensure all backlogged rape kits are tested within the three-year timeframe and to ensure future kits can be tested within six months of submission.
2. The state should appropriate funding so that the Department of Health can provide more resources to gather the data on backlogged rape kits as required annually by Act 27.
3. Pennsylvania State Police, Philadelphia Office of Forensic Science and Allegheny County Office of the Medical Examiner should continue to search and apply for federal funding to help pay for sufficient staff and adequate technological equipment to ensure all backlogged rape kits are tested within the three-year timeframe and to ensure future kits can be tested within six months of submission.
4. Minority and majority members of the House and Senate Judiciary and Health committees; representatives from the state Department of Health, Pennsylvania State Police, Philadelphia Office of Forensic Science, the Allegheny County Office of the Medical Examiner; and other stakeholder groups as needed should form a commission that meets to discuss exactly what resources and funding need to be made available for all state and local agencies to fully comply with Act 27's requirements. The commission should produce a report of its results to present to the General Assembly by Feb. 1, 2017.

2. Despite communication efforts by multiple agencies, local law enforcement officials remain largely misinformed or uninformed about Act 27's reporting requirements. This lack of knowledge likely led to an incorrect count of untested rape kits in the commonwealth.

The low participation rate by local law enforcement agencies clearly shows a necessity for improved communication among stakeholders. Those agencies and stakeholders with a vested interest in eliminating the backlog of untested rape kits and preventing future backlogs need to convene immediately and determine solutions to their challenges.

We recommend five courses of action:

1. DOH should establish a hotline for hospitals to call if a rape kit is not picked up within the specified time period of 72 hours. Information about calls to that hotline should be shared with appropriate local law enforcement agencies and with the Pennsylvania Chiefs of Police Association to encourage increased compliance.
2. DOH must work more closely with law enforcement associations such as Pennsylvania State Police and the Chiefs of Police Association to establish regular, effective communication of Act 27's requirements.
3. The state should explore penalties — such as withholding of state aid, if applicable — for those law enforcement agencies that do not comply with Act 27's requirements.

4. The General Assembly should amend Act 27 to clarify ambiguous language such as “as soon as practical” and “if possible.”
 5. The Pennsylvania Law Enforcement Accreditation Program commissioners should revise accreditation standards to include complying with Act 27 as a requirement for accreditation or reaccreditation.
3. **Because of local law enforcement officials’ lack of knowledge about new rights created by Act 27, it is likely that rape kits are being sent for testing without the newly required victim consent to test.**

We recommend one course of action:

1. Local law enforcement agencies must cease sending all kits regardless of victim consent to crime labs for testing and instead send only those rape kits that have received written victim consent to test.

In addition to following these 10 recommendations, Pennsylvania’s best approach to clearing backlogged rape kits is the “forklift approach,” meaning that all kits that have received victim consent to test should be tested, regardless of whether a suspect or perpetrator is initially identified.

One of the best-known cases that highlights the benefits of obtaining results from an untested rape kit is that of Debbie Smith of Virginia. In 1989, Smith was doing laundry when a masked man entered her home through an unlocked door, dragged Smith outside and raped her. Smith waited six years for her sexual assault forensic exam kit to be tested; when it was, it produced DNA that was a match to a man serving prison time for sexually assaulting two other women. That man, Norman Jimmerson, was sentenced to two life terms plus 25 years for Smith’s rape.

Since then, Smith has become a national advocate for laboratory testing of sexual assault kits, and federal funding that provides for the testing of these kits is named for her.

In Pennsylvania, if testing these kits brings even one sexual offender to justice — and provides peace of mind for one victim — then the effort will have been worthwhile.

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Introduction

It sits quietly, just a box, until it is needed. Once it's opened, the terrible but necessary task begins.

It comes with probing questions, embarrassing swabs, potentially humiliating moments for someone already traumatized. With it, justice is more likely. Without it, knowing peace could be gone forever.

A Sexual Assault Evidence Collection Kit — known as an SAK, or rape kit — is one tool that law enforcement and district attorneys can use to bring a sexual offender to justice. It's a valuable investigative tool that can identify unknown attackers or prove, at the very least, that sexual contact did occur.

But at least 1,852 of these kits were sitting on Pennsylvania shelves in 2016, untested for 12 months or more, according to a mandated Pennsylvania Department of Health report released in April. Known as backlogged rape kits, some have been sitting untested since at least the 1990s, their power to unlock DNA evidence untapped.

And behind these kits are victims who have been awaiting justice.

When the Pennsylvania General Assembly approved the legislation that became Act 27 of 2015, it set into motion a multi-tiered process. First, it required an inventory of the SAKs that had been awaiting testing for more than 12 months.

Next, it required a count of all SAKs awaiting testing. That number, according to tallies given to DOH, is at least 3,044.

Act 27 also began a complicated process to test all of these kits within three years — a daunting task that experts say could overwhelm the already-stretched-thin resources of Pennsylvania's three public crime labs. And it set into motion the extremely complicated task of finding money to pay the cost to test each kit, which averages \$1,000 to \$1,500.

In this special report, the Pennsylvania Department of the Auditor General examines what caused the current backlog of cases, whether that backlog can indeed be cleared within three years, and what the challenges will be once the kits are tested. The report also offers 10 recommendations to improve not only the reporting process but also the law itself to prevent such a backlog from happening again.

Background

Act 27 of 2015

Based on legislation sponsored by Rep. Brandon Neuman, Act 27¹ amended the Sexual Assault Testing and Evidence Collection Act of 2006 (SATEC). It was signed into law July 10, 2015.

In addition to requiring a count of all untested rape kits in Pennsylvania, it did the following:

- Established that victims must provide written consent before a rape kit can be sent for testing,
- Provided for victim notification when a kit has been tested, and
- Established timetables for law enforcement to collect kits and submit them for testing.

Sexual assault statistics

The statistics about sexual assault are sobering. According to the Rape, Abuse & Incest National Network (RAINN), an American is sexually assaulted every two minutes². Each year, about 284,000 people age 12 and older are victims of sexual assault nationwide³.

Other noteworthy statistics⁴:

- Approximately 66 percent of sexual assaults are not reported to police.
- About 75 percent of assaults are committed by someone the victim knows.
- The majority of victims are younger than 30.

About 33 percent of the time, perpetrators were under the influence of either alcohol or drugs when assaults occurred. About 84 percent of victims reported the use of physical force only⁵.

In Pennsylvania, the Uniform Crime Reporting System (UCR) offers an overall view of the crimes reported in the state for any given year. For 2015, 2,932 people reported being victims of rape. About 91 percent of the victims were female; 8.9 percent were male. Nearly 40 percent of all victims reported being attacked in July or August.

2015 UCR Summary Victim Reports of Rape in Pennsylvania

	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total
Male	24	15	13	10	11	14	43	57	22	20	18	15	262
Female	135	129	157	171	168	170	471	560	217	172	156	164	2,670
Total	159	144	170	181	179	184	514	617	239	192	174	179	2,932

By contrast, 863 arrests for rape were made in 2015. Nearly 98 percent of those arrested were male; females made up 2.4 percent of the arrests.

¹ See Appendix A

² <https://www.rainn.org/statistics>. Accessed July 13, 2016.

³ *Id.*

⁴ *Id.*

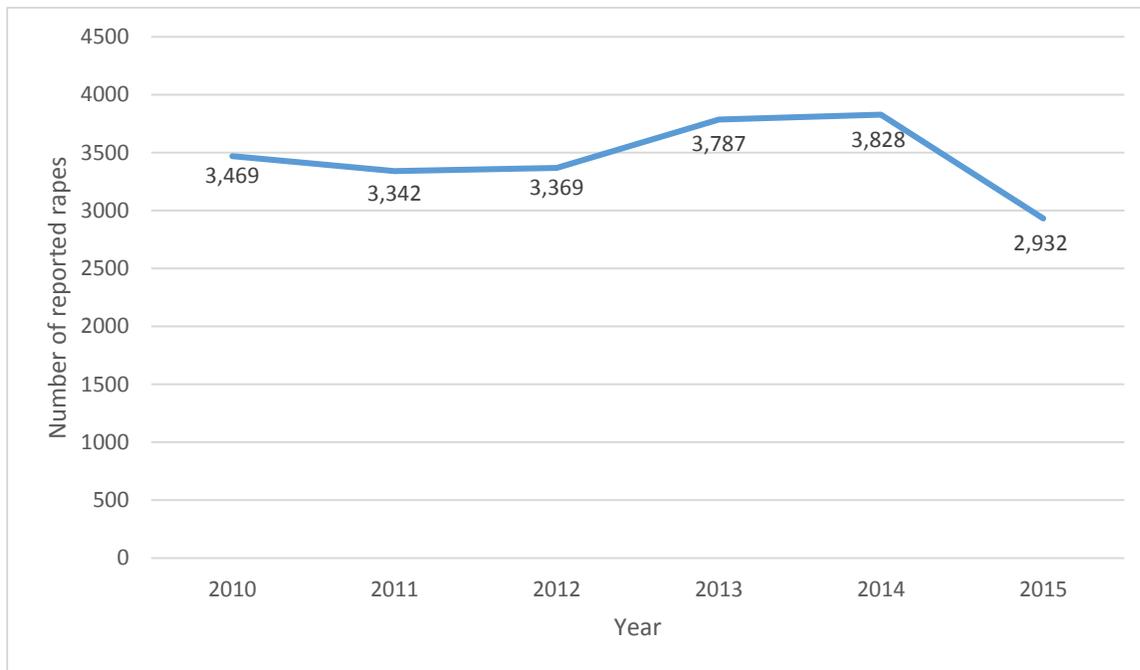
⁵ *Id.*

2015 UCR Summary Arrest Report for Rape in Pennsylvania

	Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Total
Male	62	66	63	84	83	80	79	88	55	66	56	60	842
Female	1	2	3	3	1	4	1	1	2	0	1	2	21
Total	63	68	66	87	84	84	80	89	57	66	57	62	863

Overall, reports of rape in Pennsylvania have declined 15.5 percent from 2010 to 2015, according to UCR statistics. However, there were increases in 2013 and 2014.

2010-2015 UCR Summary Arrest Reports for Rape in Pennsylvania



Nationally, the rate of sexual assaults and rape decreased by 74 percent from 1993 to 2014, according to RAINN.

Reporting a sexual assault

When a person goes to a hospital or law enforcement agency and reports that he or she has been raped or sexually assaulted, a detailed and specific process begins. From the initial call to a victim advocate through a potential trial, much of what happens next can be determined by the victim.

First, hospital staff are required to inform the victim about the services provided by the nearest rape crisis center — there are 50 centers for Pennsylvania’s 67 counties — and that he or she may talk with a victim

advocate from the center. An advocate explains the victim's rights and can help guide him or her — as well as the victim's family, if needed — through the process.

Victim advocates receive a minimum of 40 hours of training, from centers supported by the Pennsylvania Coalition Against Rape (PCAR), which establishes required components for the training, according to Barbara Sheaffer, PCAR's medical advocacy coordinator. Advocates also try to maintain good relationships with their local hospitals so that they will be called when a victim comes in.

With the victim's consent, the advocate may be present for all parts of the reporting process, including the sexual assault forensic exam. It is the advocate's job to make sure all of the victim's requests are honored, Sheaffer said.

"We really want to empower the victim because their control has been taken away during the assault," Sheaffer said.

If the victim agrees to have the rape kit performed — meaning he or she agrees to undergo the forensic exam — then a specially trained medical professional, known as a Sexual Assault Forensic Examiner (SAFE) or a Sexual Assault Nurse Examiner (SANE), can be called. The 1994 Violence Against Women Act requires states to provide a sexual assault forensic exam for free if states wish to remain eligible for critical anti-crime grant funding.

In Pennsylvania, SAFEs/SANEs undergo a minimum of 40 hours of training to learn how to handle sexual assault victims compassionately yet objectively, said Judy Pleskonko, president of the Pennsylvania chapter of the International Association of Forensic Nurses (IAFN). IAFN is a membership association composed of "forensic nurses working around the world and other professionals who support and complement the work of forensic nursing," according to IAFN's website⁶.

"We're impartial," Pleskonko said. "We don't take any sides. We're there just to collect evidence."

SAFES/SANEs are educated on the specifics of the evidence Pennsylvania includes in its rape kits, and they are taught the detailed steps of completing a forensic exam and its lengthy documentation.

"The nurses who do this are very impassioned," Pleskonko said.

As of July 2016, Pennsylvania had 157 forensic nurses, both men and women, registered with IAFN. However, Pleskonko said, many other medical professionals have gone through the training but haven't been officially certified and registered with the association.

Availability of forensic nurses varies by hospital and by region, Pleskonko said.

"There's a great ebb and flow of nurses trained to do this," PCAR's Sheaffer said.

Allegheny County, which includes Pittsburgh, is generally well-staffed when it comes to SAFEs/SANEs, Sheaffer said. And while Philadelphia handled more than 450 forensic exams in 2015, the area "could use more resources," Sheaffer said.

"We really want to empower the victim because their control has been taken away during the assault."

*—Barbara Sheaffer,
Pennsylvania Coalition
Against Rape*

⁶ <http://www.forensicnurses.org/?page=Overview>. Accessed July 8, 2016.

“They have one location where they try to do all the forensic exams,” Sheaffer said, noting that it’s outside a hospital setting. The program has contracts with several hospitals to provide exams for patients who cannot go to the Philadelphia Sexual Assault Response Center.

If, when a victim has come to a hospital, a SAFE/SANE is not available, then any doctor or nurse can perform the exam and collect evidence for the rape kit. PCAR and IAFN, however, support having forensic nurses handle this process because they have specialized training and are prepared to go to court to testify.

