Understanding the Sexual Assault Kit Backlog in Pennsylvania

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This research examines work ongoing nationwide and focuses on gaining a better understanding of the backlog issues associated with the processing of sexual assault kits, specifically in Pennsylvania. First, a comprehensive review of improved practices in proactive jurisdictions nationwide was conducted to identify general policies and procedures that could be implemented elsewhere. This phase has been previously published and can be found here:

https://dsc.duq.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1013&context=urss

During the second phase, interviews with key stakeholders identified specific issues in Pennsylvania. Based on these discussions a survey was developed to gather data related to sexual assault case practices across Pennsylvania. Finally, examination of a grant program previously used by law enforcement indicates potential parallels for employing additional forensic scientists in an effort to reduce and eliminate the backlog. Compared to the previously mentioned publication, this final phase moves away from tracking sexual assaults to hiring more forensic scientists. While tracking sexual assault kits is an important issue and is yet another piece to this complicated backlog puzzle, through observations and discussions with key stakeholders, tracking sexual assault kits was not noted to be the biggest reason why the backlog occurred, persists, and how improving tracking capabilities can eliminate and prevent the backlog most effectively.

Be it that the aim of this research is to understand as many issues surrounding the backlog specifically in Pennsylvania, the circumstances surrounding tracking sexual assaults kits was still examined briefly. While there are numerous evidence tracking systems for law enforcement and laboratories alike. This research focused on the evidence tracking systems known as BEAST (Bar Coded Evidence Analysis Statistics and Tracking), because it is currently employed throughout the state of Pennsylvania. A full list of BEAST users can be found here¹:


BEAST is a product of Porter Lee Corporation. The goal of BEAST is to provide an unbreakable chain-of-custody and enhance the day-to-day efficiency of the agencies. Porter Lee Corporation is ISO certified to the ISO9001:2008 standard. The Porter Lee BEAST system currently offers seven modules;
LIMS (Laboratory Information Management Systems), EMS (Evidence Management System), DNA (DNA Analysis Module), ME (Medical Examiner System), CODNA (Convicted Offender Database), COBIS (Combined Ballistic Identification System), and QMS (Quality Management System).

The Crime Fighter BEAST products are integrated with Symbol Technologies PDF417 bar code to speed up evidence check-in. Included in the software is a report wizard to assist in report writing and statistical data analysis. Database information may be stored on Oracle servers. Porter Lee does provide software, hardware, installation, and training support.

Having highlighted the tracking of sexual assault kits, specifically in Pennsylvania, the focus is directed back to phase two and three of this research: The Analysis of Pennsylvania and Grant Comparison. The research design and methods of this study were approved by the Institutional Review Board of Duquesne University.

The Violent Crime Control and Law Enforcement Law (HR 3355) was passed in 1994. Included in this act was the Violence Against Women Act (VAWA). The VAWA increased penalties for perpetrators of sexual assault, but also prohibited survivors of sexual assault from being billed for the collection of a sexual assault kit. The 2005 reauthorization came with a monumental annotation now stating that a victim did not have to cooperate with law enforcement or participate in the criminal justice system to obtain the benefits afforded to them under this act. Pennsylvania complied with this national act through its creation of the Pennsylvania Commission on Crime and Delinquency: Forensic Rape Examination Claims Form (PCCD FRE). Operated through the Victims Compensation Assistance Program (VCAP) by Pennsylvania Commission on Crime and Delinquency Office of Victims’ Services, hospital or licensed healthcare personnel utilize the PCCD FRE at the time of a sexual assault forensic examination. The VCAP may reimburse up to $1,000 for the costs associated with the sexual assault forensic examination and medications directly related to the sexual assault. The hospital or licensed healthcare personnel must complete the PCCD FRE and submit it to the VCAP within one year of the date of the sexual assault forensic examination. Failure to do so within one year will result in the denial of the form. In occasions where the victim may experience additional costs beyond the examination, victims can complete and submit a
standard VCAP Claims Form. It is important to note that the victim does not have to report the assault to law enforcement in order for the examination to be covered by VCAP. When completing the PCC FRE, there are three options for billing:

Option #1

If the victim does not have insurance the VCAP will be billed.

