



U.S. Department of Justice  
**OVW**  
Office on Violence Against Women  
Working Together to End the Violence

*Summary of the Proceedings*

**Eliminating the Rape Kit Backlog:  
A Roundtable to Explore a Victim-Centered  
Approach**

Washington, DC | May 11 – 12, 2010

**Summary of the Proceedings**  
***Eliminating the Rape Kit Backlog:***  
***A Roundtable to Explore a Victim-Centered Approach***

Washington, DC | May 11 – 12, 2010

## Contents

<b>Executive Summary.....</b>	<b>4</b>
<b>Introduction .....</b>	<b>7</b>
<b>The Roundtable .....</b>	<b>8</b>
<i>Goals.....</i>	8
<i>Participants .....</i>	8
<i>Proceedings .....</i>	8
<b>Defining the Problem .....</b>	<b>9</b>
<b>A Survivor’s Perspective.....</b>	<b>11</b>
<b>First Steps: Current Issues and Efforts to Address the Backlog.....</b>	<b>12</b>
<i>I. Evidence Collection, Transfer and Storage.....</i>	12
A. Role of Healthcare Professionals in Sexual Assault Kit Collection .....	12
B. Lack of Uniformity in Kit Materials and Collection Techniques .....	13
C. Lack of Information on How to Obtain Sexual Assault Kits.....	13
D. Not all Victims Want to Participate in the Criminal Justice Process .....	14
E. Timeline and Victim Notification.....	14
F. Inconsistency in Kit Storage .....	14
<i>II. Investigation and Evidence Analysis.....</i>	14
A. Community Snapshots .....	15
B. Barriers to Rape Kit Analysis.....	21
<i>III. Victim Advocacy Before, During, and After the Investigation.....</i>	23
A. A Victim-Centered Approach .....	23
B. Victim Contact and Kit Ownership .....	24
C. Need for Better and Timely Information.....	24
<i>IV. Other Promising Victim–Centered Approaches to Eliminating Backlogs .....</i>	25
A. Systems for Following Up after a CODIS Hit .....	25
B. Support during Investigations and CODIS Hit Follow-up .....	25
<b>Next Steps for Eliminating the Backlog.....</b>	<b>26</b>
<i>SANEs and Other Healthcare Professionals .....</i>	26
<i>Victim Advocates .....</i>	26
<i>Law Enforcement.....</i>	27
<i>Forensic Scientists.....</i>	27
<i>Prosecutors.....</i>	28
<b>Closing Remarks.....</b>	<b>29</b>
<b>Appendix 1: Agenda.....</b>	<b>31</b>

<b>Appendix 2: Participant Contact List.....</b>	<b>33</b>
<b>Appendix 3: Federal Attendees .....</b>	<b>38</b>
<b>Appendix 4: Resource List.....</b>	<b>41</b>
<b>Appendix 5: Texas Central Index Legislation.....</b>	<b>44</b>
<b>Appendix 6: 2007 Survey of Law Enforcement Forensic Evidence Processing .....</b>	<b>46</b>

## **Summary of the Proceedings**

### ***Eliminating the Rape Kit Backlog: A Roundtable to Explore A Victim-Centered Approach***

National Council of Juvenile and Family Court Judges (NCJFCJ) Training Center  
801 Pennsylvania Avenue NW, Suite 375  
Washington, DC 20004  
May 11- 12, 2010

---

## **Executive Summary**

In response to growing concerns over a nationwide backlog of DNA evidence from sexual assault cases, the U.S. Department of Justice (DOJ) Office on Violence Against Women, in collaboration with the Office of the Vice President, Office of Justice Programs' National Institute of Justice (NIJ), Bureau of Justice Assistance, and Office for Victims of Crime, convened a roundtable discussion on May 11 – 12, 2010 in Washington, DC. This meeting was an opportunity for key stakeholders to come together to explore innovative and victim-centered approaches to eliminating the backlog of rape kits in state and local jurisdictions and crime laboratories.

Participants included victim advocates, law enforcement officers, sexual assault nurse examiners (SANEs), prosecutors, and forensic analysts. Each shared his or her perspectives on the backlog and described strategies currently underway to more efficiently process rape kits. Agreeing that any effort to address the backlog must be taken in context of the entire process of a sexual assault investigation, participants offered recommendations for how the federal government can support local and state efforts to solve the backlog crisis while also improving coordinated community responses to sexual assault.

Susan B. Carbon, Director of the Office on Violence Against Women, Lynn Rosenthal, White House Advisor on Violence Against Women, and Kristina Rose, then-Acting Director of the National Institute of Justice, provided opening remarks, stating that elimination of rape kit backlogs is a major priority for the federal government and explaining measures the government is currently taking to address the crisis. Michael Sheppo, Director of the Office of Investigative and Forensic Science at NIJ, provided background on the rape kit backlog and the Combined DNA Index System (CODIS), which is used by law enforcement agencies to link DNA profiles from violent crimes to known offenders and unsolved crimes. Dr. Jeri Roper-Miller, Senior Research Forensic Scientist at RTI International, delivered a presentation on the 2007 Survey of Law Enforcement Evidence Processing, which has helped clarify the size and scope of the rape kit backlog. Kellie Green, founder of Speaking Out About Rape (SOAR), recounted her own experience as a rape survivor, emphasizing the need for better public awareness

about the backlog and more efficient means of processing evidence from sexual assault cases.

During the discussion, SANEs described their dual roles of providing healthcare and collecting and preserving evidence. They cited lack of consistency in how and what evidence is collected—and how and where rape kits are stored—as factors contributing to the backlog. In addition, limited resources, barriers to accessing information (e.g., information on how to obtain packaged rape kits), and transient healthcare providers in rural and tribal areas create more challenges. SANEs emphasized that their first priority is to serve the victim's immediate healthcare needs, and that many victims do not want to report sexual assault to law enforcement or participate in the criminal justice process.

Participants representing local and state law enforcement agencies and crime laboratories described the backlogs in their communities and outlined strategies they are implementing to mitigate the crisis. Several agencies went from having manageable caseloads of several hundred kits to having backlogs numbering in the thousands after scores of evidence kits from older cases were discovered. Many agencies have seen their backlogs grow due to expansion in the use of DNA profiling and its application to a wider range of cases beyond sexual assaults. Participants told of efforts to build internal capacity to more efficiently process kits while also outsourcing cases to private laboratories, noting that even outsourcing requires a great deal of internal resources to track cases and conduct quality reviews.