The exam must be provided at no cost to the victim, including medications that are provided through the hospital at the time of the exam, Pleskonko said.

“We’re impartial. We don’t take sides. We’re there just to collect evidence.”

*—Judy Pleskonko,
Pennsylvania chapter of the
International Association
of Forensic Nurses*

Some emergency rooms in the commonwealth have all their emergency-room nurses trained to perform forensic exams, while others — especially in rural areas — have none on staff, Sheaffer and Pleskonko said. In such cases, a SAFE/SANE might be available on an on-call basis.

About the rape kit

The term “rape kit” is used to describe both the sexual assault forensic exam as well as the kit itself, which is also referred to as a Sexual Assault Evidence Collection Kit (SAK).

In Pennsylvania, the Department of Health’s Sexual Assault Evidence Collection Committee is tasked with developing and approving minimum standard requirements for rape kits to be used across the commonwealth. Every three years, the committee, which includes members from agencies such as PCAR and the Pennsylvania State Police, must review the minimum standard requirements of what needs to be in the kit to make sure the evidence being collected is still relevant⁷. As of Oct. 1, 2014, the white, rectangular box must include a checklist, consent form, instructions, fingernail clippers and 12 specimen-collection envelopes.

Generally, DNA evidence should be collected within 72 hours of an assault in order to be analyzed by a crime lab, according to RAINN. In Pennsylvania, forensic examiners usually allow for up to 96 hours after an assault, Pleskonko said.

“If someone hasn’t taken a shower, then we can still do the exam after 96 hours,” she said.

The forensic exam lasts a few hours, though the length of time varies based on many factors. The shortest exam Pleskonko ever performed took four hours, and then she had to finish the paperwork. The victim can stop, pause or skip a step at any point during the exam, Pleskonko said.

Once a rape kit box is opened, the chain of custody begins. Examiners are not allowed to let the kit or its contents out of their sight until it is sealed, Pleskonko said.

⁷ 35 P.S. § 10172.2

During an exam, the following can happen⁸. Again, the victim has the right to refuse any step of the process:

1. Any injuries that require immediate care will be handled first.
2. A health history will be taken, including information on recent consensual sexual activity. The victim will be asked to describe in detail what happened so the examiner can identify all potential areas of injury as well as locations on the victim's body or clothing where evidence might be found.
3. The examiner will perform a full-body examination of the victim. This exam can include swabbing of the mouth, anus and sex organs. It may also include blood, urine and hair samples, as well as swabs of specific areas of the body identified during the description of what happened. The examiner may also take pictures to document injuries and the exam itself. Clothing and other potential physical evidence may be collected.
4. The victim will be offered appropriate follow-up care, such as preventive treatment for sexually transmitted infections and pregnancy. He or she might also be offered a follow-up appointment with a medical professional.

Once the exam is complete, the examiner will put all of the collected samples into the rape kit box and seal it with red evidence tape.

Often, the local law enforcement agency that has jurisdiction will have been informed before the exam is performed. If the victim agrees, a law enforcement officer can be present during the interview portion of the exam. In those cases, Pleskonko said, the forensic nurse takes the lead in asking the questions. "Everything that we ask on our chart is what the police need to know, and it's a lot easier for the nurses to ask the questions than the police," she said.

According to the new requirements of Act 27, once law enforcement has been notified that an SAK is ready to be picked up, the agency has 72 hours to comply.

Law enforcement's role

A victim can choose to have the forensic exam performed but not have the kit tested immediately. He or she may also choose to report the assault anonymously. Regardless of how the victim chooses to report, under Act 27 the kit cannot be tested without the victim's express consent to do so⁹. Prior to Act 27, there was no requirement for victim consent before a kit was sent to the lab.

Once evidence is collected, according to Act 27, the victim has no less than two years to decide whether to have the kit tested. During that time, Act 27 requires that law enforcement store the kit according to policies established by Pennsylvania State Police (PSP), in consultation with the Chiefs of Police Association and the Pennsylvania District Attorneys Association.

*Regardless of how a victim chooses to report, under Act 27 the kit **cannot be tested without the victim's express consent to do so.***

Prior to Act 27, there was no requirement for victim consent before a kit was sent to the lab.

⁸ <https://www.rainn.org/articles/rape-kit>. Accessed July 8, 2016.

⁹ 35 P.S. § 3(c)(1) "For those cases in which the victim has not yet consented to testing of the evidence, the evidence shall be preserved and stored for a period of no less than two years."

Many local police departments reported that they send all rape kits to a crime lab within a certain numbers of days of receiving it (most common is five to 10 days) regardless of victim consent to test it. However, this practice must end under the Act 27 rules.

Pennsylvania Sex Offense Statute of Limitations

CRIMINAL CHARGES

Criminal cases are filed by the state and must be proven **beyond a reasonable doubt**. Convicted offenders may face incarceration, fines, or both.

How old was the victim at the time of the abuse?

Over 18 years old
Adult victims of sexual assault have **12 YEARS** to report sexual assault in Pennsylvania.

Under 18 years old

A child victim whose 18th birthday is on or before August 27, 2002
Charges may be filed **12 years** after their 18th birthday. The last day to file charges is on their **30TH BIRTHDAY** regardless of when the abuse occurred.

A child victim whose 18th birthday is after August 28, 2002
Charges may be filed **32 years** after their 18th birthday. The last day to file charges is on their **50TH BIRTHDAY** regardless of when the abuse occurred.

However, some factors may extend the statute of limitations. Always consult a legal professional.

PCAR
PENNSYLVANIA COALITION AGAINST RAPE

An official with one of the state’s three major public crime labs said her office has been contacted by health care facilities, saying that local law enforcement agencies haven’t picked up completed rape kits from them. She said she was unclear why this was happening.

Jurisdictional issues might contribute to that problem, said Tom Gross, executive director of the Pennsylvania Chiefs of Police Association. “Hospitals might not properly identify where a crime happened,” he said, so the correct agency might not necessarily be contacted first.

Gross said many larger law enforcement agencies and county detectives, “who do this regularly,” have established good relationships with hospitals and trauma centers. He also acknowledged that training still needs to occur to better educate officers, especially those in smaller departments, about how to properly handle sexual assault cases.

“We still have police departments not in 100 percent compliance with fingerprinting,” he said.

More than 100 agencies are accredited by the Chiefs of Police Association’s Pennsylvania Law Enforcement Accreditation Program, and more than half of all police officers in the commonwealth work in an accredited department, Gross said. Overall, police departments that are accredited have a higher level of training and compliance, he added.

To maintain accreditation, departments must be reassessed every three years for compliance with more than 100 standards, such as the use of force and Megan’s Law standards. To help enforce Act 27’s requirements, the accreditation commission is considering making compliance with the act part of the requirement for accreditation, Gross said.

There will be many barriers to full compliance. For instance, many police departments statewide are dealing with a shortage of resources and need to hire more officers. “They are very short-handed,” Gross said.

Keeping officers up to date on required training helps agencies deal with the staffing shortfall. Annually, officers in Pennsylvania must take 20 hours of training — 12 hours of general training and eight hours of firearms training. However, that 20 hours is a minimum, Gross said; most departments average 40 to 60 hours of training for officers each year.

Officers who specialize in sexual assaults often take an extra week or two of specialized training each year, Gross said.

“Investigators are better trained now than even five to 10 years ago,” he said.

Testing the kit

With rare exceptions, once they have received victim consent to be tested, rape kits are sent to one of three major public crime labs that provide accredited forensic services in Pennsylvania:

- **Philadelphia Office of Forensic Sciences**, which is part of the Philadelphia Police Department;
- **Allegheny County Office of the Medical Examiner**, which covers 137 local law enforcement agencies, including Pittsburgh; and
- **Pennsylvania State Police Bureau of Forensic Services**, which handles the rest of the state. (See “PSP’s crime labs” for locations.)

Evidence collected in the kit goes through two phases of testing. First is serology, which vets the samples to see if bodily fluids or other materials, such as skin under fingernails, are present. Once a kit goes through serology, if it has yielded positive results, then it is sent for DNA testing.

Turnaround times for a rape kit vary by lab:

- For PSP, the average at the time of reporting was approximately 185 days, according to Deb Calhoun, director of Scientific Services Division. However, cases that are given priority status can be turned around sooner, she said.
- For Philadelphia, a kit can be turned around in as little as two weeks, or it could take six months to a year, according to Michael Garvey, director of the Office of Forensic Services.

PSP’s crime labs

Pennsylvania State Police has six regional forensic crime labs:

- Bethlehem Regional Laboratory, Lehigh County
- Erie Regional Laboratory, Erie County
- Greensburg Regional Laboratory, Westmoreland County
- Harrisburg Regional Laboratory, Dauphin County
- Lima Regional Laboratory, Delaware County
- Wyoming Regional Laboratory, Wyoming County

Harrisburg offers the widest range of testing services, and Lima offers the most limited services.

PSP’s seventh lab, its only DNA lab, is in Greensburg, although it is physically separate from the regional lab.

PSP is also slated to build a new DNA lab in western Pennsylvania by 2020 to replace the existing Greensburg DNA lab. The new lab will have more space for equipment and personnel.

Types of testing

The three major public crime labs provide more than just DNA testing and serology analysis. Their services can also include:

- AFIS (Automatic Fingerprint Identification System)
- Firearms examination
- Drug identification
- Blood alcohol testing
- Trace evidence analysis

Because all the labs deal with a variety of cases, they must prioritize the order in which they process evidence.

Sara Bitner, of the Allegheny County Office of the Medical Examiner, offered this list for the order in which her lab tests evidence:

1. Cases that might involve serial offenders (either homicide or assault, for example)
2. Cases with upcoming court dates
3. Backlogged rape kits
4. Any priority cases identified by the largest agencies
5. Oldest case first

- In Allegheny County, there is a two-and-a-half-year backlog on all cases, including those not involving sexual assault, according to Sara Bitner, forensic biology manager and technical manager. Like the other labs, cases given priority status are completed sooner, she said.

DNA profiles generated by all three labs can be uploaded into CODIS, the FBI's Combined DNA Index System. CODIS, a database of genetic profiles, allows law enforcement to link crimes to each other and to link new crimes to convicted offenders.

Having the rape kit tested can be a "critical step" in any investigation, said PSP's Calhoun. "You need the DNA profile to upload into CODIS," Calhoun said. "Where serology identifies the body fluids, which can be incredibly important in corroborating victims' accounts, it's really the DNA that identifies who the perpetrator is."

At some point in this process — it varies by county and by individual case — the county district attorney's office is brought into the case, said Richard Long, head of the Pennsylvania District Attorneys Association. Regardless of when DAs join the investigation, communication among the SAFE/SANE, the law enforcement agency and the DA is critical for proper prosecution of a case.

DAs find rape kits most useful in cases of "stranger rape," where they need DNA to identify a suspect. If the identity of the perpetrator is known and the person is willing to plead to charges, then the DA might advise that the kit doesn't need to be run, Long said.

However, not testing every kit overlooks the benefits of CODIS, Long and the representatives of the three public labs agree. If every kit were tested and the results uploaded into CODIS, then more sexual assault cases could be solved because rapists tend to be serial criminals, though not always serial rapists, statistics show¹⁰.

The ideal timeframe for a DA to receive rape kit results is within weeks, not months, Long said. If a given case needs to be made a priority, DAs can currently ask labs to expedite the results and the labs will comply. In a case where the identity of a suspect is in question, a DA often waits until

¹⁰ <https://www.rainn.org/statistics/perpetrators-sexual-violence>. Accessed July 19, 2016.

rape kit results are back before filing charges, Long added; however, results must be back at least before the preliminary hearing because the results are key to tying the suspect to the crime.

Generally, once a kit has been tested, chain of custody requires that it be returned to the local law enforcement agency to be stored until a convicted perpetrator has been sentenced. (See “Chain of Custody,” page 15.)

History of testing

All three of the public crime labs are experiencing backlogs on all kinds of cases. At PSP, the backlog has increased over the years, Calhoun said.

Calhoun specifically counted the number of sexual assault cases submitted to her labs between September 2014 and June 2015 and compared the number to those submitted between September 2015 and June 2016. She found a 53 percent increase — an increase she attributes directly to Act 27.

The Allegheny County Office of the Medical Examiner has a two-and-a-half-year backlog on all kinds of cases, according to lab manager Bitner.

“So the type of work we do has doubled, and submissions are up fivefold over the last five years, and we have no more people to do the work.”

*—Sara Bitner,
Allegheny County Office
of the Medical Examiner*

Allegheny County has seen a fivefold increase in the overall number of cases they receive during the last five years, Bitner said. The main cause of such increases nationwide is what’s known as “the CSI effect,” meaning the effect that television shows such as “CSI: Crime Scene Investigation” have had on jurors. Nowadays, physical evidence linking a suspect to a crime is more critical than ever because juries want that level of proof before deciding to convict, Calhoun and Long agreed.

Pennsylvania State Police labs processed a total of 623 rape/sexual assault cases in 2015, Calhoun said.

The representatives of all three major public labs said they need more personnel to effectively process more cases per year.

In Allegheny County, for example, where there is a backlog of about 1,250 cases — including those that don’t involve sexual assault — from the 137 local law enforcement agencies that submit to it, there are nine

staff members to handle the total workload. Prior to the existence of DNA testing, the department had the same staffing level: nine people.

“So the type of work we do has doubled, and submissions are up fivefold over the last five years, and we have no more people to do the work,” Bitner said. In addition, the job has only gotten more complex, Bitner said, including work such as caring for the instrumentation.

To handle the increased workload, every person on staff — all of them county employees — handles multiple jobs, Bitner said. For example, she has three job titles: forensic biology manager, technical leader and alternate CODIS administrator. “We don’t have enough people,” she said. “If we had more people to separate out the jobs a little bit, we could do more things on a schedule.”