Option #2

If the victim has insurance that will cover the costs of the examination, the insurance is to be billed first. If any portion of the costs is not covered by the victims’ insurance, the healthcare personnel may forward a completed PCCD FRE with Explanation of Benefits (EOB) Statement to the VCAP.

Option #3

If the victim does not want their insurance to billed, the healthcare personnel may forward a completed PCCD FRE to the VCAP.
Forensic Rape Examination Claim Form

Please complete form and attach itemized bill and mail or fax to:
Victims Compensation Assistance Program (VCAP)    (800) 233-2339 or (717) 783-5153
P.O. Box 1167    FAX (717) 787-4306
Harrisburg PA 17108-1167

SECTION 1  Victim/Provider Information

Name ____________________________________________________________
Address _________________________________________________________
Date of Birth ___________________________ Anonymous Identification # __________

Option #1_____ Victim does not have insurance to cover this treatment.

Option #2_____ Victim has insurance but does not want the insurance carrier billed.

Option #3_____ Victim does have insurance that will be billed for the treatment provided and has been informed that any deductibles or co-payments will be paid by VCAP.

Name of hospital or licensed health care provider ____________________________

Provider Telephone Number ___________________________ Date of Forensic Exam ___________________________

I, ______________________________________________________________

Signature ___________________________ Print Name ___________________________ Title ___________________________

having the authority to do so, affirm that this request for payment of Forensic Rape Examination expenses (attached to this form) are for services that were provided to the victim and are eligible for payment as described in the Protocol and Billing Procedures for Forensic Rape Examinations. I accept full responsibility for the accuracy in billing and requesting reimbursement, of only eligible forensic rape examination expenses, to the Office of Victims’ Services.

SECTION 2  Crime Information

A victim of a sexual offense does not need to report the crime or talk to law enforcement authorities in order for the expenses to be paid by the Victims Compensation Assistance Program.

The forensic evidence was provided to the following police department, district attorney’s office or children and youth services agency: __________________________

Date of Sexual Assault/Discovery ____________________________ (mm/dd/yyyy)

Location of Crime: County ___________________________ State ___________________________

The Victims Compensation Assistance Program will provide either the name of the individual listed above or for claims that are filed anonymously the Anonymous Identification Number, to the district attorney with jurisdiction in this case that a forensic rape examination has been performed, and that the forensic evidence was provided to the above named police department, district attorney’s office or children and youth services agency.

Claim Form Instructions on Back

FRE Form 6/2011
Pennsylvania Commission on Crime and Delinquency  
Office of Victims' Services  
Victims Compensation Assistance Program (VCAP)  
Forensic Rape Examination Form (FRE) Instructions

Pennsylvania law provides that a victim of sexual offenses shall not be burdened with the costs associated with a forensic rape examination and medications directly related to the sexual offense.

A hospital or licensed healthcare facility may submit a claim for reimbursement for the costs associated with a forensic rape examination and medications directly related to the sexual offense.

VCAP may reimburse up to $1,000 for the costs associated with the forensic rape examination and medications directly related to the sexual offense.

Payment is to be considered by the provider as payment in full for the forensic rape examination and medications provided at the time of the examination.

The provider must complete the FRE Form in its entirety and submit to the VCAP within one year of the date of crime or the date of discovery of the crime for reimbursement of costs. Failure to submit within one year will result in a denial.

In instances where the victim may have additional expenses beyond the forensic rape examination costs, such as x-rays or other medical treatment not associated with a forensic rape examination, providers may advise victims to submit the standard VCAP Claim Form. The standard VCAP Claim Form can be obtained at [www.pccd.state.pa.us](http://www.pccd.state.pa.us) or by calling VCAP at 800-233-2339.