While the Los Angeles Police Department (LAPD) has been funded to analyze each rape kit in the city's backlog, other agencies must prioritize cases, first sending to the crime lab those cases in which the suspect is unknown, the statute of limitations is nearing, or the suspect is about to be released from prison related to a separate case. Cases from acquaintance rapes, cases for which the statute of limitations has passed, cases that have been previously rejected by the district attorney, and cases that may be unfounded receive lower priority.

Some states and localities have attempted legislative remedies to address rape kit backlogs, such as lengthening the statute of limitations for sexual assault, mandating turnaround times for kit processing, and recording CODIS DNA matches on a person's criminal record even if criminal charges are not filed.

Forensic scientists at the roundtable explained the need for more clarity on the size of the backlog, since they do not know how much evidence is currently sitting in law enforcement warehouses and other storage facilities outside of crime laboratories. They also urged stakeholders to understand that a criminalist's job is not to advocate for the victim, but, rather, to “advocate for the evidence” by applying the best techniques available to each piece of evidence they process.

Participants discussed if and how victim advocates—who support victims and connect them to community resources before, during and after an investigation—could be involved in notifying victims if a case is reopened or a CODIS hit is obtained. Advocates

explained that victims whose assaults occurred years or decades ago may respond to new developments in their cases with excitement, anger, hope, frustration, fear, or any combination of emotions. Advocates suggested that, as law enforcement closes more sexual assault cases, victims may develop more confidence in the justice system and may be more inclined to report sexual assault. Advocates cautioned against widespread misconceptions about acquaintance rape, noting that the majority of sexual assaults are committed by someone the victim knows. Treating acquaintance rape as “less serious” than rape by a stranger will only hinder efforts to eliminate the backlog.

Participants shared their recommendations for eliminating the rape kit backlog, emphasizing the need for:

- More clarity on the size and scope of the rape kit backlog;
- Consistency and quality in how and what evidence is collected, evidence collection techniques, and protocols for kit storage and tracking;
- Increased and targeted funding to more efficiently process rape kits;
- Enhanced training and cross-training on evidence analysis and how it fits into the investigative process;
- Exploration of how sexual assault investigations, including strategies to eliminate backlogs, can be developed and pursued in a way that balances the need for victim autonomy with the criminal justice system’s need to hold offenders accountable;
- Victim-centered approaches to notifying victims when cases are reopened and engaging victims throughout the investigation;
- Education and training to combat misconceptions and bias in sexual assault investigations that contribute to a lack of equity in how cases are handled;
- Enhanced information management systems to track backlogs; and
- More research on promising practices to reduce and eliminate the rape kit backlog.

## Introduction

Over the past several decades the criminal justice system has been transformed by advances in technology. Developments in forensic science, healthcare, and information technology have reshaped how violent crimes, particularly sexual assaults, are investigated and prosecuted. First introduced in 1984, DNA profiling can link biological samples to potential suspects. Sophisticated software enables law enforcement agencies to network on a national and even international level, facilitating the exchange and comparison of DNA evidence from violent crime investigations. Healthcare practice has expanded to include forensic evidence collection, meaning that a specially trained nurse or doctor can assemble a “rape kit”<sup>1</sup> comprised of evidence they collect from a victim’s body and clothing, which is then analyzed as part of the investigative process.

With this progress, however, have come challenges. Lacking the capacity to analyze a tremendous volume of evidence, local jurisdictions and state law enforcement agencies have not been able to process rape kits in a timely manner. As the amount of DNA evidence collected in criminal cases increases and efforts to collect DNA samples from convicted felons and arrested persons grow, crime laboratories are inundated with an ever-mounting caseload. Furthermore, evidence from cold cases—meaning older, unsolved crimes from which evidence was collected but never tested—adds to a growing national backlog of DNA evidence. As a result, an overburdened justice system struggles to keep pace with the backlog, offenders go undetected, and victims may wait months, years, or even decades to see their perpetrators held accountable, if their cases even make it that far.

To better understand this challenge and to identify potential strategies for reducing and eliminating the rape kit backlog, the U.S. Department of Justice (DOJ) Office on Violence Against Women, in collaboration with the Office of the Vice President, and the Office of Justice Programs’ National Institute of Justice, Bureau of Justice Assistance, and Office for Victims of Crime convened a roundtable discussion on May 11 – 12, 2010 in Washington, DC. Participants included victim advocates, law enforcement officers, sexual assault nurse examiners (SANEs), prosecutors, and forensic analysts. Through sharing their diverse perspectives, these experts contributed to a more thorough awareness of the backlog, shed light on current efforts to reduce the backlog, and explored potential solutions to the problem.

This report is a summary of the roundtable discussion. Please note that this report is not intended to be a definitive document on the state of the national rape kit backlog.

---

<sup>1</sup> A “rape kit” (the familiar term for a sexual assault evidence collection kit) is a package of materials that healthcare personnel use to collect, label, and preserve physical evidence after a sexual assault.

# The Roundtable

## *Goals*

The purpose of the roundtable was to hear from experts at the local, state, and national levels about challenges to addressing the rape kit backlog, and to learn about innovative and successful approaches currently in use and think about potential ideas for future approaches. This multidisciplinary discussion focused on the backlog of untested rape kits while also exploring broader issues of investigating and prosecuting sexual assault cases. The information and ideas gathered during the roundtable helped inform DOJ of the training, technical assistance, research and resource needs associated with reducing and eliminating rape kit backlogs. The agenda is included in Appendix 1.

## *Participants*

Roundtable participants included SANEs, victim advocates, law enforcement officers, crime laboratory experts, and prosecutors from a diverse range of communities in the United States. Attendees from the federal government included representatives from the Office of the Vice President, Office on Violence Against Women (OVW), National Institute of Justice (NIJ), Office for Victims of Crime (OVC), Bureau of Justice Assistance (BJA), Federal Bureau of Investigation (FBI), and Office of Management and Budget (OMB). A complete list of participating stakeholders can be found in Appendix 2, and Appendix 3 contains the list of federal attendees.

