



North Carolina State Crime Laboratory

JOSHUA H. STEIN
ATTORNEY GENERAL

Department of Justice
121 E. Tryon Road
Raleigh, North Carolina 27603

VANESSA MARTINUCCI
DIRECTOR

March 3, 2020

Senator Warren Daniel
Senator Danny Britt, Jr.
Representative James Boles, Jr.
Representative Ted Davis, Jr.
Co-Chairs, Joint Legislative Oversight Committee on Justice and Public Safety

North Carolina General Assembly
Raleigh, North Carolina, 27601-1096

Re: Use of State Funding Appropriated in the Survivor Act

Pursuant to Section 4 of S.L. 2019-221, otherwise known as the Survivor Act, please find attached the North Carolina State Crime Laboratory's report on the use of funds appropriated to test sexual assault evidence collection kits.

Thank you for the opportunity to provide this information. We would be happy to respond to any questions you may have regarding this report.

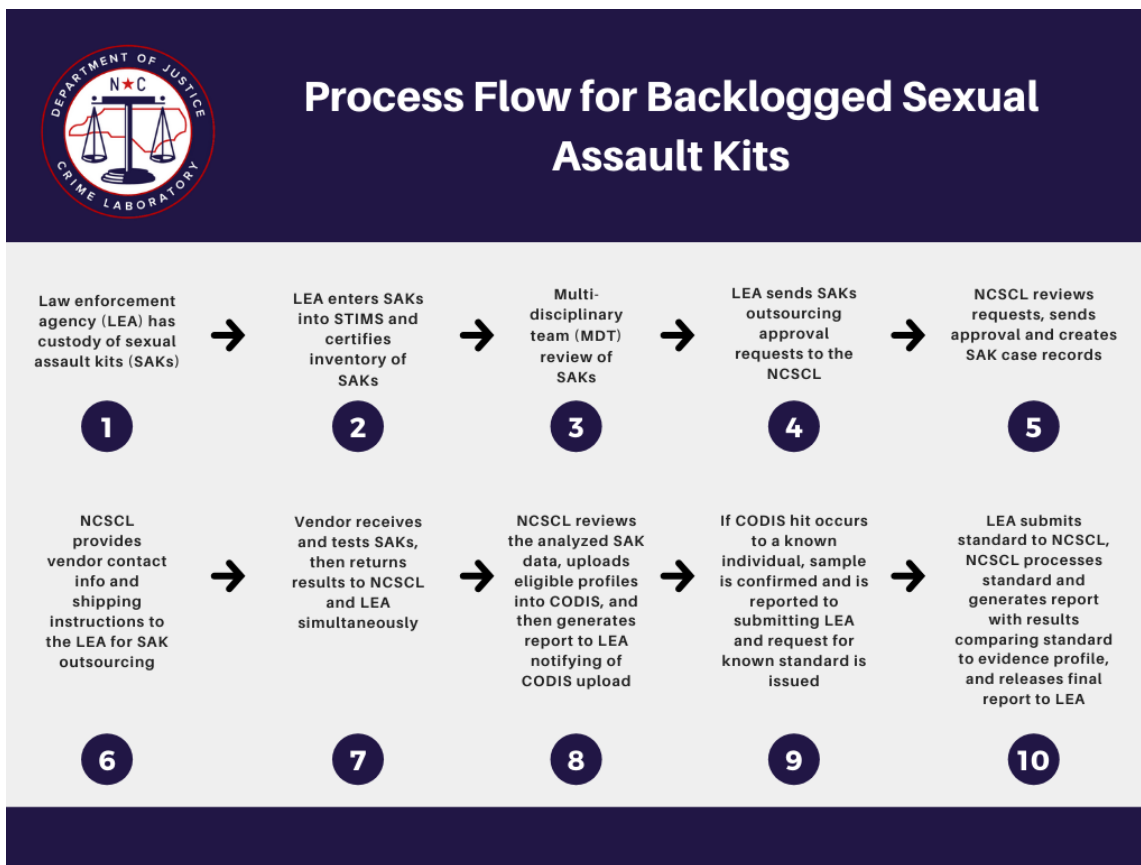
Sincerely,

Vanessa Martinucci
State Crime Laboratory Director

Summary/Background

In 2017, the Department of Justice (DOJ) conducted an inventory of sexual assault kits in local law enforcement custody. That inventory – using self-reported numbers from law enforcement – uncovered approximately 15,000 untested sexual assault kits sitting on shelves in local law enforcement offices around the state. The Attorney General immediately responded by seeking legislation to establish a working group to develop a strategic plan to test these kits, calling for a statewide sexual assault kit tracking system, and requesting dedicated funding to eliminate the statewide backlog. The Attorney General also applied for and was successful in obtaining \$2 million in grant funding from the U.S. Department of Justice’s Bureau of Justice Assistance Sexual Assault Kit Initiative (SAKI), as well as \$2 million from the Governor’s Crime Commission for kit testing. These funds were critical in giving DOJ the resources to immediately implement a statewide testing initiative with local law enforcement to address the statewide backlog.

In 2018, the legislature approved both the working group and the requested statewide tracking system (which allows survivors to track their kits in real-time throughout the testing process). To date, more than 3,475 new sexual assault kits have been collected statewide and entered into the statewide Sexual Assault Tracking and Inventory Management System (STIMS). In addition to those newer kits, 14,305 older kits in local law enforcement custody have been entered into STIMS. In the same way any one of us can track the status of packages and know when it will be delivered, victims and survivors of sexual assault are now able to track their kit and know where it is in the testing process. STIMS brings increased transparency to sexual assault kit processing and testing and can prevent future backlogs.