<table>
<thead>
<tr>
<th>Section 1. Victim/Provider Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Please provide all the requested information for the victim and provider. If the victim’s name is to remain anonymous, include the Anonymous Identification Number assigned to the forensic rape kit. Please note that the victim’s name, address and date of birth must be included on the form when filing anonymously and the victims name must be included on the bill.</td>
</tr>
<tr>
<td>• Providers must utilize the victim’s insurance, which could include Medical Assistance, HMO, PPO, or federally financed insurance programs, such as Medicare or Champus, before applying to the VCAP, unless the victim has requested that their insurance not be billed.</td>
</tr>
</tbody>
</table>

**Option #1**

• If the victim does not have insurance that will cover the forensic rape examination costs, the provider may forward a completed FRE Form and a bill showing the amount due to the Victims Compensation Assistance Program, P.O. Box 1167, Harrisburg, PA 17108-1167.

**Option #2**

• If the victim has medical insurance that will cover the costs of the examination, the provider shall bill the victim’s insurance. If any portion of the costs is not covered by the victim’s insurance, the provider may forward a completed FRE Form and a bill showing the balance due to the above address. Please include the Explanation of Benefits (EOB) Statement.

**Option #3**

• If the victim indicates that he/she does not want their insurance company billed, the provider may forward a completed FRE Form and a bill showing all costs related to the examination to the VCAP at the above address.

• The victim must be informed of option #1, #2 and #3 and informed that they may be billed for services beyond the FRE costs, such as x-rays or other medical treatment. Informed that they can submit a standard VCAP claim form, which can be obtained at [www.pccd.state.pa.us](http://www.pccd.state.pa.us) or by calling the VCAP at 800-233-2339.

• The signature and title of the person, who has the authority and affirms that the request is for the reimbursement of only eligible forensic rape examination expenses and that the victim was informed of the insurance options, is required.

• Please submit itemized bills, which include the victim’s name showing eligible forensic rape examination costs as listed in the Billing and Protocol Procedures for Forensic Rape Examinations.

<table>
<thead>
<tr>
<th>Section 2. Crime Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Please provide all the requested information.</td>
</tr>
<tr>
<td>• Please provide either the date of the sexual assault or the date of the discovery of the sexual assault.</td>
</tr>
</tbody>
</table>

Figure 2: PCCD FRE Page 2 of 2
After conducting background on Pennsylvania’s efforts to eliminate and prevent its backlog and through interviews with key stakeholders, a google survey was created. The survey was used to evaluate the hospital and law enforcement demographics concerning their interactions with sexual assaults kits and each other. A list of all pertinent emergency departments and law enforcement agencies in Pennsylvania was compiled. This list was used in disseminating the surveys. Examples of the types of questions asked in each survey can be seen below.

Figure 4. Sample of Sexual Assault Kit Survey Questions for Hospital Personnel
(a) Victim consent, (b) Notifying the Police, (c) Response time of Police, (d) Tracking Kits (e) Act 27, (f) PCCD FRE Form.

The results to a number of the questions shown above are highlighted below. Hospital Personnel were first asked if they had ever heard about the Sexual Assault Testing and Evidence Collection Act. The follow-up question asked if they had ever heard about Act 27. This line of questioning seems appropriate considering Act 27 was an amendment to the Sexual Assault Testing and Evidence Collection Act. The results to these two legislative questions are shown below in Graph 1 and 2.
Have you heard of the Sexual Assault Testing and Evidence Collection Act?

- Yes: 41%
- No: 59%

Graph 1: Hospital Personnel Response to Sexual Assault Testing and Evidence Collection Act.

Have you heard of Act 27?

- Yes: 47%
- No: 53%

Graph 2: Hospital Personnel Response to Act 27.

It was found that more hospital personnel knew about Act 27 than they did about the Sexual Assault Testing and Evidence Collection Act. This can be seen in the change of “Yes” indicating that they were aware of the Act, which changed from 41% to 47% between the original act and its amended version, Act 27. In addition, when individual responses were analyzed, it was discovered that 3 individual hospital employees stated that they knew about the Sexual Assault Testing and Evidence Collection Act but, not
Act 27 or vice versa. Considering these two acts relationship, it is hard to understand how an individual can be aware of one without knowledge of the other.