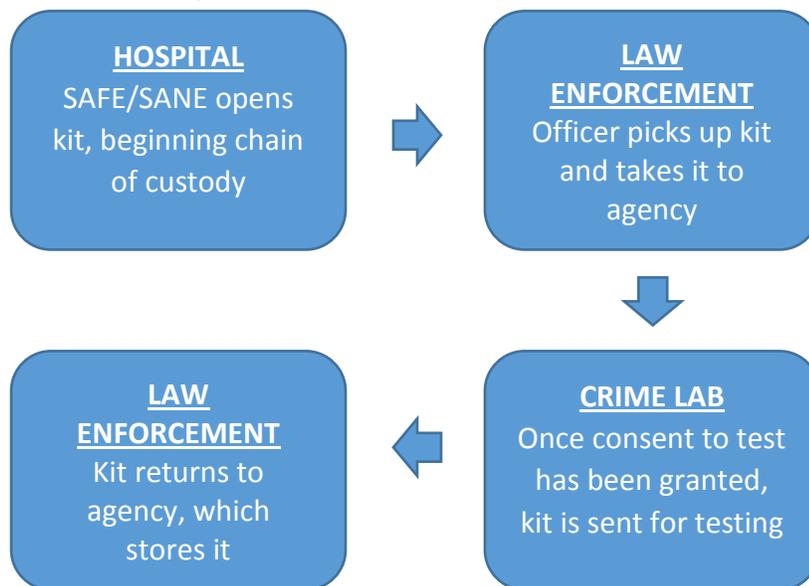
For PSP, the biggest challenge is not only having enough people, but also having enough space. Each of PSP’s six labs is maxed out in terms of space for staff, and yet the staffing level remains inadequate to

handle the increase in cases coming in. To effectively deal with the backlog of rape kits, PSP estimates it will need to add several more forensic scientists, Calhoun said.

If given the choice, PSP would prefer more lab space for more personnel over more equipment. The difficulty, Calhoun said, is that the quality of the forensic work cannot be diluted, so she can't simply make scientists work faster or work longer hours. As it stands now, most of her scientists work frequent overtime.

Like PSP, Philadelphia Office of Forensic Science could use more space first, then more personnel, to keep up with the ever-increasing workload. Garvey said he could arguably justify asking for more money to add staff, but he doesn't have anywhere to put them.

Chain of custody



In Pennsylvania, the chain of custody for a rape kit begins with the person who performs the forensic exam.

From the examiner or hospital, the kit is transferred to the local law enforcement agency in the correct jurisdiction, which must store the kit properly until the victim consents to having it tested. Under Act 27, victims have at least two years to decide on testing.

Once consent has been granted, the chain of custody goes to the crime lab that performs the serological and DNA testing on the kit's contents.

Once testing is complete, the kit is returned to the local law enforcement agency to be stored until a convicted perpetrator has been sentenced.

Each person in the chain must sign and mark the date and time on the box when giving it to the next person. That person must also sign and mark the date and time.

One factor that adds to the turnaround times for cases is that it takes up to 18 months for new hires to be fully trained, so PSP and Philadelphia constantly have sets of trainees.

“We have a plan in place, through outsourcing and efficiencies ... to catch up while keeping up with the current caseload,” Garvey said.

Outsourcing kits to private labs is one way to handle the backlog; in fact, both Philadelphia and Allegheny County have already outsourced some of the kits they reported as backlogged. (See “Act 27 Future Requirements,” page 23.) On average, it costs \$1,000 to \$1,500 to test a rape kit¹¹.

Though outsourcing might seem to be a magic solution, caution is advised. Calhoun said PSP no longer outsources samples because of a bad experience with the process in the early 2000s. Officials found that the quality of the work wasn’t acceptable and that the amount of work required both before and after sending out the samples didn’t result in significant time or cost savings.

Paying for testing: Lab user fee

One solution to help provide money to cover the cost of testing rape kits is the lab user fee. Though it’s a complicated process, essentially this term refers to having a convicted perpetrator pay for the kit’s testing as part of his or her restitution.

However, with 67 counties, there are 67 ways of collecting and enforcing payment, according to Pennsylvania State Police. The general rate of return is roughly 10 percent; in some counties, the rate of return is 1 percent, and in others it’s 40 percent.

The main problem is that collecting the fee is a complex, convoluted process that involves several governmental entities. However, if labs can recover more money from offenders, they can pay to expand and add more staff to identify more offenders.

¹¹ Joyful Heart Foundation. <http://www.endthebacklog.org/backlog/why-backlog-exists>

Department of Health report

Act 27 reporting requirements

Act 27 of 2015 required two different rape kits counts in 2016: backlogged and initial inventory.

All of Pennsylvania’s approximately 1,100 local law enforcement agencies were required by law to report the number of kits in their possession, even if that number was zero. Yet, according to DOH’s April report, only 338 local law enforcement agencies submitted information about their untested rape kits.

However, according to Footnote 5 on Page 3 of DOH’s report, PSP reported for all of the 1,698 municipalities it serves (1,287 full-time and 411 part-time). Therefore, more than 338 local law enforcement agencies were accounted for, but determining an exact number is impossible.

Backlogged kits

The first count was designed to be a look at the number of “backlogged” rape kits in the possession of law enforcement agencies and testing laboratories. Under the Sexual Assault Testing and Evidence Collection Act of 2006 (SATEC), a backlogged kit is defined as “sexual assault evidence that is awaiting testing for 12 months or more.”¹² Evidence is defined in Act 27 as “awaiting testing” if it meets the following criteria (emphasis added):

- “(1) Has been collected and is in the possession of a local law enforcement agency.
- (2) Has not received DNA and other appropriate forensic analyses.
- (3) Is related to a criminal case of investigation in which final disposition has not been reached.
- (4) Should undergo DNA or other appropriate forensic analysis as determined by a local law enforcement agency.”¹³

“Final disposition” is defined in Act 27 as follows:

- (1) “A conviction or acquittal of all suspected perpetrators of the crime involved;
- (2) A determination by the local law enforcement agency in possession of the sexual assault evidence that the case is unfounded; or
- (3) A declaration by the victim of the crime involved that the act constituting the basis of the crime was not committed.”¹⁴

Agencies and labs were given until Jan. 31, 2016, to report all backlogged kits in their possession as of Dec. 31, 2015.

In its April 2016 report¹⁵, DOH said it received a final tally of 1,852 backlogged kits. Of that number, 1,574 — or 85 percent — of the kits resided in the Philadelphia Office of Forensic Science. Two hundred sixteen law enforcement agencies reported zero backlogged kits.

¹² 35 P.S. § 10172.2

¹³ *Id.*

¹⁴ *Id.*

¹⁵ See Appendix B.

Here is a breakdown of which law enforcement agencies and crime labs had at least 20 backlogged kits, according to the DOH report:

Agency	Number of backlogged kits
Allegheny County Office of the Medical Examiner	29
Allentown Police Department	97
Altoona Police Department	68
Berks County detectives – Forensic Services unit	43
City of Easton Police Department	21
Norristown Police Department	99
Philadelphia Office of Forensic Science	1,294

Initial inventory

The second count, also called the “initial inventory,” was to be the number of all kits awaiting testing. Law enforcement agencies and labs had until March 7, 2016, to report all kits in their possession as of Sept. 7, 2015, that had not been tested.

Here is a breakdown of which law enforcement agencies and crime labs had at least 20 kits, according to the DOH report:

Agency	Number of kits
Allegheny County Office of the Medical Examiner	132
Allentown Police Department	127
Altoona Police Department	68
Berks detectives – Forensic Science unit	40
City of Easton Police Department	21
Norristown Police Department	100
Northern York County Regional Police	49
Pennsylvania State Police – Bureau of Forensic Services	279
Philadelphia Office of Forensic Science	1,574
Pocono Mountain Regional Police Department	32
Reading Police Department	101

However, the number DOH reported as the total initial inventory — 3,044 — did not necessarily reflect an accurate count.

Act 27 states that, for the backlogged and initial inventory counts, agencies were to count those kits that qualified as “awaiting testing.”¹⁶ However, the Department of Health, in its April 2016 report, stated in

¹⁶ 35 P.S. § 10172.3(d)(1) states, “Inventory. – (1) Within six months of the effective date of this subsection, each local law enforcement agency shall provide written notice to the department, in a form and manner prescribed by the department, stating the number of sexual assault cases under its jurisdiction before the effective date of this subsection for which evidence has not been submitted to a laboratory for analysis. A local law enforcement agency shall make arrangements with the department to ensure that all evidence *awaiting testing* [italics added] ... is submitted to an approved laboratory for testing and analysis within one year of the submission of notice to the department.”

Footnote 2 on page 1 that “(t)he SATEC does not define what constitutes inventory for the purpose of submitting data to the Department.”

During an April interview, a DOH attorney said getting a definition of what constitutes an “inventory” kit would be a priority for improving Act 27. During the same interview, Dr. James Lute, assistant bureau director for the Bureau of Laboratories — who served as the “hotline” when agencies called with questions about Act 27 — said he knew at least some agencies were reporting kits tied to cases that had already reached final disposition, meaning the case had been closed or a perpetrator had been sentenced.

The initial inventory count will not be repeated, so adding clarifying language in Act 27 would serve no useful purpose. For future years, beginning in 2017, Act 27 requires DOH to collect information only on the number of backlogged kits, which are clearly defined as those that meet the “awaiting testing” criteria.

Reporting requirement information

In preparation for the new Act 27 reporting requirements, at least three groups provided information to the roughly 1,100 local law enforcement agencies in Pennsylvania: PSP, DOH and the Chiefs of Police Association.

DOH first met with PSP, the Chiefs of Police Association and the District Attorneys Association. Then, DOH and PSP worked together to identify the list of law enforcement agencies and crime labs to contact.

DOH created a one-page bulletin¹⁷ that explained the reporting requirements. The bulletin began this way (bolding, capitalization and paragraph breaks are consistent with the document):

“On July 10, 2015, Governor Wolf signed Act 27 which amended the Sexual Assault Testing and Evidence Collection Act, 35 P.S. § § 10172.1-10172.5. The amended Act requires local law enforcement agencies and testing laboratories to submit an annual report to the Department regarding the status of laboratory testing of sexual assault evidence. The Act also requires an initial report by local law enforcement agencies of sexual assault evidence waiting testing and by laboratories of sexual assault evidence submitted for testing but not yet analyzed by the laboratory. **Initial reports must be submitted to the Department by Monday, March 7, 2016 that includes sexual assault evidence waiting testing or analysis as of September 7, 2015.** If no Inventory exists, an Initial report is still required to report that information to the Department by March 7, 2016.

“**Annual reports of Backlogged Evidence must be submitted by both entities to the Department annually by January 31 of the subsequent year.** Submission of an annual report is required even if no backlogged evidence exists.”

The document then listed the multiple tabs to choose on its website to find the two data forms it created — one each for agencies to report the number of kits they had that met the criteria for the initial inventory count and for the backlogged count¹⁸.

¹⁷ See Appendix D

¹⁸ See Appendix E

DOH followed up in July with a two-page letter¹⁹ to local law enforcement agencies that had not submitted their counts in 2016. After a full page again describing Act 27's requirements and the definitions of "awaiting testing" and "final disposition," it says, on the second page of the letter:

"It appears that your agency may not have submitted the necessary reports in accordance with Act 27. Because this is the first year that reporting is required, the Department is making a concerted, additional effort to obtain your information."

While DOH is to be commended for its efforts to educate crime labs and local law enforcement agencies about Act 27's requirements, its communications should have been clearer and easier to comprehend.

PSP also sent information to all 1,100 agencies about the need to report their untested rape kits to DOH by the specified deadlines. PSP's Calhoun speculated on two of the many issues that might have contributed to the low response rate.

First, because many of the state's local law enforcement agencies are so small, they likely don't have any rape kits waiting to be tested — although they were supposed to report zero to DOH under the Act 27 requirements.

Second, Act 27 provides no consequences if an agency doesn't comply and report its untested kits, so PSP and DOH were trying to enforce a law that has no clear consequences if it's not followed.

Gross, of the Chiefs of Police Association, said his organization also reached out to local law enforcement agencies to provide training on Act 27's requirements. The association has a Virtual Training Network (VTN) that provides online mandatory and elective training for about 8,000 to 10,000 officers in Pennsylvania. In fall 2015, the association posted a slideshow presentation with PSP voiceover to train officers on:

- The different statuses of rape kits (anonymously reported kits, backlogged kits, etc.),
- How to count them, and
- Required reporting to DOH.

Gross, who began at the association in February, said he wasn't sure how many questions his organization fielded before he began, but he did know that since DOH's April report, it had received "a lot" of questions.

"Most of them say, 'We didn't know we had to report,'" Gross said. "They didn't know if they had zero kits that they had to report zero. ... And some were just confused overall."

Problems with the DOH report

¹⁹ See Appendix D

Follow-up interviews with law enforcement agencies after the release of the DOH report yielded information that the report likely contained errors. In at least three instances, the DOH report did not accurately reflect tallies that had been reported.

For example, PSP's Calhoun provided proof her office reported 58 kits in the initial inventory category by the deadline, but the report did not list that number. Instead, the report shows a dash, indicating that no response was given. PSP's report for its Bureau of Forensic Sciences had a similar issue: Calhoun reported zero for the annual, or backlogged, kits, but the report again showed a dash.

In a similar situation, Pottstown Police Department's administrative manager, Chuck Lyle — who oversees the operational areas of police dispatch, evidence and records — said in June 2016 that his office had reported to DOH by the March 7, 2016, deadline that it had zero backlogged kits and zero inventory kits. However, Pottstown Police Department is not listed in the DOH report as having reported its numbers.