## *Proceedings*

Participants were welcomed by Marnie Shiels, Attorney Advisor at OVW, who also facilitated the meeting. Opening remarks were provided by:

- Susan B. Carbon, Director, Office on Violence Against Women;
- Sarah Lynn Rosenthal, White House Advisor on Violence Against Women, Office of the Vice President; and
- Kristina Rose, Acting Director, National Institute of Justice.

Judge Carbon emphasized that addressing sexual assault is a significant priority for OVW. She called for a better understanding of the issues, challenges and success stories related to rape kit backlogs, and stressed the need for a victim-centered approach to this work. Judge Carbon expressed her appreciation to the other Executive Branch partners who aided in planning and executing the roundtable and to the stakeholders for their participation in the discussion.

Ms. Rosenthal spoke of the importance of this issue to the Vice President, citing that the Administration doubled funding for sexual assault services in the President's budget. Ms. Rosenthal explained that evidence collection and analysis must be part of a larger plan to address sexual assault in the United States. She further stated that the rape kit backlog cannot be taken out of context from the larger DNA backlog issue that exists nationwide.



By improving the approach to investigating sexual assault and processing rape kits, we can begin to address the national DNA backlog as well.

**Efforts to reduce rape kit backlogs must be victim-centered, informed by all stakeholders involved in response to sexual assault, and developed and implemented in a way that accounts for the entire investigative process.**

Ms. Rose, who was then serving as the Acting Director of NIJ, represented the Office of Justice Programs (OJP) at the roundtable. She expressed her appreciation for the outstanding collaboration involved in assembling the roundtable, and commended the Office of the Vice President for its focus on this issue. Ms. Rose encouraged the group to examine generally how sexual assault cases are investigated, and explore how we can take a holistic, victim-centered approach to addressing rape kit backlogs. She discussed how NIJ considers DNA backlogs a major priority and has invested \$400 million in backlog reduction and capacity building over the past five years. In addition, NIJ has studied the use of DNA analysis in property crimes and its effect of increasing arrest rates, and Ms. Rose noted that NIJ is currently studying the use of DNA in solving motor vehicle thefts. Ms. Rose expressed that the federal representatives attending the roundtable were present to listen to the stakeholders, so that federal agencies can better target their technical assistance, training, and research agenda.

Opening remarks were followed by a facilitated discussion to frame the issue and define the challenges to addressing the rape kit backlog in clear terms. A presentation on the 2007 Survey of Law Enforcement Forensic Evidence Processing (Appendix 6) was given between segments of the discussion. Participants then described strategies currently underway to reduce the backlog and shared their perspectives on key issues and resource needs. This multidisciplinary conversation elicited information about what works and does not work to reduce the backlog, which strategies can facilitate more timely analysis of kits, and how a better approach to eliminating the backlog fits into a larger effort to improve sexual assault investigations.

## **Defining the Problem**

Michael Sheppo, Director of the Office of Investigative and Forensic Sciences at NIJ, provided a presentation to frame the issues. He remarked that the news media have run stories about the thousands of untested rape kits and significant backlogs in crime laboratories across the nation. Delays in submitting evidence for forensic testing as well as delays in analyzing the evidence can hinder investigations and prosecutions, allowing perpetrators to continue to commit crimes.

Mr. Sheppo explained that backlogs are not static, and often cases are submitted to crime labs faster than they can be tested. Furthermore, DNA evidence also is being used to solve crimes other than sexual assault, so the demand for evidence analysis increases. An NIJ study revealed that the number of cases coming into crime laboratories has increased three-fold over the past five years, while the number of cases processed has tripled over the same time period. Thus, the backlogs have remained constant.

To explain how DNA evidence is used after it has been processed, Mr. Sheppo described the FBI's Combined DNA Index System (CODIS), which links local, state, and national databases of DNA profiles from convicted perpetrators, unsolved crimes, and missing persons. Through CODIS, law enforcement can compare DNA profiles from crime scene evidence to DNA profiles of known offenders, potentially linking serial crimes.

Nationwide there is no uniform definition of a backlog; NIJ, however, defines a backlogged case as one submitted to a crime laboratory that has not been tested within 30 days. The evidence stored by law enforcement agencies, outside of the crime laboratory, is not really a crime laboratory backlog because the evidence was never submitted to the crime laboratory for analysis. NIJ considers the un-submitted cases maintained by law enforcement as a separate issue from backlogs maintained by crime laboratories.

Mr. Sheppo referenced a recent NIJ study that found that 18 percent of unsolved sexual assault cases with forensic evidence were not submitted to a crime laboratory for analysis.<sup>2</sup> Many large cities are facing backlogs of hundreds or thousands of untested kits, and there may be reasonable explanations for not submitting the evidence for testing. For example, the evidence may not have been probative, the charges may have been dropped, or a guilty plea may already have been reached. More information is needed about how law enforcement agencies decide to submit cases to a crime laboratory and how cases are prioritized.

There is also the question of whether the term "rape kit backlog" adequately describes the matter at hand. Most state statutes define "rape" as nonconsensual oral, vaginal, or anal penetration, along with a variety of other classifiers. The term "sexual assault" covers a wider range of offenses which include nonconsensual penetration and assaults not involving penetration. Both penetration and non-penetration offenses may be classified as felonies, and evidence is collected for various types of offenses.

In addition, a tremendous amount of evidence, such as clothing, bedding, and other material from the crime scene, is collected but not stored with the rape kit. This evidence may have probative value and may include physical evidence such as latent prints, hair, and fibers. To better define the problem, "sexual assault kit" and "sexual assault case" might be more appropriate terms to use instead of "rape kit."

Finally, forensic evidence is not the only aspect of a sexual assault case that is considered. Previous investigative leads developed by detectives and interviews conducted with victims, witnesses and suspects all have value that can help bring resolution to backlogged sexual assault cases. Throughout the investigation, law enforcement and others must consider when and how to approach a victim when the status of their backlogged case has changed.

---

<sup>2</sup> Strom, K. J., Roper Miller, J., Jones, S., Sikes, N., Pope, M., & Horstmann, N. (October 2009). *The 2007 Survey of Law Enforcement Forensic Evidence Processing. Final Report*. Retrieved on September 17, 2010, from <http://www.ncjrs.gov/pdffiles1/nij/grants/228415.pdf>.