When asked, “On average how long does it take police to pick up the sexual assault kit after notification?”, hospital survey result revealed that on average, it takes law enforcement anywhere from 15 minutes to 72 hours to retrieve the sexual assault kit from the hospital after being notified. This result goes against the original concept noted in previously published phase that stated one reason why Act 27 failed was due to law enforcement’s lack of awareness of this legislation. For law enforcement’s ability to retrieve a sexual assault kit from the hospital after being notified between 15 minutes to 72 hours, is actually in accordance with the timeline put forth under Act 27. Therefore, law enforcement are either aware of this legislation and are abiding by it or it is merely a coincidence that they are within the timeframe without them being aware of Act 27.

With the understanding of Pennsylvania’s use of the PCCD FRE Form in theory, the concept of its actual implementation was brought into question. Therefore, the hospital personnel survey incorporated the question found below in Graph 3.

Due to the alarming percent of hospital personnel, 59%, who responded that they had not heard of the PCCD FRE Form, it is believed that the question was poorly worded. The poor wording lead to a
misunderstanding as to whether or not the individual has ever heard of the form verses if the individual has ever actually used the form themselves or know of its general use in their perspective emergency department. Given the chance to re-word the question and ask it again, it is believed very different results would be produced. These results would then allow for a better understanding of the PCCD FRE Forms practical application.

The final result from the hospital survey that will be highlighted ties to the practical relevance of this research and helped to determine this research’s’ final phase. The final question asked to hospital personnel can be found below in Graph 4.

![Graph 4: Hospital Personnel Response to ways to eliminate and prevent the sexual assault kit backlog.](image_url)

Results show that 8% of all hospital personnel surveyed believe a sexual assault kit backlog does not exist. Meanwhile, 17% believe a backlog does in fact exist; there is just no way to eliminate it nor prevent it. These results support statements made earlier in this paper that while tracking is an important aspect to eliminating and preventing the sexual assault kit backlog, it is not the biggest aspect. It is clear, with 38% who agree, that hiring more personnel is the answer to eliminating and preventing the sexual assault kit backlog. Tied into that aspect is funding, which was highlighted as an emerging point of interest,
as seen by the 21% of hospital personnel who expressed the availability of more funds to be critical in eliminating and preventing the sexual assault kit backlog. It had been made clear through anecdotal conversations with key stakeholders and by the results of this survey that the final phase of this research be focused on funding, particularly in terms of using grants to hire new employees.

Before moving into the final phase of this research, the law enforcement survey must be discussed. Similarly, to the hospital survey, the law enforcement survey consisted of 14 multiple choice questions, 9 short answers, and an additional comments section. This survey was distributed to the 1,698 different law enforcement agencies in Pennsylvania. After initial emails, follow up phone calls, and personal visits, unlike the hospital survey, after a full year, the law enforcement survey produced no responses. This lack of response is a clear response, and indicates a potential area where improved outreach and education is needed.

Moving forward in this research, an in-depth analysis was performed to understand what funding has been introduced over the last few years to help eliminate and prevent the sexual assault kit backlog. Funding for forensic laboratories to start working away at their backlogs came in 2000 with the DNA Analysis Backlog Elimination Act (DNAABE). This Act authorized $125 million for 2001-2004 to enable states to carry out DNA analysis and increase the capacities of their public crime laboratories particularly in being able to upload eligible DNA profiles into CODIS. From there, in 2004 the DNA Analysis Backlog Elimination Act was amended to what is now known as the Justice for All Act. Included under this act was the Debbie Smith Act. The 2004 Justice for All Act came to be known plainly as the Debbie Smith Act. The Debbie Smith Act authorized $151 million for 2005 and 2009 to facilitate the accurate identification of offenders and to promote the effective administration of justice for victims of sexual assault. The act supports audits of evidence awaiting analysis at law enforcement agencies and charges the Justice Department with the task of developing national testing guidelines.