“Most of them (police chiefs) say, ‘We didn’t know we had to report.’ They didn’t know if they had zero kits that they had to report zero.”

—Tom Gross, Pennsylvania Chiefs of Police Association

Discrepancies such as these bring into question the accuracy of the number of rape kits awaiting testing in Pennsylvania. At the very least, adding PSP's 58 inventory kits to the DOH inventory total of 3,044 brings the number to 3,102.

Other local law enforcement agencies not listed in the report gave varying reasons for why they did not report to DOH.

Harrisburg City Police Sgt. Todd Abromitis, who is in charge of the evidence room, said in June that he had taken over the job early in 2016 and was unaware of Act 27's reporting requirements. His predecessor started to compile the information but didn't finish it, he said, and then left without discussing it with him. To the best of his knowledge, Harrisburg City does not have any rape kits — either recent or backlogged — awaiting testing because it is HPD's policy to send all rape kits out for testing immediately, regardless of victim consent, Abromitis said.

Harrisburg's policy is an example of a practice that is no longer legal under Act 27. Under the act, the victim must give consent for a kit to be tested before it can be sent to a crime lab²⁰.

An official with Upper Darby Township Police Department in Delaware County said his office did not report any kits to DOH because it had zero kits as of Sept. 7, 2015. He said he had been told that he did not need to report to DOH if the number was zero.

In Greensburg, Westmoreland County, the police department had turnover at the levels of chief and captain. The new captain said in June 2016 he had the necessary paperwork but had not yet handled the

²⁰ 35 P.S. §10172.3(c)(1) "... The local law enforcement agency shall take possession of the sexual assault evidence within 72 hours of receiving notice. For those cases in which the victim has not yet consented to testing of the evidence, the evidence shall be preserved and stored for a period of no less than two years, unless consent is provided before that period."

required reporting. He also said he believed the department had an inventory of about 15 kits, but he did not know how old they were.

Lower Paxton Township Police, in Dauphin County, also did not report its numbers to DOH. In that case, the department wanted to establish contact with DOH before sending the information, but their calls were never returned, an official said. However, the department did find eight backlogged rape kits — the oldest two of which were from 2008 — that would be sent out for testing. Lower Paxton is altering its policies and procedures to comply with Act 27, the official said. For example, once consent is granted, all kits will now be sent to PSP for testing; previously, the department did not send kits to be tested if there was a known suspect in a case, he said.

DOH officials said in April that they found it difficult to meet the mandated requirements of Act 27 without any additional resources having been allotted. Lute, the assistant bureau director who served as the point of contact for local law enforcement agencies, said he felt it was an accomplishment getting nearly 350 agencies to report the first year “given the manpower we have available.”

PSP’s Calhoun said in February that she didn’t expect the DOH report to provide a “perfect picture of what we have out there.”

“But it’s going to give us a rough idea, better than we ever had before,” she said.

Act 27 future requirements

Reported kits

Act 27 gives local law enforcement agencies until March 7, 2017, to send all untested kits that have received consent for testing in their possession to an approved crime lab. Labs then have three years from the date of submission to complete testing on the kits²¹.

This requirement means that crime labs must process at least 3,102 rape kits by March 7, 2020.

The representatives of the three major public crime labs were generally uncertain whether their labs would be able to handle the additional workload. In all three labs, underfunding and understaffing are causing problems that are leading to backlogs on cases of all kinds (See “History of testing,” page 14).

The major concern is where the money will come from to pay for the testing of these kits. Act 27 clearly states that “(t)he cost of testing or analysis shall not be the responsibility of the Pennsylvania State Police.”²² Logically, this edict also extends to Philadelphia’s crime lab and to the Allegheny County Office of the Medical Examiner.

So who is to pay for the testing of these kits? When it passed the legislation that became Act 27, the General Assembly did not appropriate funding to ensure the costs associated with testing were covered.

DANY grants

In Philadelphia and Allegheny County, grants made available through the New York County District Attorney’s Office (DANY) are already helping alleviate the backlog.

In September 2015, the Manhattan District Attorney’s Office announced that 32 jurisdictions nationwide were to split \$38 million in funding to help eliminate the backlog of untested rape kits. Philadelphia was awarded \$419,788 to test 600 rape kits, and Allegheny County was awarded \$254,000 to test 400 rape kits²³.

More about the DANY grants

The \$38 million that the New York County District Attorney’s Office (DANY) made available came from asset forfeiture cases, according to manhattanda.org.

After an application process, 32 jurisdictions in 20 states were awarded DANY money to reduce their backlogs of untested rape kits.

The top grant recipients were as follows:

1. **Georgia Criminal Justice Coordinating Council**, \$1,999,982 for 3,108 kits
2. **Wisconsin Department of Justice**, \$1,999,967 for 2,500 kits
3. **Ohio Attorney General Bureau of Criminal Investigation**, \$1,998,300 for 2,630 kits
4. **Michigan State Police**, \$1,996,991 for 3,630 kits
5. **Las Vegas Metropolitan Police Department**, \$1,995,874 for 2,970 kits

²¹ 35 P.S. § 10172.3(d)(1)

²² 35 P.S. §10172.3(b)(1)

²³ <http://manhattanda.org/sites/default/files/Manhattan%20DA%20Grant%20Recipients.pdf>

The money allows both labs to outsource the testing of these kits to private labs, which are reimbursed about \$600-\$700 per kit.

In Allegheny County, Bitner, the forensic biology manager and technical leader, said she saw that Pennsylvania was moving toward requiring testing of backlogged sexual assault kits, so she researched and applied for the DANY grant specifically to help pay for the office's kits. The Office of the Medical Examiner then went through a full, open bid process, which was finalized in February 2016, Bitner said. In April 2016, she then went out and inspected the lab that was selected to fulfill accreditation requirements.

On May 24, 2016, Bitner said, the office outsourced its first batch of 50 kits. Its third batch of kits was sent out July 12, she said. Bitner was planning to send shipments in 50-kit increments every month until "either the money runs out or we run out of kits." According to the tally the office provided to DOH, the office had 161 inventory kits that needed to be tested and 29 backlogged kits (had been awaiting testing for at least 12 months).

But outsourcing the kits doesn't absolve Bitner's lab from having to perform any work on them. In fact, her staff had to prepare the kits to be sent out, although they didn't require any special overtime to complete those tasks, she said. However, the majority of the work will take place once the kits return from the private labs: Each case with a CODIS-suitable profile will undergo a technical review to ensure the evidence was handled properly, and then all suitable DNA results will be uploaded into CODIS.

That process will be more time-consuming, Bitner said. Again, if her staff needs overtime to complete the reviews and DNA uploading, then they can use the DANY money to cover it.

Garvey, director of the Philadelphia Office of Forensic Science, said the DANY money was released in April, and Philadelphia began outsourcing kits in May. His plan is to have two private labs test 600 to 625 kits during the two-year grant period.

That will take care of about 50 percent of the 1,294 backlogged kits the lab reported to DOH.

Garvey concurred that outsourcing the kits for testing still requires his staff to spend time with the kits. He said he had to take staff members off doing DNA tests to prepare the backlogged kits — some dated as far back as the 1990s — to be sent to the private labs. Finding time for his staff to prep the kits has been burdensome, he said, and he expects the same review and DNA uploading process when the kits return.

"It's very easy to pass requirements," but it's difficult to execute the changes contained in those requirements without additional resources, Garvey said.

"Forensic science within (Pennsylvania) and throughout the U.S. has continually been asked to provide increased services, often mandated by legislation," Garvey said via email. "However, the resources allocated to forensic science have seen minimal growths. The goal of the government should be to provide quality forensic results from accredited forensic labs within 30 days for all forensic evidence, which would greatly enhance investigations to exonerate the innocent and identify the true perpetrators of crime."

PSP chose not to apply for a DANY grant, Calhoun said, after determining that the requirements to oversee and track each case through final disposition would be too difficult because the majority of the cases PSP processes are from local law enforcement agencies, not PSP itself.

Federal funding

Allegheny County should be able to pay for testing all of its backlogged kits, and Philadelphia should be able to test about 50 percent of its kits thanks to DANY money. But what about the other half of the backlogged kits in Philadelphia and all of the kits that PSP will have to process? Where will the money come from for that?

Enter the complex land of federal funding.

All three major public crime labs already receive federal funding each year, much of it specifically designated to help them test DNA evidence and reduce backlogs in all kinds of cases. Most notably, PSP, Philadelphia and Allegheny County labs have all received money for years through what is now called the National Institute of Justice's (NIJ's) DNA Capacity Enhancement and Backlog Reduction Program²⁴.

According to the 2015 program description overview:

"The goal ... is to assist eligible States and units of local government to process, record, screen, and analyze forensic DNA and/or DNA database samples, and to increase the capacity of public forensic DNA and DNA database laboratories to process more DNA samples, thereby helping to reduce the number of forensic DNA and DNA database samples awaiting analysis.

"Under this program, in general, eligible applicants are given the opportunity, based on their individual needs, to determine what portion of their anticipated funding should be used for capacity building purposes and what portion should be used for analysis of forensic DNA and/or DNA database samples."

Debbie Smith Act money is specifically designated for the testing of rape kits and uploading of any DNA found into CODIS.

Increasing the "capacity of public forensic DNA ... laboratories" specifically refers to adding staff or equipment, according to Lisa Hurst, a federal DNA funding expert and government affairs attorney for Washington, D.C.-based law firm Gordon Thomas Honeywell. It does not cover adding lab space or augmenting current staff salaries, she added, noting that the federal government rarely provides grant money for capital expenses such as construction.

Rolled into the DNA Capacity Enhancement and Backlog Reduction Program money is the funding provided through the Debbie Smith DNA Backlog Grant Program. Debbie Smith Act money is specifically designated for the testing of rape kits and uploading of any DNA found into CODIS²⁵.

The Debbie Smith Act was first signed into law in 2004; it was reauthorized in 2008 and in 2014. Under the 2014 reauthorization, Congress is to make available up to \$151 million annually to state and local crime labs. However, the \$151 million is the maximum amount that can be allotted; for fiscal year 2016, for example, Congress chose to make only \$117 million available, Hurst said.

That \$117 million is given to the NIJ, which administers the grant through the DNA Capacity Enhancement and Backlog Reduction Program. As of June 2016, NIJ had allotted only about \$67 million of the funding for

²⁴ The program has also been called the "Forensic DNA Backlog Reduction Program" (2011) and the "DNA Backlog Reduction Program" (2012-2014).

²⁵ 42 U.S.C.A. § 14135(a)(2)

the nation’s 130 to 140 individual public crime labs, Hurst said. Currently, funding levels are based solely on population and Part 1 violent crime statistics²⁶. Previously, the NIJ had considered backlogs as part of the formula, but it no longer does so.

Here’s a look at the federal amounts each of the three major public crime labs have received over the last five years²⁷:

Federal DNA Capacity Enhancement and Backlog Reduction Program funding

	2011	2012	2013	2014	2015
Allegheny County Office of the Medical Examiner	\$341,929	\$290,221	\$294,049	\$287,699	\$271,948
PSP	\$1,662,908	\$1,400,794	\$1,359,857	\$1,282,982	\$1,177,154
Philadelphia	\$1,146,517	\$1,000,761	\$1,069,271	\$1,021,202	\$966,068

Generally, the funding has decreased overall for all three crime labs during the last five years, largely because the NIJ is slowly reducing the amounts of money it awards, Hurst said.

In Allegheny County, the Office of the Medical Examiner Forensic Biology Section functions largely off federal grant money, such as the DNA backlog reduction program, Bitner said. The department uses the money to buy supplies and to pay for staff overtime.

Other federal funding sources to help pay for rape kit backlogs include the Sexual Assault Kit Initiative, or SAKI, administered through the U.S. Department of Justice’s Bureau of Justice Assistance. According to the SAKI website, none of the three major public crime labs in Pennsylvania was among recipients of funding for 2015²⁸. Numbers for 2016 had not been released as of Aug. 18, 2016.

State funding — or lack thereof

Pennsylvania provides no funding to test any rape kits, regardless of whether they are backlogged. Funding for the three major crime labs comes from a myriad of sources, and only portions of it can be used for DNA analysis and forensic lab work.

Hurst said her impression is that Pennsylvania, especially PSP, is “particularly underfunded” when it comes to money for DNA analysis and forensic lab work. That means that the three public crime labs are already underfunded when compared with their peers nationwide and are, therefore, already stretching funding dollars as far as they will go.

“(State) legislators need to understand that labs are doing everything they can with the money they’re receiving from federal as well as state sources,” Hurst said.

²⁶ According to Uniform Crime Reporting standards, eight crimes are considered Part 1 violent crimes: murder and non-negligent homicide, rape, robbery, aggravated assault, burglary, motor vehicle theft, larceny-theft, and arson.

²⁷ Data is from www.nij.gov/funding/awards. Accessed on June 30, 2016.

²⁸ <https://www.bja.gov/funding/SAKI-Funding-Summary.pdf>

In other states that have obtained a count of backlogged rape kits, some legislatures have then provided funding for those kits to be tested, Hurst said²⁹.

“If testing rape kits is important to (Pennsylvania), they (legislators) need to step up to the plate and pay for it,” Hurst said.

Future kits

Act 27 provides a timeline for the collection and testing of each rape kit going forward. Much of it is straightforward; however, there is some ambiguous language in the law.

The provisions are as follows³⁰:

1. “As soon as practical,” a health care facility must notify the correct local law enforcement agency that a rape kit is awaiting pickup.
2. Law enforcement agencies must collect kits from health care facilities within 72 hours of being notified.
3. Law enforcement agencies must submit a kit to an approved public crime lab for testing within 15 days of obtaining written consent for testing from the victim.
4. The lab has six months, “if possible,” to complete the testing and return results.