## **A Survivor's Perspective**

Kellie Greene, Founder/Director of Speaking Out About Rape (SOAR), shared her story of being a victim of rape by a stranger in January 1994. She also described the experiences of other victims who have waited long periods of time to have DNA evidence in their sexual assault cases analyzed. Ms. Greene recounted that in 1994 Florida crime laboratories did not conduct DNA analyses on non-suspect cases, meaning cases without a named suspect, so evidence from her case was not placed in the queue for analysis until a suspect was identified. The detective investigating her case had a sizeable caseload and was thus limited in time and resources to devote to her case. Ms. Greene shared that, as a victim of a stranger rape, she spends her life studying faces at the grocery store, work, and driving down the road, both hoping and fearing she will spot her rapist.

Every few months Ms. Greene and the detective would review the case to determine if anything had been missed. After three years, a suspect was identified in another county, so the crime laboratory conducted the DNA analysis, ran the results through CODIS, and obtained a hit on a different individual. Ms. Greene finally began to feel a sense of closure. To her shock and disappointment, the rapist pled guilty three days before the scheduled trial and received a concurrent sentence that would be completed while he was serving a prison term for another sexual assault.

Ms. Greene emphasized that there are faces and real lives attached to each rape kit, and any approach to reducing the backlog should be taken with sensitivity to victims. She further stated that, while some victims will embrace a reopened investigation as a positive event, others may struggle with and reject the intrusion into their lives and privacy. Ms. Greene cited the example of a woman who was raped when she was 18-years-old and was notified two decades later that the rapist had finally been identified. She had not shared the story of her rape with her husband and teenage daughter, and suddenly she had to both disclose the event and confront the painful memory from her past.

Ms. Greene closed by urging the group to more clearly define the backlog so policymakers and the media can be better educated on the issue. This will enable policy changes and will give the media knowledge to write responsible and informative stories about the backlog.

# **First Steps: Current Issues and Efforts to Address the Backlog**

In opening the discussion Ms. Shiels reiterated that the goal of the roundtable was to develop a better understanding of the challenges and complexities in addressing the rape kit backlog, and to document unique and successful approaches currently implemented to address the crisis. This section summarizes the conversation according to the process a sexual assault victim encounters when seeking a forensic exam.

## **I. Evidence Collection, Transfer and Storage**

In many jurisdictions, sexual assault nurse examiners (SANEs) provide medical care to victims of sexual assault. They collect evidence during a forensic exam, using swabs, containers, glass slides, and envelopes. The victim's clothing and other belongings may also be sealed as evidence. The SANE documents injuries and other observations in writing and using forensic photography. Throughout the process, SANEs carefully balance their obligations to provide medical care with performing quality evidence collection.

SANEs are responsible for maintaining the chain of evidence while the rape kit is in their possession, and they typically give the kit to law enforcement immediately after the kit is completed and sealed. Although there is a lot of focus on the sexual assault kit, it should also be noted that the sexual assault kit may be the last evidence opened during an investigation, because there may be crime scene evidence, collected in bags not contained within the kit, which is considered more probative for a particular investigation. Also, some crime laboratories do not accept sexual assault evidence if the case is not under active investigation, which may be one reason why the evidence is held at the law enforcement department.

Roundtable participants described challenges to and strategies for effective evidence collection, including issues with kit storage, the varying contents of kits and inconsistencies in evidence collection, the need to clarify the role of the healthcare provider in the investigative process, and the need for more information from law enforcement on how to obtain kits (particularly in rural and tribal areas) and how to inform the victim of what to expect during and after the exam. The conversation is summarized below.

### **A. Role of Healthcare Professionals in Sexual Assault Kit Collection**

Participants believed that healthcare practitioners who conduct forensic exams should understand how the collection of the rape kit is integrated into the entire process of healthcare. They urge these professionals to better grasp that evidence collection is a specialized response and that proper technique is essential. Furthermore, SANEs and their partners in law enforcement need to have a clear, mutual understanding of where the SANE's role begins and ends. On a related note, healthcare professionals should be sure to explain the limitations of the forensic exam to victims to help manage victims' expectations of the procedure.

## **B. Lack of Uniformity in Kit Materials and Collection Techniques**

The contents of rape kits vary from state to state and even among jurisdictions. Some kits are packaged as boxes, and others are large envelopes. Therefore, the process of collecting evidence and the evidence that is collected is not consistent. While it is estimated that 50 to 60 percent of sexual assault kits will test positive for the presence of biological material that is foreign to the victim, it was noted that in some areas of the country the percentages are lower because of poorer quality evidence collection procedures in those geographic areas.

SANEs emphasized that the kit should not wholly drive the exam, and that the victim may decline any part the exam. In some jurisdictions financial reimbursement for the forensic exam is tied to completing the entire kit, so if the kit is not collected according to the approved protocol, the hospital will not receive reimbursement for the exam. This may conflict with the SANE's obligation to honor a victim's option to decline any portion of the exam.

Participants described some of the issues with kits in their communities, as well as strategies to establish better quality and consistency in evidence collection:

- The Illinois State Police (ISP) is mandated to provide sexual assault evidence collection kits to all forensic medical providers statewide. To develop a consistent approach to sexual assault evidence collection in the state, the ISP developed a DVD on how to collect evidence using the kit, and they are willing to share this DVD with other interested agencies. They also have one coordinator for all of the kits, and this person can provide feedback to individual providers if there are quality issues with evidence collection techniques. ISP also noted that they do not track sexual assault kits specifically; rather they track sexual assault cases, since some cases do not include kits but have other probative items.
- In Georgia, as SANE programs have developed over time, consistent and effective evidence collection techniques have facilitated more timely processing of evidence once submitted to the crime laboratory.
- Evidence collection in Wyoming is made challenging by locum tenens practitioners, or temporary medical professionals, who cycle through medical facilities in rural areas.
- The Los Angeles Police Department (LAPD) and the sheriff's department have a standardized kit for the county; however, the rest of California uses a different kit.

## **C. Lack of Information on How to Obtain Sexual Assault Kits**

In some tribal areas, personnel at hospitals and other medical facilities do not know how to obtain sexual assault kits for evidence collection. Many communities, especially in rural areas, do not have access to SANE programs or any specialized forensic medical services whatsoever. Training and consistent evidence collection protocols are particularly needed in rural areas because of the lack of resources and the rotating nature of the temporary medical professionals who serve these areas.