During the 2019 legislative session, Attorney General Stein joined bill sponsors Sens. Warren Daniel, Danny Britt, and Floyd McKissick and Reps. Jamie Boles, Mary Belk, Billy Richardson, and Carson Smith, in advocating for the Standing Up for Rape Victims Act, or SURVIVOR Act. On September 18, 2019, the legislature passed the Survivor Act, which provides \$6 million in funding to test older sexual assault kits and requires law enforcement agencies to submit newly-collected sexual assault kits within 45 days of collection. The legislation also requires law enforcement agencies to establish review teams to survey their entire untested sexual assault kit inventory and determine a priority submission order for testing by March 18, 2020.

To date, the funding the General Assembly and the Governor’s Crime Commission provided has enabled local law enforcement to receive approval for the outsourcing of 3,717 backlogged kits. Of the 3,717 kits approved for outsourcing, 1,274 kits have completed testing and been returned to the State Crime Lab (SCL) to date. Of those 1,274 completed kits, approximately one out of every four kits has rendered a hit in the CODIS database. These hits provide law enforcement and prosecutors with new leads to solve old crimes.

Already, our efforts to test old kits and advances in forensic genetic genealogy have resulted in the following:

- **an arrest in a 26-year-old sexual assault in Winston-Salem**
- **an arrest in a 35-year-old sexual assault and murder in Salisbury**
- **an arrest in a 10-year-old sexual assault in Asheville**
- **an arrest in a 23-year-old sexual assault in Wilmington**
- **an arrest in a 10-year-old sexual assault in Fayetteville**

These early successes underscore the public safety return on the state’s investment and highlight why funding remains critical to allow the SCL to test all possible sexual assault kits.

Due to the increased demand nationwide to test old sexual assault kits, the cost of testing per kit is expected to increase in 2020. As this report will detail, more resources will likely be needed to finish testing the entire state’s backlog.

Funding Provision

Section 5 of S.L. 2019-221 appropriated six million dollars (\$6,000,000) from the General Fund to DOJ to assist with the testing of kits. Funding was divided over the biennium with three million dollars (\$3,000,000) for the 2019-2020 fiscal year and three million dollars (\$3,000,000) for the 2020-2021 fiscal year to assist with testing sexual assault kits in accordance with the Survivor Act (G.S. 15A-266.5A). The Survivor Act, as passed, became effective on September 18, 2019. As such, in October 2019, the Department of Justice received \$3,000,000 in funding from the Office of State Budget and Management and began using those funds to outsource kits. Prior to October 2019, the DOJ used grant funds provided by the Governor's Crime Commission to outsource kits.

Use of Appropriated Funds

Once the funds became available in October 2019, the SCL immediately began using the legislatively appropriated funds to test previously untested sexual assault kits. From November 2019 to February 2020, 399 sexual assault kits were tested, utilizing \$280,750 in funding. (See Table 1.)