“As soon as practical” and “if possible” are examples of ambiguous language in the provisions. The act does not provide a definition for “as soon as practical,” nor does it describe what is to happen if a lab is unable to test a kit within the six-month timeframe.

In fact, with the increase in the number of kits that are being submitted, representatives of the three major public crime labs expressed concern about being able to meet that turn-around deadline. Allegheny County’s Bitner expressed the most concern, saying that the lab’s lack of resources will make hitting the turnaround time “difficult.” (See “History of testing, page 14.)

Act 27 also provides a requirement that local law enforcement agencies and crime labs must report backlogged kits to the Department of Health annually by Jan. 30, and DOH must post a report on the backlogged kits by April 30.

²⁹ Examples of states that have provided funding include Texas, which provided \$10.8 million in 2014-15 to test about 20,000 kits; and Colorado, which provided \$7 million in 2013 to test approximately 6,000 kits.

³⁰ 35 P.S. §10172.3(c)

Conclusion

Ensuring the testing of all rape kits tied to open cases is a complex process that involves multiple stakeholders: the victim, victim advocates, SAFEs/SANEs, law enforcement agencies, crime labs, the state government and the federal government.

Despite challenges that exist at every stage in the process, Pennsylvania's best approach to its untested rape kits is to test every kit that has received victim consent, regardless of whether the perpetrator is known.

It is only through a comprehensive approach to testing these kits that sexual offenders can be found and brought to justice — and that repeat sexual offenders can be more easily identified by utilizing the FBI's CODIS database.

As Garvey, director of the Philadelphia Office of Forensic Science, said, Pennsylvania's approach needs to focus on one simple fact:

"Every kit has value."

Acknowledgements

The Department of the Auditor General would like to acknowledge the contributions of the following individuals and organizations:

Allegheny County Office of the Medical Examiner

District Attorneys Association

Gordon Thomas Honeywell

International Association of Forensic Nurses — Pennsylvania Chapter

Joyful Heart Foundation

Pennsylvania Chiefs of Police Association

Pennsylvania Coalition Against Rape

Pennsylvania Department of Health

Pennsylvania Fraternal Order of Police

Philadelphia Police Department Office of Forensic Science

Pennsylvania State Police

Rep. Brandon Neuman

The valuable insights and information provided by experts from each of these organizations were crucial to the department's ability to create this report.

Recommendations

1. The state should provide funding to pay for more resources, such as staff members and technological equipment, to ensure all backlogged rape kits are tested within the three-year timeframe and to ensure future kits can be tested within six months of submission.
2. The state should appropriate funding so that the Department of Health can provide more resources to gather the data on backlogged rape kits as required annually by Act 27.
3. Pennsylvania State Police, Philadelphia Office of Forensic Science and Allegheny County Office of the Medical Examiner should continue to search and apply for federal funding to help pay for sufficient staff and adequate technological equipment to ensure all backlogged rape kits are tested within the three-year timeframe and to ensure future kits can be tested within six months of submission.
4. Minority and majority members of the House and Senate Judiciary and Health committees; representatives from the state Department of Health, Pennsylvania State Police, Philadelphia Office of Forensic Science, the Allegheny County Office of the Medical Examiner; and other stakeholder groups as needed should form a commission that meets to discuss exactly what resources and funding need to be made available for all state and local agencies to fully comply with Act 27's requirements. The commission should produce a report of its results to present to the General Assembly by Feb. 1, 2017.
5. DOH should establish a hotline for hospitals to call if a rape kit is not picked up within the specified time period of 72 hours. Information about calls to that hotline should be shared with appropriate local law enforcement agencies and with the Pennsylvania Chiefs of Police Association to encourage increased compliance.
6. DOH must work more closely with law enforcement associations such as Pennsylvania State Police and the Chiefs of Police Association to establish regular, effective communication of Act 27's requirements.
7. The state should explore penalties — such as withholding of state aid, if applicable — for those law enforcement agencies that do not comply with Act 27's requirements.
8. The General Assembly should amend Act 27 to clarify ambiguous language such as “as soon as practical” and “if possible.”
9. The Pennsylvania Law Enforcement Accreditation Program commissioners should revise accreditation standards to include complying with Act 27 as a requirement for accreditation or reaccreditation.
10. Local law enforcement agencies must cease sending all kits regardless of victim consent to crime labs for testing and instead send only those rape kits that have received written victim consent to test.

Appendix A

SEXUAL ASSAULT TESTING AND EVIDENCE COLLECTION ACT - TITLE, DEFINITIONS AND FOR SEXUAL ASSAULT EVIDENCE COLLECTION PROGRAM, AND FOR RIGHTS OF SEXUAL ASSAULT VICTIMS

Act of Jul. 10, 2015, P.L. 142, No. 27

Cl. 18

Session of 2015

No. 2015-27

HB 272

AN ACT

Amending the act of November 29, 2006 (P.L.1471, No.165), entitled "An act providing for a sexual assault evidence collection program and for powers and duties of the Department of Health and the Pennsylvania State Police; and establishing civil immunity," further providing for the title of the act, for definitions and for sexual assault evidence collection program; and providing for rights of sexual assault victims.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title of the act of November 29, 2006 (P.L.1471, No.165), known as the Sexual Assault Testing and Evidence Collection Act, is amended to read:

AN ACT

Providing for a sexual assault evidence collection program and for powers and duties of the Department of Health and the Pennsylvania State Police; [and] establishing civil immunity; **and providing for rights of sexual assault victims.**

Section 2. Section 2 of the act is amended by adding definitions to read:

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Awaiting testing." With respect to sexual assault evidence, evidence that meets all of the following:

- (1) Has been collected and is in the possession of a local law enforcement agency.**
- (2) Has not received DNA and other appropriate forensic analyses.**
- (3) Is related to a criminal case or investigation in which final disposition has not been reached.**

(4) Should undergo DNA or other appropriate forensic analysis as determined by a local law enforcement agency.

"Backlogged evidence." Sexual assault evidence that is awaiting testing for 12 months or more.

* * *

"CODIS." The Combined DNA Index System established and maintained by the Federal Bureau of Investigation.

* * *

"Department." The Department of Health of the Commonwealth.

"Final disposition." With respect to a criminal case or investigation to which sexual assault evidence relates, any of the following:

- (1) The conviction or acquittal of all suspected perpetrators of the crime involved.**
- (2) A determination by the local law enforcement agency in possession of the sexual assault evidence that the case is unfounded.**

(3) A declaration by the victim of the crime involved that the act constituting the basis of the crime was not committed.

"Local law enforcement agency." A police department of a city, borough, incorporated town or township, a regional police department, the Pennsylvania State Police or campus police.

* * *

"Sexual assault evidence." Rape kit evidence collected by a hospital or health care facility under the minimum standards published pursuant to 28 Pa. Code § 117.52(a)(1) (relating to minimum requirements for sexual assault emergency services).

* * *

Section 3. Section 3 of the act is amended to read:

Section 3. Sexual assault evidence collection program.

(a) Establishment.--There is hereby established a Statewide sexual assault evidence collection program to promote the health and safety of victims of sexual assault and to facilitate the prosecution of persons accused of sexual assault. This program shall be administered by the [Department of Health] **department**. Under this program the [Department of Health] **department** shall:

(1) Consult with PCAR and the Pennsylvania State Police to develop minimum standard requirements for all rape kits used in hospitals and health care facilities in this Commonwealth.

(2) Test and approve commercially available rape kits for use in this Commonwealth.

(3) Review the minimum standard requirements for rape kits and prior-approved rape kits every three years to assure that rape kits meet state-of-the-art minimum standards.

(4) Consult with PCAR, the Pennsylvania State Police, the International Association of Forensic Nurses, the Hospital and Healthsystem Association of Pennsylvania and any local SART to establish a program to train hospital, child advocacy center and health care facility personnel in the correct use and application of rape kits in order to maximize the health and safety of the victim and the potential to collect useful admissible evidence to prosecute persons accused of sexual assault.

(5) Approve, with concurrence from the Pennsylvania State Police and in consultation with PCAR, certain laboratories to receive sexual assault evidence for testing and analysis under subsection (c). The department shall establish guidelines on the criteria that a laboratory must meet to be approved under this paragraph within six months of the effective date of this paragraph. Laboratories which have been approved by the Federal Bureau of Investigation to access CODIS or an equivalent federally administered national DNA database shall be automatically approved to receive sexual assault evidence for testing and analysis under subsection (c).

(b) Duties of Pennsylvania State Police.--

(1) When requested by a local law enforcement **agency**, district attorneys or the Office of Attorney General, the Pennsylvania State Police shall ensure that the analysis and laboratory testing of collected evidence, including samples that may contain traces of a date rape drug, are accomplished. The cost of the testing or analysis shall not be the responsibility of the Pennsylvania State Police.

(2) The Pennsylvania State Police shall include, as part of existing training programs for local law enforcement **agencies**, training to ensure that the chain of custody of all rape kits is established to minimize any risk of tampering with evidence included in the rape kit and to ensure that all useful and proper evidence in addition to the rape kit is collected at the hospital or health care facility.

(c) Submission and analysis.--The following shall apply to all sexual assault evidence obtained by a health care facility, at the request or consent of the victim, on or after the effective date of this subsection:

(1) As soon as practical, the health care facility shall notify the local law enforcement agency of the jurisdiction where the reported sexual assault occurred. The local law enforcement agency shall take possession of the sexual assault evidence within 72 hours of receiving notice.

For those cases in which the victim has not yet consented to testing of the evidence, the evidence shall be preserved and stored for a period of no less than two years, unless consent is provided before that period. The Pennsylvania State Police, in consultation with the Pennsylvania Chiefs of Police Association and the Pennsylvania District Attorneys Association, shall establish policies for local law enforcement agencies relating to the storage and preservation of the evidence.

(2) If a victim wishes to consent to the testing of the sexual assault evidence, the victim or a victim advocate acting at the victim's direction shall provide written notice to the local law enforcement agency and the district attorney of the jurisdiction where the reported sexual assault occurred.

(3) Within 15 days of receiving written notice of consent to the testing of the sexual assault evidence, the local law enforcement agency shall submit the evidence awaiting testing to a laboratory approved by the department for testing or analysis. The district attorney, in consultation with the local law enforcement agency, shall establish policies and procedures to ensure that timely submission of the evidence has occurred. Except for cases in which the local law enforcement agency and the laboratory are the same entity, each submission of evidence shall be accompanied by the following signed certification:

This evidence is being submitted by (name of local law enforcement agency) in connection with a reported sexual assault and must be completed within six months of receipt.

(4) A laboratory shall complete the testing or analysis of all sexual assault evidence submitted pursuant to this section within six months from the date of receipt of the evidence, if possible. Backlogged evidence shall be reported as such by the laboratory to the department and to the local law enforcement agency that submitted the evidence.

(5) The failure of a health care facility or local law enforcement agency to submit the sexual assault evidence in accordance with paragraph (1) or (3) shall not alter the authority of a local law enforcement agency to submit the evidence or the authority of a laboratory approved by the department to accept and analyze the evidence.

(d) Inventory.--

(1) Within six months of the effective date of this subsection, each local law enforcement agency shall provide written notice to the department, in a form and manner prescribed by the department, stating the number of sexual assault cases under its jurisdiction before the effective date of this subsection for which evidence has not been submitted to a laboratory for analysis. A local law enforcement agency shall make arrangements with the department to ensure that all evidence awaiting testing that was collected prior to the effective date of this subsection is submitted to an approved laboratory for testing and analysis within one year of the submission of notice to the department. A laboratory shall complete the testing or analysis of the evidence as soon as possible, but no later than three years from the date of submission of the evidence to the laboratory.

(2) Within six months of the effective date of this subsection, each testing laboratory shall provide written notice to the department, in a form and manner prescribed by the department, stating the number of sexual assault cases under its jurisdiction before the effective date of this subsection for which evidence has not been analyzed.

(e) Backlogged evidence.--

(1) Each laboratory and local law enforcement agency must annually report backlogged evidence data in their possession to the department no later than January 31.

(2) The department shall obtain backlogged evidence data from a laboratory or local law enforcement agency if the laboratory or local law enforcement agency fails to report its backlogged evidence as required by paragraph (1).

(3) Provided backlogged evidence data exists, the department shall compile all of the data into a report. The report shall be posted on the department's publicly accessible Internet website by April 30 of each year. The report shall also be issued to the General Assembly by April 30 of each year.

Section 4. The act is amended by adding a section to read:

Section 5. Rights of sexual assault victims.

(a) General rule.--In addition to the rights provided under the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act, a sexual assault victim, guardian of a sexual assault victim or close relative of a deceased sexual assault victim shall have all of the following rights, if requested by the victim, guardian or relative:

(1) The right to a disclosure of information regarding the submission of any evidence for forensic testing that was collected from the victim during the investigation of the offense, unless disclosing the information would interfere with the investigation or prosecution of the offense, in which case the victim, guardian or relative shall be informed of the estimated date on which the information is expected to be disclosed, if known.

(2) The right to a disclosure of information regarding the status of any analysis being performed on any evidence that was collected during the investigation of the offense.

(3) The right to be notified:

(i) at the time a request is submitted to a crime laboratory to test and analyze any evidence that was collected during the investigation of the offense;

(ii) at the time of the submission of a request to compare any biological evidence collected during the investigation of the offense with DNA profiles maintained in CODIS, or any other federally administered national DNA database, or a state DNA database; and

(iii) of whether the comparison provided under subparagraph (ii) resulted in a match, unless disclosing the results would interfere with the investigation or prosecution of the offense, in which case the victim, guardian or relative shall be informed of the estimated date on which the results are expected to be disclosed, if known.