### **D. Not all Victims Want to Participate in the Criminal Justice Process**

Some victims may seek SANE services exclusively to treat their immediate healthcare needs following a sexual assault. These victims may or may not choose to have a forensic exam conducted. SANEs are responsible for informing the victim of her or his choices, and SANEs must be prepared to treat victims who seek only medical treatment and decline the forensic exam.

Furthermore, victims may opt to undergo the forensic exam but not immediately report the incident to law enforcement. They may report at a later point or not at all, but given the time-sensitive nature of forensic evidence, some victims will have the kit collected while weighing their options.

### **E. Timeline and Victim Notification**

SANEs noted that it would be helpful if law enforcement could inform the SANE of the current turnaround times and potential next steps so the SANE can convey this information to the victim. Victims may have questions about the process before, during or after the exam, and SANEs may be unsure of how to answer such questions.

### **F. Inconsistency in Kit Storage**

Typically, kits are stored at the crime laboratory or another law enforcement facility. However, some hospitals (with and without SANE programs) are storing untested sexual assault kits that have not been transferred to law enforcement or the crime laboratory for analysis. In some cases rape crisis centers are holding evidence from sexual assaults.

It was noted that a hospital in Georgia is said to have up to 1,000 untested sexual assault kits in their possession. The Georgia Bureau of Investigation was informed that most of the sexual assault kits held at the Georgia hospital are from prostituted women who did not file formal criminal reports, so those cases will not move forward. Victim advocates pointed out that the criminal justice system often views prostituted women as “throw-away victims,” adding further challenges to investigating sexual assault cases.

Inconsistencies in how and where kits are stored create a host of concerns. Compromises to the chain of custody can have profound repercussions in court, and hospitals and rape crisis centers may be ill equipped to maintain the integrity of the evidence. While there are reasons why some kits are not transferred to law enforcement, such as that the victim may not yet have decided whether to file a criminal complaint, unknown scores of rape kits held outside of crime labs could significantly add to the backlog. Kits may also be stored in hospitals at a higher rate as more hospitals develop protocols that allow for anonymous reporting of sexual assault.

## **II. Investigation and Evidence Analysis**

Law enforcement’s success in using DNA analysis to further investigations and solve crimes is a contributing factor to the rape kit backlog. New, improved technology emerges every day, and law enforcement and prosecutors request that these methods be applied to more and more cases, thus building a backlog of requests, including both

violent crimes and property crimes. Some state legislators have expanded DNA collection laws to include collecting samples from convicted offenders and arrested persons.

Crime laboratory experts raised the issue that forensic scientists should not be advocates for the victim; rather, their job as scientists is to analyze the evidence objectively and impartially—to be advocates for the evidence. They should apply the best methods available, and they must educate law enforcement and prosecutors on the limits of their techniques based on the evidence submitted. While some criminalists argue that they must know the details of the case to determine the types of tests to run and how to prioritize the evidence, others believe that criminalists should know nothing about the case to eliminate any potential contextual bias.

With each advancement in the use of DNA, more success has been realized. However, crime laboratories have not been able to keep up with the demand. If agencies had adequate resources to investigate backlogged rape cases, there would be no reason to prioritize some cases over others. Participants agreed that additional funding is needed to specifically identify and analyze backlogged sexual assault cases that have not yet been submitted to crime laboratories. More consideration is needed to determine how private resources can be obtained to support testing backlogged cases, as some agencies have obtained private funding to support backlog reduction.

### **A. Community Snapshots**

This section includes snapshots of eight law enforcement agencies' experiences in handling rape kit backlogs as they were presented by these jurisdictions at the roundtable. These snapshots illustrate the varying nature of the backlog crisis from one community to the next, while highlighting current efforts to reduce backlogs. Following the snapshots are additional key points from the discussion around investigating sexual assault, processing kits, and following up on the findings of evidence analyses.

#### ***Dallas Police Department***

Dallas Police Department (DPD) reported that it has located an average of 600-800 kits each year, dating back to the 1980s, but the statute of limitations then was only five years for certain crimes. Since the crime laboratory kept these kits, DPD was able to produce several exonerations from those kits. Representatives from DPD explained that they are willing to work cold cases that cannot be prosecuted due to the statutes of limitations in order to provide resolution to the victims and their families. However, the chain of command has to direct limited funding to current cases that can be prosecuted, thus making older cases a lower priority. Current cases take precedence, and cases in which the perpetrator is unknown are highest priority.

In some instances, DPD has been able to use a private DNA laboratory to process older cases, but more funding is needed to contract this work to private labs. It was noted that during cold case investigations it is important to connect victims with appropriate resources in the community. Dallas avoids contacting the victim unless they solve the case.

In 2009, a new law affecting DPD was passed that states if DNA links a perpetrator to a sexual assault, even if the case cannot be prosecuted, that information can still be entered into the person's criminal history. This information is reserved for law enforcement purposes and is held in a central index maintained by the state law enforcement agency. The system is not available nationwide but the information can be used in parole hearings for offenders. A copy of the legislation is included as Appendix 5.

### ***Los Angeles Police Department***

LAPD investigates sexual assaults within the city of Los Angeles, and the Los Angeles Sheriff's Department handles the surrounding jurisdictions within Los Angeles County. The LAPD crime lab had a typical working backlog of 200-250 sexual assault cases until 2007, when a tremendous volume of additional sexual assault kits were discovered, ballooning the backlog to 7,000, with cases dating as far back as 1997. This discovery led to the agency obtaining resources to address the backlog, which they had been requesting for 10 years with limited success.

Now with additional resources at their disposal, LAPD explored two different options for eliminating the backlog: 1) build capacity and analyze the backlogged cases exclusively in-house, whereby it was estimated that all cases would be processed by 2015; or 2) outsource the backlogged kits to a private vendor while building capacity in-house to handle the anticipated routine number of cases, whereby they estimated resolving the backlog by 2011. LAPD opted to outsource the backlog and continue to build internal capacity. Additionally, they would not process cases that fell outside of the statute of limitations.