Another 680 cases are projected to be completed between March and June 2020, encumbering an additional \$476,000. At the end of fiscal year 2019-2020, 1,079 total cases at a cost of \$756,750 are expected to be completed. (See Table 1.)

Table 1

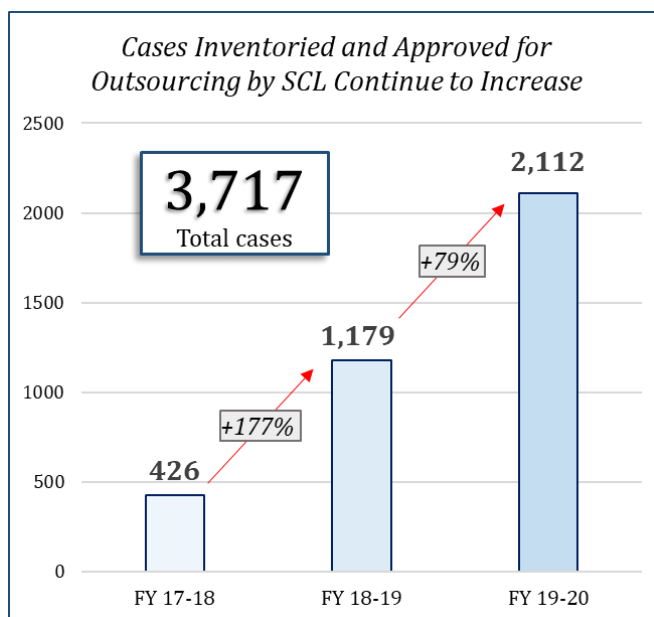
Completed as of Month/Year	Amount	# of Cases
November 2019	\$37,545	53
December 2019	\$60,305	85
January 2020	\$43,900	61
February 2020	\$139,000	200
Total Completed	\$280,750	399
Projected Completion as of Month/Year	Amount	# of Cases
March 2020	\$105,000	150
February 2020	\$122,500	175
May 2020	\$122,500	175
June 2020	\$126,000	180
Total Projected	\$476,000	680
Grand Total of Funds Already Used and Encumbered through July 1, 2020 (<i>and associated cases</i>)	\$756,750	1079

Law Enforcement Requests for Sexual Assault Kit Outsourcing

The SCL anticipates the number of requests for outsourcing will continue to grow as law enforcement agencies comply with the provisions of the Survivor Act. While 3,717 kits have been approved for outsourcing, as many as 11,000 additional kits still need to be reviewed by local law enforcement and submitted for outsourcing. Because of the Survivor Act's upcoming March 18 deadline to finish reviewing all old kits, we expect the submission requests over the coming months (and years) to continue to trend upwards as local law enforcement agencies complete their review process and submit their untested kits for outsourcing.

The chart below shows the number of requests approved by the SCL from law enforcement agencies for outsourcing during fiscal years 2017-2018, 2018-2019, and 2019-2020. (See Figure 1.)

Figure 1



Cost for Future Sexual Assault Kit Outsourcing

Our current vendor contract for outsourcing ends on June 30, 2020 and the SCL is in the process of issuing a new request for proposal (RFP) for outsourcing. We anticipate that the new contract will be awarded by May 2020. However, due to increased demand nationally to test kits, we anticipate the cost of testing each kit to increase from roughly \$700 to \$1,000. Therefore, to complete outsourcing for all 15,000 kits identified in 2017, the SCL will need as much as \$5,000,000 in addition to the money already appropriated by the General Assembly and secured through grant resources.

The \$3,000,000 appropriated by the General Assembly for fiscal year 2020-2021 remains critical to continue outsourcing untested kits.

CODIS Database

What is CODIS?

The **CO**mbined **DNA** Index **S**ystem (CODIS) is a national DNA database created and maintained by the Federal Bureau of Investigation. DNA profiles are entered at either the local or state level and eligible profiles are then uploaded to the national level. CODIS combines forensic science and computer technology into a tool for linking violent crimes by allowing forensic laboratories to exchange and compare DNA profiles, thereby linking serial violent crimes to each other and to known offenders. To date, there are approximately 19 million DNA profiles in the national database.

What can be entered into CODIS?