(b) Notification.--

(1) A victim, guardian or relative who requests to be notified under subsection (a)(3) must provide a current address and telephone number to the attorney representing the Commonwealth and to the local law enforcement agency that is investigating the offense. The victim, guardian or relative must inform the attorney representing the Commonwealth and the local law enforcement agency of any change in the address or telephone number.

(2) A victim, guardian or relative may designate a person, including an entity that provides services to victims of sexual assault, to receive any notice requested under subsection (a)(3).

(c) Definition.--As used in this section, the term "close relative of a deceased sexual assault victim" means an individual who:

(1) was the spouse of a deceased sexual assault victim at the time of the victim's death; or

(2) is a parent or adult brother, sister or child of a deceased sexual assault victim.

Section 5. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) The addition of section 3(a)(5) of the act.

(ii) This section.

(2) The remainder of this act shall take effect in 60 days.

APPROVED--The 10th day of July, A.D. 2015.

TOM WOLF

Appendix B

Pennsylvania Report on Untested Sexual Assault Kits and Backlogged Evidence

April 2016

The Sexual Assault Testing and Evidence Collection Act (SATEC) was amended on July 10, 2015, with the passage of Act 27. Pursuant to Section 10172.3 of SATEC, as amended, local law enforcement agencies¹ were required to submit to the Pennsylvania Department of Health (Department) the number of sexual assault kits: (1) in their inventory not yet submitted to a laboratory for testing as of September 7, 2015;² and (2) any backlogged evidence.³ See 35 P.S. §§

A local law enforcement agency is defined as "[a] police department, of a city, borough, incorporated town or township, a regional police department, the Pennsylvania State Police or campus police." 35 P.S. § 10172.2.

² The SATEC does not define what constitutes inventory for the purpose of submitting data to the Department.

³ SATEC defines backlogged evidence as "[s]exual assault evidence that is awaiting testing for 12 months or more." 35 P.S. § 10172.2. Evidence is awaiting testing if it meets all of the following conditions: "(1) Has been collected and is in the position of a local law enforcement agency; (2) Has not received DNA and other appropriate forensic analyses; (3) Is related to a criminal case or investigation in which final disposition has not been reached; (4) Should undergo DNA or other appropriate forensic analysis as determined by a local law enforcement agency." *Id.* Notably, a case or investigation has reached final disposition if: (1) a conviction or acquittal of all suspected perpetrators of the crime involved; (2) a local law enforcement agency in possession of the sexual assault evidence has determined that the case is unfounded; or (3) a declaration by the victim that a sexual assault has, in fact, not occurred. *Id.*

10172.3(d)(1), (e)(1). In addition, each testing laboratory used by a local law enforcement agency was required to submit the same information to the Department. *See* 35 P.S. §§ 10172.3(d)(2), (e)(2).

By April 30, 2016, and each year thereafter, the Department is required to compile the submitted data and publish a report summarizing the information submitted by the local law enforcement agencies. *See* 35 P.S. § 10172.3(e)(3). The Department's annual report -one of among many of Act 27's fundamental changes – is intended to provide a comprehensive view of the number of untested sexual assault kits in the Commonwealth and to ensure that those kits are tested in a timely fashion. *See* Attachment 1.⁴ This, in part, will ensure that sexual assault data is uploaded into the requisite federal database to help solve related sexual assault cases. *Id.*

In an effort to ensure that the Department received accurate and complete information prior to its April 30, 2016 deadline, the Department communicated electronically with local law enforcement agencies regarding the need to file inventory and backlogged evidence reports, made the necessary reporting forms available on its website, and published notice of the reporting requirement in the Pennsylvania Bulletin. Additionally, the Department worked with various

⁴ Attachment 1 is a summary, produced by the Pennsylvania Collation Against Rape, to the fundamental amendments Act 27 made to the SATEC. It has been attached hereto to aid the reader in understanding the full breadth of changes made by Act 27.

stakeholders, including the Pennsylvania State Police, the Pennsylvania Coalition Against Rape, and the Pennsylvania District Attorneys Association to communicate with local law enforcement agencies about the need to submit their required reports in a timely fashion.

This report, as well as Attachment 2, is a summary of the information submitted to the Department. The following is an executive summary of the data collected by the Department as of April 28, 2016:

Statistic	Number
Inventory Reports Received	332
Backlogged Evidence Reports Received	277
Facilities submitting both reports	267
Facilities submitting only an Inventory Report	65
Facilities submitting only a Backlogged Evidence Report	10
Law enforcement agencies who have submitted reports ⁵	338
Laboratories who have submitted reports	4
Total Outstanding evidence kits -Inventory Reports	3044
Total Outstanding evidence kits -Backlogged Evidence Reports	1852

Attachment 2 is a list of each local law enforcement agency filing an inventory report, a backlogged evidence report, or both, as well as the number of sexual assault kits reported for each category.

⁵ The number of initial and annual reports received reflects the number of local law enforcement agencies submitting a report in each category, respectively. Notably, the Pennsylvania State Police (PSP) provides law enforcement services to a total of 1,698 municipalities (1,287 on a full-time basis and an additional 411 on a part-time basis). PSP's report encompasses all of the jurisdictions they service.

Agency	City	Zip	Inventory	Annual	Report Status.
Abington Township Police	Abington	19001	2	2	Both
Adams County Detectives	Gettysburg	17325	0	0	Both
Adams Township Police Dept.	Mars	16046	0	0	Both
Akron Borough Police Dept.	Akron	17501	0	0	Both
Alburtis Police Dept.	Alburtis	18011	0	0	Both
Allegheny County Office of the Medical Examiner	Pittsburgh	15222	132	29	Both
Allegheny County Police Dept.	Pittsburgh	15208	0	0	Both
Allentown Police Dept.	Allentown	18101	127	97	Both
Altoona Police Dept.	Altoona	16601	68	68	Both
Amity Township Police Dept.	Douglassville	19518	0	0	Both
Annville Township Police Dept.	Annville	17003	0	0	Both
Archbald Borough Police Dept.	Archbald	18403	0	0	Both
Ashley Borough Police	Ashley	18706	0	0	Both
Athens Borough Police Department	Athens	18810	0	0	Both
Baldwin Township Police Department	Pittsburgh	15234	0		Inventory Only
Bangor Police Department	Bangor	18013	0	0	Both
Bedford Police Dept.	Bedford	15522	0	0	Both
Bell Acres Police Dept.	Sewickley	15143	0	0	Both
Bellefonte Police Dept.	Bellefonte	16823	19		Inventory Only
Bensalem Township Police Dept.	Bensalem	19020	10	0	Both
Berks Detectives - Forensic Services unit	Leesport	19533	40	43	Both
Bethlehem Police Department	Bethlehem	18018	1		Inventory Only
Bethlehem Township Police	Bethlehem	18020	0	-	Inventory Only
Birmingham Township Police Dept.	West Chester	19382	0	0	Both
Blair Township Police Dept.	Duncansville	16635	1	1	Both
Blakely Police Department	Peckville	18452	0	0	Both
Bloomsburg Police Department	Bloomsburg	17815	2	-	Inventory Only
Bonneauville Borough Police Dept.	Gettysburg	17325	0	0	Both
Borough of Berwick Police Dept.	Berwick	18603	0	0	Both
Borough of Carlisle Police Dept.	Carlisle	17013	1		Inventory Only

Agency	City	Zip	Inventory	Annual	Report Status
Borough of Marcus Hook Police Department	Marcus Hook	19061	0		Inventory Only
Bradford Township Police Dept.	Bradford	16701	0	0	Both
Briar Creek Township Police Department	Berwick	18603	0	0	Both
Bristol Borough Police Dept	Bristol	19007	0	0	Both
Bristol Township Police Dept.	Bristol	19007	0	0	Both
Brookhaven Borough Police Dept.	Brookhaven	19015	0	0	Both
Brookville Police Department	Brookville	15825	0	0	Both
Brownsville Police Dept.	Brownsville	15417	0	0	Both
Bucknell University Department of Public Safety/Police	Lewisburg	17837	8	2	Both
Butler County Detective Bureau	Butler	16003	0	0	Both
Butler Township Police Department	Butler	16001	9	0	Both
California University Police Department	California	15419	2	2	Both
Caln Township Police Dept.	Thorndale	19372	0	0	Both
Cambridge Springs Police Dept.	Cambridge Sprin	16403	0	0	Both
Carbon County District Attorney's Office	Jim Thorpe	18229	0	0	Both
Carroll Township Police Dept.	Monongahela	15063	0	0	Both
Carroll Township Police Dept.	Dillsburg	17019	0	13	Both
Carroll Valley Borough Police Dept.	Fairfield	17320	0	0	Both
Centerville Borough Police Dept.	Brownsville	15417	1	0	Both
Central Berks Regional Police	Reading	19606	5	5	Both
Chambersburg Police Dept.	Chambersburg	17201	3	2	Both
Charlertoi Regional Police Dept.	Charlertoi	15022	3	3	Both
Cheltenham Township Police Dept.	Elkins Park	19027	0	0	Both
Chester County Detectives	West Chester	19380	4	2	Both
Chester Township Police Dept.	Chester	19013	0	0	Both
Churchill Borough Police Dept.	Pittsburgh	15235		0	Annual only
City Of Beaver Falls Police Dept.	Beaver Falls	15010		0	Annual only
City of Bradford Police Dept.	Bradford	16701	0		Inventory Only
City of Coatesville Police Dept	Coatesville	19320	1	6	Both
City of Easton Police Dept.	Easton	18042	21	21	Both

Agency	City	Zip	Inventory	Annual	Report Status
City of Franklin Police Dept.	Franklin	16323	5	1	Both
City of Hermitage Police Dept.	Hermitage	16148	0	-	Inventory Only
City of Jeannette Police Dept.	Jeannette	15644	12	-	Inventory Only
City of McKeesport Police Dept.	McKeesport	15132	0	0	Both
City of Titusville Police Department	Titusville	16354	0	-	Inventory Only
Clarion County Sheriff's Office	Clarion	16214	0	-	Inventory Only
Clarion University Police Dept.	Clarion	16214	5	2	Both
Clarks Summit Borough Police Dept.	Clarks Summit	18411	0	0	Both
Colonial Regional Police Dept.	Bethlehem	18017	1	1	Both
Columbia Borough Police Dept.	Columbia	17512	13	-	Inventory Only
Conemaugh Twp PD	Johnstown	15905	0	0	Both
Conneaut Lake Regional Police Department	Conneaut Lake	16316	0	0	Both
Connellsville Police Dept.	Connellsville	15425	0	0	Both
Coopersburg Police Dept.	Coopersburg	18036	0	0	Both
Coplay Police Dept.	Coplay	18037	0	0	Both
Covington Township Police	Covington Twp.	18444	0		Inventory Only
Crafton Borough Police Dept.	Pittsburgh	15205	0	0	Both
Cranberry Twp PD	Cranberry Twp	16066	-	0	Annual Only
Croyle Township Police Dept.	Summerhill	15958	0		Inventory Only
Cumberland County D.A. Office C.I.D.	Carlisle	17013	0	0	Both
Cumberland Township Police	Gettysburg	17325	0	0	Both
Dallas Borough Police Department	Dallas	18612	0	0	Both
Dallas Township Police Dept.	Dallas	18617	6	0	Both
Dalton Borough Police Dept.	Dalton	18414	0	0	Both
Downingtown Police Dept.	Downingtown	19335	4	4	Both
Doylestown Township Police Dept.	Doylestown	18901	8	-	Inventory Only
Dunmore Police Dept.	Dunmore	18572	0	-	Inventory Only
East Brandywine Township Police	Downingtown	19335	0	0	Both
East Cocalico Township Police Department	Denver	17517	4	2	Both
East Earl Township Police Dept.	East Earl	17519	0	0	Both

Agency	City	Zip	Inventory	Annual	Report Status
East Marlborough Township Police	Kennett Square	19342	0	0	Both
East Norriton Township Police Department	East Norriton	19401	1	0	Both
East Pennsboro Township	Enola	17025	-	3	Annual only
East Whiteland Twp. Police	Malvern	19355		0	Annual only
Easttown Township Police Dept.	Devon	19333	0	0	Both
Edinboro University Police Department	Edinboro	16444	1	0	Both
Ehphrata	Ehphrata	17522	0	-	Inventory Only
Elizabeth Borough Police	Elizabeth	15037	0	-	Inventory Only
Elizabethtown Police Department	Elizabethtown	17022	6	-	Inventory Only
Elk Lick Township Police Dept.	West Salisbury	15565	0	0	Both
Emporium Borough Police Dept.	Emporium	15834	0	0	Both
Erie Airport Police Dept.	Erie	16505	0	0	Both
Erie Police Department	Erie	16501	0	0	Both
Everett Police Dept.	Everett	15537	0	-	Inventory Only
Everson Borough Police Dept.	Everson	15631	0	-	Inventory Only
Ferguson Township Police Dept.	State College	16801	8	-	Inventory Only
Forest City Police Dept.	Forest City	18421	0	0	Both
Franklin Park Borough Police Dept.	Pittsburgh	15237	0	0	Both
Freedom Township Police Dept.	East Freedom	16637	0	0	Both
Freemansburg Police Dept.	Freemansburg	18017	0	0	Both
Gallitzin Borough Police Department	Gallitzin	16641	0	0	Both
Hampden Twp. Police Dept.	Mechanicsburg	17050	0	-	Inventory Only
Hampton Township Police Dept.	Allison Park	15101	0	0	Both
Hanover Borough Police Dept.	Hanover	17331	2	1	Both
Hatboro Police Department	Hatboro	19040	0	0	Both
Hatfield Township Police Department	Hatfield	19440	0	0	Both
Haverford Township Police	Havertown	19083	0	0	Both
Hazleton City Police Dept.	Hazleton	18201	7	7	Both
Hellam Township Police Dept.	York	17406	12	-	Inventory Only
Hollidaysburg Borough Police Dept.	Hollidaysburg	16648	1	1	Both