Forty detectives spent two weeks hand-counting and recording all evidence in their freezers. In the end, they found 6,132 sexual assault kits that had never been tested or submitted for analysis. The backlogged cases were sorted into four different priority levels before they were outsourced. Highest priority was given to sexual assault cases in which the perpetrator was unknown, or cases in which the perpetrator was in a position of trust. The second highest priority was given to acquaintance rapes. The final two categories were cases previously rejected by the district attorney's office, and potentially unfounded cases in which there was a question whether a crime had occurred. (It is now LAPD policy that every sexual assault case be analyzed and detectives cannot triage the cases.)

In telling this, it was noted that DNA evidence still demands considerable resources, even when outsourced. For instance, LAPD has 12 to 15 personnel managing the outsourcing process for backlogged kits. The rapid analysis and return of DNA results from the private laboratory has created another backlog of the required technical data review of the private vendor's work.

LAPD currently has 2,000 cases pending internal technical data review before being entered into CODIS. It takes 1.5 to 2 hours for the LAPD to review and run the results of one case through CODIS. To date, LAPD has spent \$11 million on outsourcing the



backlog, which does not include the cost of LAPD analysts' time for packaging and reviewing cases.

Participants from LAPD explained that, before the backlogged cases were discovered, they had tremendous success in performing DNA analysis on property crimes. The hit rate was 60 to 65 percent on property crimes with DNA evidence, but this work was halted so that resources could be devoted to the rape kit backlog. Since crime laboratories have limited capacities, decisions must be made to apply the best tools to the highest priority cases.

LAPD has also been building internal capacity while outsourcing cases. As a result of increased resources and support, the LAPD Crime Laboratory has expanded its forensic biology department from 38 to more than 80 staff members. Historically, LAPD had to decide which cases to process first, but under current guidelines and with the added resources, all cases will be processed.

Today, only 450 sexual assault cases remain from LAPD's original backlog. Currently 1,800 sexual assault cases are open, and over 1,200 of those cases have been submitted within the last 18 months. These cases have generated numerous hits and there have not been any DNA exonerations from previous convictions. LAPD currently waits to notify the victim until they open the kit and DMV records are used to find victims from old, reopened cases. LAPD is reportedly prepared to process 100 sexual assault cases per month, or about 1,200 sexual assault cases annually, within their laboratory.

Also helping resolve the backlog crisis is updated legislation in Los Angeles that modifies the previously very narrow statute of limitations. The current statute of limitations is 10 years on sexual assaults; however, if a DNA profile is developed from biological evidence from the crime within two years of the crime, there is no statute of limitations for that crime.

Adding to LAPD's resources is an innovative statewide approach that helps law enforcement more efficiently investigate sexual assault cases. "Fast Track Forensics" is a pilot project in California, implemented in collaboration with LAPD and the Los Angeles Sheriff's Department (LASD), involving not only processing swabs from rape kits at the local crime lab, but also sending the swabs to the state DOJ laboratory for analysis within three days. The state then runs these samples through CODIS to search for a DNA match. Thus, while the kits are being fast-tracked at the state lab they are also moving through the normal, lengthier, analysis process at the local laboratories.

### ***Los Angeles Sheriff's Department***

Two years ago, Los Angeles Sheriff's Department (LASD) began to combat their backlog by having 26 pre-academy cadets hand-count all of the evidence in storage. Previously, the kits were only processed per the request of the investigator, but now all submitted kits are analyzed. LASD had a warehouse where they were still using log books to track the evidence. The cadets found 6,000 sexual assault kits in the freezers, 4,300 of which had not been analyzed as of November 2008. As a result, LASD went

from having a backlog of 23 sexual assault cases in their queue to more than 4,300, practically overnight.

LASD estimated that it would take 10 years to eliminate the backlog if using only existing funds. Instead, they were able to redirect some previous grant funding from NIJ and also use some funding from Proposition 69<sup>3</sup> to support the analysis of sexual assault kits. LASD considered the backlog to include any case they had dated before November 2008, and all of these cases were or are being outsourced to private vendor laboratories.

Cases nearing the statute of limitations were given first priority and second highest priority were cases in which the suspect was unknown. Acquaintance rape cases were next, and the lowest level of precedence was given to cases that were previously rejected by the district attorney's office and cases in which elements of the crime could not be established. Then and now, victims are notified when their kits have been processed, and they can contact the investigator for further information.

LASD has added 11 criminalists to their biology section and uses 15 staff members to manage the outsourcing process. The agency has analyzed 400 cases per month by outsourcing them, and there are currently 1,000 kits remaining from the backlog that still need to be processed. In Los Angeles, all kits are now required to be submitted to the laboratory for analysis; however, it is challenging to get surrounding jurisdictions that use LASD's crime laboratory to submit cases.

LASD is working with private DNA labs, the state laboratory, and Marshall University on an NIJ-funded pilot project, testing various methods to speed up DNA analysis from sexual assault cases. They have received 2,000 cases back to date and generated 150 CODIS hits, though only two cases have been filed with the district attorney. LASD anticipates that in one year, their backlog will be gone and they will be able to handle their current caseload in-house. It should be noted that, like LAPD, LASD has stopped DNA testing in property crime cases while they are addressing the rape kit backlog.

### ***Illinois State Police***

The Illinois State Police (ISP) has worked over the past five to six years to build internal capacity while also outsourcing cases to private laboratories. Previously, there were about 50 analysts on staff and each analyst could complete four to six DNA cases per month. Now, due to federal funding and additional resources, 80 analysts are on staff in the forensic biology and DNA departments, and each can complete six to eight cases in a month. ISP now has a backlog of 264 cases in DNA and 500 cases in forensic biology pending processing (this includes all types of cases, not just sexual assault).

Illinois has decided to take the "shotgun" approach and has passed legislation (currently pending the governor's signature) to analyze all rape kits in their possession. Within 10 days of kit collection, law enforcement agencies will be required to send the kits to the

---

<sup>3</sup> Also called the DNA initiative, Proposition 69 was a California ballot proposition that passed in 2004 that permits the collection of DNA samples from all convicted felons and from individuals arrested for certain crimes.

crime laboratory with little to no discretion. Within six months, the lab must complete the analysis if sufficient resources exist. As part of the law, by a specified deadline all 1,200 law enforcement agencies in Illinois will have to submit a list of rape cases for which evidence was collected but not submitted to a forensic laboratory for analysis. From an informal survey, 82 of these jurisdictions have identified 4,000 such cases, which could mean a much greater quantity of cases is still forthcoming. ISP usually receives about 1,500 sexual assault cases for DNA analysis per year, so this large influx of cases will have a major impact.