In 2009 the Justice for Survivors of Sexual Assault Act was passed to provide financial incentives for states to use grant money specifically for the reduction of the sexual assault kit backlog. This act required states to implement a policy of testing all collected sexual assault kits and to specify plans to reduce and
eliminate the sexual assault kit backlog in their jurisdiction. In 2011 the DNA Backlog Reduction Program was introduced which enables DNA laboratories to outsource their DNA samples. This allowed for the implementation of automated robotic systems and adopted information management systems to track evidence and results more efficiently.

In 2013 the Violence Against Woman Act was passed, under this act was the Sexual Assault Forensic Evidence Reporting (SAFER) Act. This act was enacted to audit, analyze, and account for the immense backlog of untested sexual assault kits across the country. In 2014 the Sexual Assault Kit Initiative was launched by the Department of Justice (DOJ) and Bureau of Justice Assistance (BJA). Following this initiative, the Bureau of Justice Assistance released their grant in 2015 to award $24 million to 20 law enforcement agencies to test sexual assault kits and improve the agencies’ response to sexual assaults. An addition $6 million was also awarded through the BJA specifically for training and technical assistance in DNA laboratories. In the same year, Vice President Joe Biden, Attorney General Loretta Lynch, and the Joyful Heart Foundation released a grant to the Manhattan District Attorney’s Office for $38 million to address the backlog of untested sexual assault kits. The Manhattan District Attorney’s Office then turned around and funneled those funds into the New York County District Attorney’s Office grant known as DANY. The 2-year DANY grants were awarded to Philadelphia and Allegheny County for $419,788 and $254,000 respectively. In 2016 the Sexual Assault Forensic Evidence-Inventory, Tracking, and Reporting (SAFE-ITR) Program was introduced. This program was a collaborative effort between the DOJ, NIJ (National Institute of Justice), and Office of Justice Programs, to collect, store, maintain, and/or send forensic DNA evidence for analysis.

With all these means of eliminating the sexual assault kit backlog being established over the last 18 years, why is the backlog persisting? The reason why is 10-fold but RTI International with funding provided by the NIJ performed a mixed methods study to examine intra and interagency dynamics associated with sexual assault kit processing efficiency. Using a sample size of 321 law enforcement agencies (LEAs) and 145 crime laboratories, RTI accessed how labor, capital inputs, evidence polices, evidence management systems, and models of cross-agency coordination all impacted sexual assault kit
processing efficiency. Data was obtained through semi-structured interviews and open-ended survey questions. This research was structured to assess the impact on LEAs and crime laboratories if all inefficiencies were eliminated. Results showed that if LEAs would submit 100% of their forensic evidence, their closure rates would increase by 300%. Not only if LEAs submitted all their evidence but did so according to a prioritization system, their closure rates would increase to 500%. On the other hand, crime laboratories operating at 100% efficiency would only reduce their backlogs by 43%-54%. These findings suggest that the biggest factor impacting efficiency is inadequate numbers of staff. A visual representation that summarizes the RTIs study well can be seen below in Figure 5.

Figure 5: Visual Summary of RTI International Sexual Assault Kit Processing Efficiency in LEAs and Crime Laboratories.
With the supporting results from conversations with key stakeholders, the RTI study, and data produced from this research to date, a more in-depth analysis of grants was needed, particularly to determine whether any currently available funding/grants that could be utilized for the purpose of hiring new forensic scientists. With creative wording on the applications, two funding opportunities were identified as possible means to hire new forensic scientists. These funding options are the DNA Capacity Enhancement and Backlog Reduction (CEBER) Program and Paul Coverdell Forensic Science Improvement Grant.

The CEBER Programs goal is to assist in processing, recording, screening, and analyzing forensic DNA and/or DNA database samples and to increase the capacity of laboratories as a means to reduce the number of forensic DNA and DNA database samples awaiting analysis. Focusing on how this program has been used to hire forensic scientists required a deeper examination of the “Salary and benefits of laboratory employees” section under permissible use of funds. This section states that funds may be used to hire additional full-time or part-time laboratory employees to directly process, record, screen, and/or analyze forensic DNA samples, validate new DNA analysis technologies for the laboratory, and/or responsible for analysis of DNA database samples16.