Agency	City	Zip	Inventory	Annual	Report Status
Hopewell Township Police Dept.	Aliquippa	15001	0	0	Both
Hughestown Police Dept.	Hughestown	18640	0	0	Both
Hummelstown Police Dept.	Hummelstown	17036	2	-	Inventory Only
Huntingdon Borough Police Dept.	Huntingdon	16652	0	1	Both
Indiana Borough Police Dept.	Indiana	15701	7		Inventory Only
Indiana Twp Police Dept.	Pittsburgh	15238	0	0	Both
Indiana University of PA Police Dept.	Indiana	15705	2	2	Both
Jackson Township Police Department	Shavertown	18708	0	-	Inventory Only
Jackson Township Pdce Department	Zelienople	16001	0	0	Both
Jefferson Hills Police Dept.	Jefferson Hills	15025	0	0	Both
Jefferson Township Police Dept.	Jefferson Township	18436	0	0	Both
Jenkintown Police Dept.	Jenkintown	19046	0	0	Both
Jennerstown Borough Police Dept.	Jennerstown	15547	0	0	Both
Johnsonburg Borough Police Dept.	Johnsonburg	15845	0	0	Both
Johnstown Police Dept.	Johnstown	15901	0	0	Both
Kennedy Township Police Dept.	Coraopolis	15108	0	0	Both
Kennett Township Police Dept.	Chadds Ford	19317	0	0	Both
Kidder Township Police Department	Lake Harmony	18624	0	0	Both
Kingston Township Police Department	Shavertown	18708	0	0	Both
Kline Township Police	Kelayrei	18231	1	1	Both
Kutztown Borough Police Dept	Kutztown	19530	1	1	Both
Kutztown University Police	Kutztown	19530	0	1	Both
Lackawanna County District Attorney's Office	Scranton	18505	0	0	Both
Lancaster City Bureau of Police	Lancaster	17603	15	14	Both
Latrobe Police Dept.	Latrobe	15650	6	-	Inventory Only
Lebanon County Detective Bureau	Lebanon	17042	0	-	Inventory Only
Leechburg Borough Police Dept.	Leechburg	15656	0	-	Inventory Only
Lehigh Northampton Airport Authority Police Dept.	Allentown	18109	0	0	Both
Lehigh Township Police Dept.	Walnutport	18088	0	-	Inventory Only
Lehigh University Police Dept.	Bethlehem	18015	0	0	Both

Agency	City	Zip	Inventory	Annual	Report Status
Lewistown Borough Police Department	Lewistown	17044	3	-	Inventory Only
Limerick Township Police Dept.	Limerick	19468	0	0	Both
Lock Haven Police	Lock Haven	17745	3	0	Both
Lower Allen Township Police Department	Camp Hill	17011	6	6	Both
Lower Merion Township Police Department	Ardmore	19003	0	0	Both
Lower Moreland Police Dept.	Huntingdon Valley	19006	0	-	Inventory Only
Lower Providence Twp. Police	Eagleville	19408	1	1	Both
Lower Salford Township Police Department	Harleysville	19438	0	0	Both
Lower Swatara Township Police Dept.	Middletown	17057	2	2	Both
Lower Windsor Township Police Dept.	Wrightsville	17368	0	-	Inventory Only
Luzerne Borough Police Dept.	Luzerne	18709	0	0	Both
Luzerne County District Attorney's Office	Wilkes-Barre	18711-1001	0	0	Both
Malvern Borough Police	Malvern	19355	0	0	Both
Manheim Borough Police Dept.	Manheim	17545	0	0	Both
Manheim Township Police Dept.	Lancaster	17601	1	0	Both
Manor Township Police Department	Lancaster	17603	0	0	Both
Marcus Hook Police Department	Marcus Hook	19061	0	0	Both
Marple Township Police Department	Broomall	19008	0	0	Both
Marysville Borough Police Dept.	Marysville	17053	0	0	Both
Masontown Police Dept.	Masontown	15461	3	0	Both
Mayfield Borough Police Dept.	Mayfield	18433	0	0	Both
McAdoo Police Dept.	McAdoo	18237	0	0	Both
Meadville City Police Department	Meadville	16335	18	9	Both
Mechanicsburg Borough Police Department	Mechanicsburg	17055	4	0	Both
Mercersburg Police Department	Mercersburg	17236	0	0	Both
Middlesex Twp. Police Dept.	Valencia	16059	0	-	Inventory Only
Middletown Township Police Dept.	Langhorne	19056	0	0	Both
Mifflinburg Police Dept.	Mifflinburg	17844	0	0	Both
Millersville Borough Police Dept.	Millersville	17551	1		Inventory Only
Millersville University Police Dept.	Millersville	17551	3	-	Inventory Only

Agency	City	Zip	Inventory	Annual	Report Status
Milton Police Dept.	Milton	17847	30	0	Both
Monroeville Police Dept.	Monroeville	15146	0	1	Both
Montgomery County Detective Bureau	Norristown	19404-0311	1	1	Both
Montgomery Township Police	Montgomeryville	18936	4	0	Both
Montoursville Borough Police	Montoursville	17754	0	0	Both
Moosic Police Dept.	Moosic	18507	0	0	Both
Moscow Borough Police Dept.	Moscow	18444	0	0	Both
Mount Joy Borough Police Dept.	Mount Joy	17552	3	7	Both
Mount Union Police Dept.	Mount Union	17066	0	0	Both
Mt. Holly Springs Borough Police Dept.	Mt. Holly Springs	17065	0	0	Both
Mt. Lebanon Police Dept.	Pittsburgh	15228	0	0	Both
Mt. Pleasant Township Police Dept.	Hickory	15340	0	0	Both
Muhlenbreg Township Police Dept.	Reading	19605	5	0	Both
Muncy Township Police Dept.	Pennsdale	17756'	0	0	Both
Neshannock Twp. Police Dept.	New Castle	16105	0	0	Both
Nether Providence Township Police Dept.	Wallingford	19086	3	2	Both
New Castle Police Dept.	New Castle	16101	0	0	Both
New Cumberland Police	New Cumberland	17070	3	-	Inventory Only
New Garden Township Police Dept.	Landenberg	19350	-	0	Annual only
New Wilmington Borough Police Dept.	New Wilmington	16142	0	0	Both
Newberry Township Pdce Department	Etters	17319	0	0	Both
Newtown Township Police Dept.	Newtown Square	19073	0	0	Both
NMS Labs	Willow Grove	19090	0	-	Inventory Only
Norristown Police Dept.	Norristown	19401	100	99	Both
North Belle Vernon Police Dept.	Belle Vernon	15012	0	0	Both
_ North Coventry Township Police Department	Pottstown	19465	0	0	Both
_ North Hopewell Township Police Department	Felton	17322	0	0	Both
North Huntingdon Township Police	North Huntingdon	15642	0	-	Inventory Only
North Londonderry Township Police	Palmyra	17078	0	0	Both
North Middleton Twp Police Dept.	Carlisle	17013	0	0	Both

Agency	City	Zip	Inventory	Annual	Report Status
North Strabane Township Police	Canonsburg	15317	6	6	Both
North Woodbury Township P.D.	Martinsburg	16662	0	0	Both
Northampton Borough Police Dept.	Northampton	18067	0	0	Both
Northeast Police Dept.	LeRaysville	18829	0	0	Both
Northeastern Regional Police Dept.	Mt. Wolf	17347	2	1	Both
Northern Lancaster County Regional Police Dept.	Stevens	17578	1	0	Both
Northern York County Regional Police	Dover	17315	49	0	Both
Northwest Lancaster County Regional Police Dept.	Elizabethtown	17022	1	1	Both
Ohioville Borough Police Department	Industry	15052	0	-	Inventory Only
Oil City Police Department	Oil City	16301	0	0	Both
Olyphant Borough Police Department	Olyphant	18447	0	-	Inventory Only
Orangeville Area Police Dept.	Orangeville	17859	0	0	Both
PA State Police	Harrisburg	17110	-	19	Annual only
PA State Police - Dunmore	Dunmore	18512	1	1	Both
PA State Police - Bureau of Forensic Services	Harrisburg	17110	279	-	Inventory Only
Palmerton Police Dept.	Palmerton	18071	0	0	Both
Palmyra Borough Police Dept.	Palmyra	17078	0	0	Both
Parkeburg Borough Police Dept.	Parkeburg	19365	0	-	Inventory Only
Parks Township Police Dept.	Vandergrift	15690	0	0	Both
Parkside Police Dept.	Parkside	19015	1	0	Both
Patton Township Police	State College	16803	10	6	Both
Penn College Police Department	Williamsport	17701	4	0	Both
Penn Hills Police Department	Pittsburgh	15235	0	0	Both
Penn State Behrend Office of Police Services	Erie	16563	0	0	Both
Penn State Harrisburg Police Dept.	Middletown	17057	0	0	Both
Penn State University Police Dept.	University Park	16802	58	-	Inventory Only
Philadelphia Police Dept. - Office of Forensic Science	Philadelphia	19123	1574	1294	Both
Phoenixville Borough Police Dept.	Phoenixville	19460	0	0	Both
Pittsburgh Bureau of Police	Pittsburgh	15233	0	0	Both
Plains Twp Police Dept.	Plains	18705	0	0	Both

Agency	City	Zip	Inventory	Annual	Report Status
Plymouth Township Police Dept.	Plymouth Meeting	19462	3	-	Inventory Only
Pocono Mountain Regional Police Dept.	Pocono Summit	18346	32	0	Both
Port VUE Police Dept.	Port Vue	15133	0	-	Inventory Only
Portage Borough Police Dept.	Portage	15946	0		Inventory Only
Pottsville Bureau of Police	Pottsville	17901	10	0	Both
Quakertown Borough Police Department	Quakertown	18951	0	0	Both
Quarryville Borough Police Department	Quarryville	17566	0	1	Both
Radnor Township Police Dept.	Wayne	19087	14	0	Both
Reading Police Dept.	Reading	19601	101	-	Inventory Only
Rice Township Police Dept.	Mountain Top	18707	0	0	Both
Richland Township Police Department	Quakertown	18951	5	0	Both
Roaring Spring Police Department	Roaring Spring	16673	0	0	Both
Robinson Township Police Department	Rtsburgh	15205	0	0	Both
Salisbury Township Police Dept.	Allentown	18103	2	2	Both
Schuylkill Township Police	Phoenixville	19460	0	-	Inventory Only
Scott Police Dept.	Carnegie	15106	0	0	Both
Scott Township Police Dept.	Scott Township	18447	0	0	Both
Scranton Police Department	Scranton	18503	7	1	Both
Shade Township Police Dept.	Cairnbrook	15924	0	0	Both
Shaler Township Police Dept.	Glenshaw	15116	1	1	Both
Shippensburg University Police Dept.	Shippensburg	17257-2299	0	0	Both
Silver Spring Township Police Dept.	Mechritsburg	17050	0	0	Both
Sinking Spring Police Dept.	Sinking Spring	19608	0	0	Both
Slatington Police	Slatington	18080		5	Annual only
Slippery Rock Borough Police Dept.	Slippery Rock	16057	4	4	Both
Snyder County District Attorney's Office	Middleburg	17842	0	0	Both
Solebury Township Police Department	Solebury	18963	0	0	Both
Somerset Borough Police	Somerset	15501	0		Inventory Only
South Abington Twp. Police	Chinchilla	18410	0	0	Both
South Lebanon Township Police	Lebanon	17042	0	0	Both

Agency	City	Zip	Inventory	Annual	Report Status
South Williamsport Police Dept.	South Williamsport	17702	0	0	Both
Southern Regional Police	New Freedom	17349	0	0	Both
Southwestern Regional Police Dept.	Spring Grove	17362	4	-	Inventory Only
Spring Garden Township Police Dept.	York	17403	0	0	Both
Springettsbury Township Police Department	York	17402	18	3	Both
Springfield Township Police Dept.	Springfield	19064	0	0	Both
Springfield Township Police Dept.	Quakertown	18951	0	0	Both
State College Police Dept.	State College	16801	4	15	Both
Strasburg Borough Police Dept.	Strasburg	17579	3	0	Both
Sugar Notch Borough Police	Sugar Notch	18706	0	-	Inventory Only
Summerhill Township Police Dept.	Beaverdale	15921	0	-	Inventory Only
Susquehanna Township Police Dept.	Harrisburg	17110	7	0	Both
Swatara Township Police Dept	Harrisburg	17111	9	9	Both
Sweden Twp Police Dept.	Coudersport	16915	0	0	Both
Sykesville Borough Police Dept.	Sykesville	15865	0	-	Inventory Only
Tiadaghton Valley Regional Police Department	Jersey Shore	17740	0	0	Both
Township of Spring (Berks County)	Reading	19608	0	0	Both
Troop Police Dept.	Throop	18512	0	0	Both
Tunkhannock Township Police Department	Tunkhannock	18657	0	0	Both
Twp. Of Upper St. Clair Police Department	Upper St. Clair	15241	1	1	Both
Tyrone Borough Police	Tyrone	16686	1	1	Both
Union City Police Dept.	Union City	16438	4	0	Both
Uniontown Hospital Police Dept.	Uniontown	15401	-	0	Annual only
Upper Allen Township Police Dept.	Mechanicsburg	17055	0	0	Both
Upper Dublin Township Police department	Fort Washington	19034	0	0	Both
Upper Macunige Township Police Dept.	Breinigsville	18031	0	0	Both
Upper Makefield Township Police Dept.	Newtown	18940	0	0	Both
Upper Merion Township Police Dept.	King of Prussia	19406	0	0	Both
Upper Providence Twp Police	Media	19063	0	0	Both
Upper Saucon Township Police Dept.	Center Valley	18034	0	0	Both