### ***New York City Office of the Chief Medical Examiner***

The New York City Office of the Chief Medical Examiner (NYC OCME) maintains constant communication with other parties involved with collecting and transporting evidence and investigating and prosecuting sexual assault. This communication has contributed to their success in addressing backlogged evidence. NYC OCME eliminated a rape kit backlog of 17,000 kits in 2003. NYC OCME also screens kits almost immediately upon submission to the laboratory and issues a separate serological report stating whether body fluid was identified from the evidence.

NYC OCME has 160 analysts that work many different types of cases. They use less-experienced criminalists to conduct work under supervision from more experienced analysts. In some cases the evidence tests positive for seminal fluid and the New York Police Department (NYPD) will notify the laboratory if the case has been halted or closed for any reason. NYC OCME may also request additional evidence, such as clothing and sheets, for analysis. If there are issues that need to be clarified before proceeding with forensic analysis of the sexual assault case, NYC OCME will contact NYPD to request more information and direction on how to proceed.

New York City is currently seeing an arrest rate of 70 percent in sexual assaults cases. It should be noted that New York passed legislation that gave victims a limited amount of time to report their cases.

### ***Detroit Police Department***

In Michigan, the Detroit Police Department (DPD) has located at least 10,995 untested kits that were collected between 1993 and 2006. They anticipate that an additional several thousand kits exist from other law enforcement agencies within Wayne County. State officials are conducting an audit of 400 randomly-selected sexual assault kits from this backlog, and those 400 cases will be analyzed to generate a statistical picture of the requirements for processing the remaining kits.

State funding from the OVW Services, Training, Officers, and Prosecutors (STOP) Formula Grant Program will support the initial approach to addressing Detroit's backlog. Michigan State University will conduct a study of the initial 400 sexual assault cases selected for the audit, which will be processed over the next nine months. Findings of the study will inform officials of what to expect in dealing with the remaining 10,000 kits.

The team that will audit the 400 cases is comprised of a former homicide detective, a former prosecutor, and two victim advocates (who were hired with OVW's Sexual Assault Services Program funding). Michigan State Police will provide the team with laboratory personnel. The Michigan State Police will outsource the 400 audit cases in batches of 25 to a private laboratory for analysis, starting with the earliest cases from 1993 and working up toward cases from 2008.

The Detroit Police Department has system-based victim advocates who function differently from many other community-based victim advocates, particularly in terms of how much confidentiality they can afford the victim. Currently, the plan is for the system-based advocates or law enforcement to make initial contact with victims, since valuable information may be obtained during that initial contact that could be used if the case is prosecuted. With respect to using community-based advocates for initial contact, Detroit officials are concerned about having an unarmed individual making notifications in potentially dangerous situations. As of the date of the roundtable, none of the sexual assault kits had been processed.

Participants were curious about whether Detroit has considered using proactive notices, such as public service announcements or mass marketing, informing the public that the police department is reopening old cases. The representatives noted that the local news media have been covering this story, so information has been provided to citizens.

Michigan officials stated that a protocol on how to address and manage a large backlog of untested sexual assault kits would be useful in their situation. Resources are required for law enforcement, criminalists, prosecutors, and advocates involved with this process because of the sheer volume of the backlog. In January 2009, the Wayne County Prosecutors Office Sexual Assault Group investigated 350 cases in which they interviewed 350 victims during the course of the year. Only three prosecutors performed these duties while also managing other violent crime cases. The plan to process 10,995 cases will have a massive impact throughout the state.

### ***Georgia Bureau of Investigation***

In 2004-2005, the Georgia Bureau of Investigation (GBI) had a case backlog of approximately 2,200 and roughly 1,800 of those were rape cases. They started outsourcing the backlogged cases to private laboratories while also focusing on building their own capacity for the long term.

GBI put in place "male specific verification" analysis techniques (SRY Gene Screening Kit) which allows the laboratory to more rapidly process rape kits. Now, instead of spending several hours looking at slides, attempting to identify sperm, many cases can be analyzed simultaneously, using robots. As of the date of the roundtable, GBI had no cases over 30 days old involving a female rape victim. Seventy cases are in queue to be assigned to analysts, with a 30-day turnaround for processing each kit. It is GBI's goal to not have to outsource any cases in the future.

Participants described the challenge of retaining state and local forensic scientists at crime laboratories, explaining that often forensic scientists leave to pursue careers at federal laboratories, private sector jobs, or other state and local laboratories that have higher pay structures. Last year, GBI lost 10 trained staff, making it difficult to maintain operating efficiency. Moreover, it is expensive to continually train new forensic scientists, so the high rate of turnover has a significant impact on the agency.

GBI also experiences staffing challenges because 17 out of 32 staff members at GBI headquarters are paid out of federal grants administered by the NIJ. Federal grants are a major support for GBI operations, but relying extensively on non-guaranteed federal grants to fund vital positions makes it difficult to create firm staffing and sustainability plans.

### ***Phoenix Police Department***

The Phoenix Police Department started a cold case crimes section in 2000 with Violence Against Women Act (VAWA) funding and was able to outsource hundreds of kits for processing. They currently have 400 to 500 unsolved cases in CODIS waiting for hits and have obtained 300 to 400 CODIS hits on sexual assault cases since 2000. In one year they obtained 150 hits, and there were 65 hits this past year. The Phoenix Police Department currently has four full-time detectives and a supervisor that review and investigate these cases, as well as two prosecutors that are designated to prosecute rape cases that have gone cold.

## **B. Barriers to Rape Kit Analysis**

Law enforcement and crime laboratory representatives highlighted some of the challenges in processing evidence and completing investigations in a timely manner.

### ***Lack of Clarity on the Size of the Backlog***

Crime laboratory personnel are often not aware of the cases or evidence being stored at law enforcement agencies. Also, sometimes the evidence will test negative for a foreign DNA profile, so the investigator will then request that the crime lab analyze the bedding and clothes, which adds more work for the criminalist and further increases the backlog. This extensive analysis is important for specific cases but these requests have an impact on a crime laboratory's ability to process more cases.

