

Report Highlights

Sexual Assault Evidence Collection

Senate Resolution 2017-75 directed the Legislative Budget & Finance Committee to study the extent to which rape kits remain unprocessed in the Commonwealth and the reasons kits remain untested as part of the Commonwealth's Sexual Assault Evidence Collection Program.

We found:

- **To help assure each victim's rape kit is tested and to identify the state's "backlog" of kits awaiting testing, in 2015, the Commonwealth's Sexual Assault Testing and Evidence Collection Act was amended.** Rape and sexual assault crimes are traumatic, uniquely personal violent crimes. Reporting such assaults takes a considerable toll on victims in the form of further emotional trauma, humiliation, fear or actuality of retaliation, loss of privacy, and lost wages. Act 2015-27, therefore, provided for:
 - Certain victim rights, including the requirement for victim consent to the testing of the kit.
 - An initial and then annual census or inventory of "backlogged" kits (i.e., those held for 12 months or more by local law enforcement agencies and forensic laboratories that are awaiting lab testing).
 - Prompt collection and securing of rape kits from health care facilities by local law enforcement agencies to establish and preserve a chain of evidence for the crime.
 - Standards for laboratories that meet FBI standards for National DNA Index System participation.
- **Law enforcement agencies serving almost 90 percent of the state's 2,560 municipalities (899 agencies serving 2,245 municipalities) filed reports on their backlog with the (PSP) and the Department of Health (DOH) for the 2017 report.** Typically, municipalities not included in the report are small boroughs or 2nd class townships, many of which receive services through contracted police agencies.
- **For the most part, local law enforcement agencies and forensic laboratories reported reduced sexual assault kit backlogs from 2015 through 2016.** Statewide, as of December 31, 2015, there were about 1,900 reported backlogged sexual assault evidence kits in the possession of law enforcement agencies and forensic labs. By the end of 2016, the number had dropped to just over 1,200, for a net reduction of almost 700 backlogged kits. Two national programs targeted specifically to reducing the backlog of untested kits made available support/assistance to eliminate the equivalent of 60 percent (1,128 of 1,898) of Pennsylvania's backlog as of December 2015. In October 2017, the City of Philadelphia received an additional federal grant to complete analysis of kits in its possession. The state's three forensic labs also participate in the federal DNA capacity enhancement and backlog reduction program.
- **Typically, the local law enforcement agencies reporting an increase in their backlog from 2015 through 2016 are over-counting/misreporting their backlog.** For example, over half (25 of 43) of the reported backlog increase for local law enforcement agencies from 2015 to 2016 did not meet the Act's criteria for awaiting testing. Many of these kits were associated with victims that had not given consent for forensic testing and/or the victim subsequently reported a crime had not occurred, or the district attorney declined to prosecute. When the PSP examined the reasons for its reported increase, it also found kits not meeting the Act's criteria, including kits for closed cases being kept for expiration of the statute of limitations, kits that had been previously tested, and rape kits that were part of homicide investigations rather than sexual assault investigations. The PSP had identified a need for improved instructions for the backlog survey and is revising the instructions for the annual survey for the PSP and local law enforcement agencies.
- **DOH is revising its recommended rape kit consent form to assure victims/patients freely consent to forensic testing of their rape kits.** Sexual assault response teams in some communities have also developed local programs that go beyond the Act's requirements in order to support victims that chose to remain anonymous.