Agency	City	Zip	Inventory	Annual	Report Status
Upper Southampton Township Police Dept.	Southampton	18966	0	0	Both
Upper Yoder Township Police	Johnstown	15905	0	0	Both
Uwchlan Township Police Department	Exton	19341	0	0	Both
Valley Township Police Department	Coatesville	19320	0	0	Both
Vernon Township Police Dept.	Meadville	16335	0	0	Both
Warminster Township Police Department	Warminster	18974	6	6	Both
Warrington Township Police	Warrington	18976	2	0	Both
Washington County Detectives	Washington	15301	0	0	Both
Washington Township Police	Belle Vernon	15012	0	0	Both
Washington Township Police	Apollo	15613	0		Inventory Only
Waverly Township Police Dept.	Waverly	18471	0		Inventory Only
Waynesboro Police Dept.	Waynesboro	17268	1	0	Both
Wellsboro Police Department	Wellsboro	16901	0	-	Inventory Only
West Brandywine Police Department	Coatesville	19320	0	0	Both
West Chester Police Department	West Chester	19380	0	0	Both
West Chester University Police Dept.	West Chester	19383	0	0	Both
West Earl Township Police Dept.	Brownstown	17508	2	0	Both
West Fallowfield Police	Cochranville	19330	0	0	Both
West Goshen Township Police Dept.	West Chester	19380	0		Inventory Only
West Hazleton Police Dept.	West Hazleton	18202	0	0	Both
West Hempfield Township Police Dept.	Lancaster	17601	3	3	Both
West Leechburg Police Department	West Leechburg	15656	0	0	Both
West Manchester Township Police	York	17408	1	1	Both
West Manheim Township Police	Hanover	17331	7	-	Inventory Only
West Mifflin Police Dept.	West Mifflin	15122	0	-	Inventory Only
West Pottsgrove Twp Police Dept.	Stowe	19464	0	4	Both
West Sadsbury Twp Police Dept.	Parkesburg	19365	0	0	Both
West Whiteland Township Police Department	Exton	19341	0	0	Both
Westmoreland County Detective Bureau	Greensburg	15601	0	0	Both
Westtown E Goshen Police Dept.	West Chester	19382	0	0	Both

Agency	City	Zip	Inventory	Annual	Report Status
Whitehall Township Police	Whitehall	18052		0	Annual only
Whitemarsh Township PD	Lafayette Hill	19444	0	0	Both
Whitpain Township Police Department	BlueBell	19422	0	0	Both
Williamsport Bureau of Police	Williamsport	17701	4		Inventory Only
Willistown Twp Police Dept.	Malvern	19355	0	0	Both
Wiison Borough Police Dept.	Easton	18042	4	0	Both
Windber Police Dept.	Windber	15963	0	0	Both
Woodward Township Police Dept.	Lock Haven	17745	0	0	Both
Wright Township Police Dept.	Mountain Top	18707	0		Inventory Only
Wyomissing Police Dept.	Wyomissing	19610	2		Inventory Only
York City Police Dept.	York	17401	12	1	Both
Youngsville Borough Police Dept.	Youngsville	16371	0	0	Both

3,044

1,852

Appendix C

May 4, 2016

Facebook: Pennsylvania Auditor General

Twitter: @PaAuditorGen

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.”

###

Media contact: Susan Woods, 717-787-1381

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). www.rainn.org

Appendix D



January 14, 2016

Dear Local and State Law Enforcement Agencies and Forensic Testing Laboratories,

On July 10, 2015, Governor Wolf signed Act 27 which amended the Sexual Assault Testing and Evidence Collection Act, 35 P.S. §§ 10172.1-10172.5. The amended Act requires local law enforcement agencies and testing laboratories to submit an annual report to the Department regarding the status of laboratory testing of sexual assault evidence. The Act also requires an initial report by local law enforcement agencies of sexual assault evidence waiting testing and by laboratories of sexual assault evidence submitted for testing but not yet analyzed by the laboratory.

Initial reports must be submitted to the Department by Monday, March 7, 2016 that includes sexual assault evidence waiting testing or analysis as of September 7, 2015. If no Inventory exists, an Initial report is still required to report that information to the Department by March 7, 2016.

Annual reports of Backlogged Evidence must be submitted by both entities to the Department annually by January 31 of the subsequent year.

Submission of an annual report is required even if no backlogged evidence exists.

Standardized forms for both the Initial report and the Annual report, both described above, are included with this letter. Additional copies and information can be found on the Department of Health's website, www.health.pa.gov, under the "YOUR DEPT OF HEALTH" tab to "OFFICES AND BUREAUS" then "LABORATORIES".

Thank you for your attention to these new required reports. If you have any questions please contact me, Dr. James R. Lute, Assistant Bureau Director, by phone (610-280-3464) or by email (jlute@pa.gov).

Sincerely,

A handwritten signature in blue ink that reads "James R. Lute".

James R. Lute, PhD
Assistant Bureau Director



July 20, 2016

«Agency_Name»
«Agency_Street_Address»
«Agency_Street_Address_2»
«Agency_City», «Agency_State» «Agency_Zipcode»

RE: Act 27 - Sexual Assault Evidence Kit Reporting Information

On July 10, 2015, the Sexual Assault Testing and Evidence Collection Act (SATEC) was amended by Act 27 to require local law enforcement agencies to report the number of untested sexual assault evidence kits in their possession to the Pennsylvania Department of Health. Notably, Act 27 required each local law enforcement agency to submit two separate reports in 2016, the first year reporting was required.

The first report, due by January 31, 2016, was to contain the number of backlogged sexual assault evidence kits in the agency's possession as of December 31, 2015. As defined by Act 27 of the Sexual Assault Testing and Evident Collection Act backlogged sexual assault evidence kit is "*sexual assault evidence that is awaiting testing for 12 months or more.*" 35 P.S. § 10172.2. Evidence is awaiting testing *if* it meets all of the following conditions:

1. Has been collected and is in the possession of a local law enforcement agency;
2. Has not received DNA and other appropriate forensic analyses;
3. Is related to a criminal case or investigation in which final disposition has not been reached;
4. Should undergo DNA or other appropriate forensic analysis as determined by a local law enforcement agency." 35 P.S. § 10172.2

Additionally, please note that a case or investigation has reached final disposition if: (1) a conviction or acquittal of all suspected perpetrators of the crime involved; (2) a local law enforcement agency in possession of the sexual assault evidence has determined that the case is unfounded; or (3) a declaration by the victim that a sexual assault has, in fact, not occurred. 35 P.S. § 10172.2.

The second report, due March 7, 2016, was an inventory of all collected sexual assault evidence kits in the local law enforcement agency's possession as of September 7, 2015. The SATEC does not define what constitutes inventory for the purpose of submitting data to the Department.

To assist local law enforcement agencies, the Department made the necessary reporting forms available on the Bureau of Laboratories (BOL) website, as well as published notice of the reporting requirement in the Pennsylvania Bulletin. Additionally, the Department worked with the Pennsylvania State Police and the Pennsylvania District Attorneys Association to communicate this new reporting requirements to local law enforcement agencies. All of the responses received through April 29, 2016, were compiled into a report issued on May 2, 2016. The report, as well as a list of local law enforcement agencies that complied with the requirements of Act 27, is available on the Department's website (<http://www.health.pa.gov>).

In an effort to ensure that the Department's report is as complete as possible – and to identify those agencies that did not report – the Department compared the agency names, addresses, and zip codes contained in a comprehensive federal law enforcement agency census database to the Act 27 reports DOH received. It appears that your agency may not have submitted the necessary reports in accordance with Act 27. Because this is the first year that reporting is required, the Department is making a concerted, additional effort to obtain your information.

The database demographics for **your agency** are noted in the **addressee** portion of **this notice**. If your agency submitted reports using a different agency name and address, please notify BOL immediately so that we can correct our records. Otherwise, **please submit your reports to BOL within 15 business days of the date of this letter**. Both report forms are available on BOL's website by going to www.health.pa.gov/labs and clicking on the "Laboratory Improvement" section.

Reports should be submitted by mail or e-mail (scanned PDF copies) to:

James R. Lute, Assistant Bureau Director
Pennsylvania Department of Health
Bureau of Laboratories,
110 Pickering Way
Exton, PA 19341-1310
jlute@pa.gov
610-280-3464

Additional information is available on BOL's website at www.health.pa.gov/labs. Should you have any questions, please contact Dr. James Lute at the above listed mail, e-mail, or by telephone.

Sincerely,



Michael Husson, MD
Interim Director, Bureau of Laboratories

Appendix E



Bureau of
Laboratories
110 Pickering
Way

Exton, PA
19341

Ph: 610-
280-3464

FX: 610-
450-1932

**ACT 27 - Sexual Assault Testing and Evidence
Collection Act ANNUAL Reporting Form
Only**

INSTRUCTIONS:

*All forms must be filed each year **between January 1-31**. Data must be compiled reflecting case status on the immediately **preceding December 31st** .*

The definition of backlogged in PA Act 27 is "Sexual assault evidence that is awaiting testing for 12 months or more."

The timeframe starts on the date that the evidence initially comes into possession of the local law enforcement agency.

Please use the following example of an annual report's relevant dates as a guide:

Annual report file date: January xx, 2018

Effective date of case tally: December 31, 2017

Qualifying backlogged cases: ALL cases initially received by the local law enforcement agency on or prior to December 31, 2016.



Bureau of Laboratories
110 Pickering Way
Exton, PA 19341
Ph: 610-280-3464
FX: 610-450-1932

ACT 27 - Sexual Assault Testing and Evidence Collection Act
INITIAL Reporting Form Only

Facility Information:

Facility type: Law Enforcement Laboratory

Facility name: _____

Street Address: _____

City: _____

State: _____ Zipcode: _____

Phone: _____

FAX: _____

Contact person:

First Name: _____

Last Name: _____

Phone: _____

Email: _____

Initial Report Statistics of Evidence Awaiting Testing (Data up to 07 Sept 2015):

Law Enforcement Agency only:

_____ Number of sexual assault cases in your jurisdiction as of 07 September 2015 for which evidence has NOT been submitted for laboratory testing

Laboratory facility only:

_____ Number of sexual assault cases in your jurisdiction as of 07 September 2015 for which evidence has NOT been analyzed

Date Report Submitted: _____

(continue to next page)

Please provide the name and contact information of the laboratory(s) to which you submit or have submitted sexual assault case evidence for analysis in the past five (5) years (if more than four laboratories, please complete additional copies of this page).

Laboratory Name:

Street Address:

City:

State: _____ Zipcode: _____

Phone: _____

FAX: _____

Email: _____

Laboratory Name:

Street Address:

City:

State: _____ Zipcode: _____

Phone: _____

FAX: _____

Email: _____

Laboratory Name:

Street Address:

City:

State: _____ Zipcode: _____

Phone: _____

FAX: _____

Email: _____

Laboratory Name:

Street Address:

City:

State: _____ Zipcode: _____



Bureau of
Laboratories
110 Pickering
Way
Exton, PA 19341
Ph: 610-280-3464
FX: 610-450-
1932

ACT 27 - Sexual Assault Testing and Evidence Collection Act ANNUAL Reporting Form Only

INSTRUCTIONS:

*All forms must be filed each year **between January 1-31**. Data must be compiled reflecting case status on the immediately **preceding December 31st** .*

The definition of backlogged in PA Act 27 is "Sexual assault evidence that is awaiting testing for 12 months or more."

The timeframe starts on the date that the evidence initially comes into possession of the local law enforcement agency.

Please use the following example of an annual report's relevant dates as a guide:

Annual report file date: January xx, 2018

Effective date of case tally: December 31, 2017

Qualifying backlogged cases: ALL cases initially received by the local law enforcement agency on or prior to December 31, 2016.



Bureau of Laboratories
110 Pickering Way
Exton, PA 19341
Ph: 610-280-3464
FX: 610-450-1932

ACT 27 - Sexual Assault Testing and Evidence Collection Act ANNUAL Reporting Form Only

Facility Information:

Facility type: Law enforcement Laboratory

Facility name: _____

Street Address: _____

City: _____

State: _____ Zipcode: _____

Phone: _____

FAX: _____

Contact person:

First Name: _____

Last Name: _____

Phone: _____

Email: _____

Annual Report Statistics of Backlogged Evidence (Awaiting Testing for 12 months or more) **(due to the Department of Health by 31 January of each year)**

Law Enforcement Agency only:

_____ Number of sexual assault cases in your jurisdiction as of the prior 31 December for which evidence has NOT been submitted for laboratory testing prior to 12 months after initial receipt by the local law enforcement agency

Laboratory facility only:

_____ Number of sexual assault cases in your jurisdiction as of the prior 31 December for which evidence has NOT been analyzed prior to 12 months after initial receipt by the local law enforcement agency.

Date Report Submitted: _____

Law Enforcement Agency only:

Please provide the name and contact information of the laboratory(s) to which you submit or have submitted sexual assault case evidence for analysis in the past five (5) years (if more than four laboratories, please complete additional copies of this page).

Laboratory Name: _____

Street Address: _____

City: _____

State: _____ Zipcode: _____

Phone: _____

FAX: _____

Email: _____

Laboratory Name: _____

Street Address: _____

City: _____

State: _____ Zipcode: _____

Phone: _____

FAX: _____

Email: _____

Laboratory Name: _____

Street Address: _____

City: _____

State: _____ Zipcode: _____

Phone: _____

FAX: _____

Email: _____