The Paul Coverdell Forensic Science Improvement Grant was established to address 6 main purposes:

1. To improve the quality and timeliness of forensic science or medical examiner/coroner’s office.

2. To eliminate a backlog in the analysis of forensic science evidence (firearms examination, latent prints, impression evidence, toxicology, digital evidence, fire evidence, controlled substances, forensic pathology, questioned documents, and trace evidence).

3. To train, assist, and employ forensic laboratory personnel and medicolegal death investigators, as needed to eliminate such a backlog.

4. To address emerging forensic science issues (such as statistics, contextual bias, and uncertainty of measurement) and emerging forensic science technology (such as high throughput automation, statistical software, and new types of instrumentation).
5. To educate and train forensic pathologists.

6. To fund medicolegal death investigation systems to facilitate accreditation of medical examiner and coroner offices and certification of medicolegal death investigators.

Focusing again on using this grant to hire new forensic scientists, more analysis of the “Personnel” section under permissible funds, states that funds may be used for forensic science or medical examiner/coroner personnel, overtime, fellowships, visiting scientists, interns, consultants, or contracted staff.

While the DNA Capacity Enhancement and Backlog Reduction (CEBER) Program and Paul Coverdell Forensic Science Improvement Grant provide current DNA laboratories with a roundabout way to hire new forensic scientist, neither funding opportunity will utilize 100% of the total funds provided by either opportunity to only hire new forensic scientist. This seemingly slight stipulation lead to the discovery of the COPS Grant.

The COPS (Community Oriented Policing Services) Office is a part of the U.S. Department of Justice and was created out of the 1994 Violent Crime Control and Law Enforcement Act. The COPS Office goal is to advance the practice of community policing by the nation’s state, local, territorial, and tribal law enforcement agencies through information and grant resources.

The particular program this organization has funded, of which this research hopes to parallel for forensic scientists is the COPS Hiring Program (CHP). The CHP is a competitive solicitation, open to all state, local, and tribal law enforcement agencies. CHP provides finding to hire and re-hire entry-level career law enforcement officers in order to preserve jobs, increase community policing capacities and support prevention efforts for three years (36 months). CHP grants may be used to (1) hire new officers, (2) rehire officers already laid off by any jurisdiction as a result of budget reductions unrelated to the receipt of grant funding; and/or (3) rehire officers scheduled to be laid off by the grantee’s jurisdiction on a specific future date as a result of budget reductions unrelated to the receipt of grant funding.

CHP awards will provide up to 75 percent of the approved entry-level salaries and fringe benefits of a full-time officer, with a minimum 25 percent local cash match requirement.
and a maximum federal share of $125,000 per officer. At the conclusion of the grant, recipients must retain all sworn officer positions that were created under the CHP for a minimum of 12 months\textsuperscript{20}.

To date, the CHP has funded the hiring of more than 129,000 officers to more than 13,000 states, local, and tribal law enforcement agencies across the US\textsuperscript{19}. A complete detailed list of all awardees can be found here at https://cops.usdoj.gov/pdf/2017AwardDocs/chp/Detailed_Award_List.pdf. Four jurisdictions in Pennsylvania specifically, Allentown Police Department, Coatesville Police Department, Shamokin Police Department, and Southern Chester County Regional Police Department, were awarded over $1 million dollars for nine officer positions\textsuperscript{21}. The analysis of this previously successfully COPS Grant program identifies a potential paralleled application in the forensic science community.

In conclusion, nationally and in Pennsylvania, no one knows for sure how many sexual assault kits have gone untested because there is no compulsory reporting or tracking system and there is a lack of inter and intra agency communication. Once the number of untested sexual assault kits is known, transparency and accountability can be established, and resource allocation and testing can begin to eliminate the backlog. Ending the backlog of untested sexual assault kits in the United States will take a deep commitment at all levels of government. Clear laws and policies mandating sexual assault kit tracking and open communication need to be created. In addition to hiring more forensic scientists we will create a criminal justice system that holds offenders accountable and creates opportunities for healing and justice for survivors.