DNA profiles obtained from crime scene evidence, convicted offenders and certain arrestees, as well as missing persons/unidentified remains may all be entered into the CODIS database.

Using CODIS to Solve Crimes

The CODIS database is routinely searched for potential matches, or CODIS hits, which can help law enforcement identify the perpetrator of a crime or link crimes that may span multiple jurisdictions.





Significance of CODIS and Sexual Assault Kit Testing

The SCL began voluntarily outsourcing previously untested sexual assault kits in early 2018. Since then, data has been returned on 1,274 cases and, of those, 1,208 have been technically reviewed. Of the 1,208 technically reviewed cases, there were 459 CODIS-eligible DNA profiles obtained. Of those 459 CODIS-eligible DNA profiles, there have been 279 CODIS hits to date. This equates to a 23% CODIS hit rate. The SCL expects to see a similar percentage of hits on the cases tested in the future.

With regard to CODIS hits tied to sexual assault kits tested using legislatively appropriated funding, 399 sexual assault cases were analyzed from November 2019 through February 2020. Data has been returned on 199 of those cases. Of these 199 cases, approximately 72 CODIS-eligible DNA profiles were obtained. After technical review, these profiles will be uploaded into CODIS to see if any hits occur.

The value that analyzing untested kits and uploading eligible profiles into the CODIS Database adds to sex offense investigations is illustrated in the table below; CODIS hits to sex offenses have grown significantly over the past few years. Investigative leads are being provided to law enforcement and cold cases are being solved as a direct result of the CODIS hits from these older kits. (See Table 2.)

Table 2

Fiscal Year	CODIS Hits to Sex Offense Cases Older than 20 Years	Total CODIS Hits to Sex Offense Cases	Sex Offenses as a Percentage of All CODIS Hits
FY 15-16	7	70	 15%
FY 16-17	9	131	 27%
FY 17-18	30	173	 29%
FY 18-19	124	400	 50%

Cold Case Success Stories

The SCL's efforts to test old sexual assault kits and advances in forensic genetic genealogy have already resulted in a number of arrests across the state, including the following:

Winston-Salem Police Department

A suspect was charged with first-degree rape, first-degree sexual offense, and first-degree kidnapping as a result of testing a kit collected in 1993.

Salisbury Police Department

A 35-year-old murder was solved and a suspected assailant exonerated after the SCL tested the crime's associated sexual assault kit and a DNA profile linked to a person who has since died.

Asheville Police Department

A CODIS hit on a sexual assault kit from 2008 led to charges of second-degree forcible rape.

Wilmington Police Department

A man was arrested for a 1996 sexual assault after the SCL outsourced the sexual assault kit associated with the crime.

Fayetteville Police Department

A suspect was charged after DNA testing linked him to nine sexual assaults that occurred in 2009 and 2010.

As the stories above – and countless others from around the state and nation – prove, DNA breathes new life into cold cases. Simply put, when kits are tested, crimes are solved. North Carolina is safer today because of the funding provided to test these old kits and bring justice in these cases.

Continual Education and Outreach by the Department of Justice

DOJ continues to provide education and outreach to law enforcement agencies throughout North Carolina as reflected in the Sexual Assault Tracking and Inventory Management System (STIMS) report submitted to the General Assembly in October of 2019.

DOJ continues to educate law enforcement agencies through various means of contact to ensure each agency: 1. knows how to enter their inventory of untested sexual assault kits into the statewide STIMS managed by the SCL; 2. understands the importance of a review, or multidisciplinary team process, for evaluation of kits for testing as outlined in the Survivor Act; 3. knows how to contact the SCL to request analysis for the sexual assault cases in their possession; and 4. understands trauma-informed case review and victim notification and has access to tools to support such outreach.

DOJ has additionally provided outreach to law enforcement, prosecution, forensic nurse personnel and victim advocates in the form of regional training sessions in 2020 and offered consultation and site visits to support implementation of legislative mandates. Additional training is being planned based on identified needs from local jurisdictions.

Conclusion

Since 2017, the State of North Carolina has made important progress on resolving our sexual assault kit backlog. We now know the scope of our problem and have set in motion a plan to address it – but much more work is left to be done. With your continued support, the SCL will be able to test all inventoried and testable kits. Doing so will make our communities safer and bring justice to survivors.