### ***Need for Better Information Management Systems***

Adequate Laboratory Information Management Systems (LIMS) are not employed at all crime laboratories for tracking evidence and case information. Some laboratories use commercially available LIMS and some agencies have hired programmers to build their own. For example, the Illinois State Police Crime Laboratory is using a system that was created in-house almost 20 years ago and has had periodic piecemeal revisions since then; however, it will now require a \$3 million investment to re-write the system to meet the current need.

Furthermore, law enforcement desperately needs information management systems that will allow them to better track evidence from sexual assault cases that are stored in

property rooms and warehouses. Because of the lack of systematic tracking systems for law enforcement, agencies often have to hand-count evidence in their backlog, and often the evidence tags are handwritten and may not be complete.

### ***Rape Kit Backlog as Crisis Management***

Participants believed that the sexual assault kit backlog can be considered a crisis management issue. One day a crime laboratory may have a manageable backlog of sexual assault cases, and the next day a local police department discovers 1,000 rape kits in a warehouse that will be submitted to the laboratory for analysis. Participants encouraged the federal government to clarify how federal funding can be used to support building capacity in state and local crime laboratories to mitigate this challenge.

### ***Challenges to Investigating CODIS Hits***

When investigating a large number of sexual assault cases where many CODIS hits are being obtained, investigators must be certain that each hit is a suspect and not a consensual partner of the victim, whose DNA may also have been collected incidentally. When agencies have limited resources to follow-up on CODIS hits, these necessary activities can add to the backlog.

The participants recommended that agencies facing major backlogs first gather all the information on those cases they are going to investigate and determine how the cases will be prioritized or triaged. Second, agencies should develop a plan on what they will do with the information retrieved from the CODIS hits. This requires additional investigative efforts for tracking down suspects and gathering confirmation samples, which is a necessary but time consuming activity.

### ***Bias Against Certain Victims of Sexual Assault***

The participants described the challenge of addressing biases against victims based on ethnicity, disability, use of alcohol or drugs, or a victim's occupation as a sex worker. Some agencies have confronted this bias by testing all the sexual assault cases in their possession, regardless of who the victim is. The results of these cases have been informative since agencies have actually linked crimes together that would have not otherwise been connected.

Training and education for anyone involved in sexual assault response is needed to shift attitudes about prosecuting difficult cases, including rapes of prostituted women and girls. These efforts could also help combat the potential cultural bias against victims in Indian Country, who may be more likely to decline forensic exams. Furthermore, awareness and training must address the widespread misconceptions about acquaintance rape and the common belief that acquaintance rape is somehow "less serious" than rape by a stranger.

### ***Potential Effects of Melendez-Diaz v. Massachusetts***

The *Melendez-Diaz v. Massachusetts*, 129 S.Ct. 2527 (2009) Supreme Court case, in which the Court held that it was a violation of the right of confrontation under the Sixth Amendment for a prosecutor to submit a drug test report without the testimony of the

scientist, has created a challenge because now the analyst or team of analysts involved with a single case may all be required to testify if a case goes to trial.

There are inconsistencies in how jurisdictions are responding to this ruling, which may result in more individuals testifying to chain of custody activities than necessary. In addition, some courts have applied this ruling to individuals involved in collecting the evidence during the sexual assault exam. This may cause more criminal justice professionals to lose productive time because they are sitting outside a court room waiting to testify even if they were only a signature on the chain of custody form.

### **III. Victim Advocacy Before, During, and After the Investigation**

Victim advocates discussed barriers to reporting and considerations for implementing efforts to reduce the rape kit backlog. Victim advocates reminded the group that the majority of sexual assaults will never be reported to law enforcement. Victims choose not to report for various reasons, including fear and uncertainty of participating in the criminal justice system, and lack of support from families and friends, particularly when a family member or friend is the perpetrator.

Contributing to the lack of reporting is that each victim may have her or his own definition of “justice.” The needs of the criminal justice system and public safety concerns must be balanced with the victim’s need for autonomy.

Those considerations are summarized below.

#### **A. A Victim-Centered Approach**

Victims should have access to advocates who can provide support and crisis intervention and refer victims to additional services. Advocates are critical to ensuring that victims are connected to community services that can be essential in the immediate and long-term aftermath of trauma. Advocates observed that inexperienced medical practitioners can become so attached to following evidence collection procedures that they lose sight of the victim’s unique health care needs.

A victim-centered approach should account for the reality that the vast majority of sexual assaults are not committed by strangers, and most cases do not end up in the criminal justice system at all. The very nature of the criminal justice process in sexual assault cases discourages many victims from reporting because of the fear they will not be taken seriously. Practitioners must be sensitive to the needs of acquaintance rape victims, as they represent the majority of rape victims.

It should be noted that victims have a choice whether to participate in the criminal justice process, and not all victims want to move forward with investigations and prosecutions. Furthermore, in acquaintance rape cases additional pressure is added to the investigation even if DNA evidence is present, because a perpetrator may claim that the incident was consensual. A skilled prosecutor can help a jury understand how even behavior that a

victim may be ashamed of, such as consuming alcohol, does not negate the fact that a rape has occurred.

## **B. Victim Contact and Kit Ownership**

The participants discussed when to contact the victim in cases of backlogged kits (e.g., before or after the kit is processed, only when a “hit” is made, or if an investigation will occur) and who should contact the victim (e.g., law enforcement, community-based victim advocates, system-based advocates), with a focus on what the most victim-centered strategy might look like, without compromising professional roles and boundaries.

Participants had various ideas about how a victim should be contacted (e.g., letter, phone call, in person), and advocates cautioned that contacting the victim after years or decades have passed since the assault can bring that trauma back immediately. Additionally, many victims may not have told their children, current partners, and/or families about the assault. Advocates emphasized the importance of supportive and ongoing services provided by community-based sexual assault advocates during this process.

One recommendation was that when the crime lab processes a kit and does not identify DNA from the perpetrator, someone should inform the victim that, despite all the photos, interviews and other investigative leads, the results from the DNA analysis were negative so this part of the investigation cannot proceed at that time, but the case is not necessarily closed. DNA is only one type of evidence, and proper documentation and photographs of the victim’s injuries can indicate the use of force during the sexual assault, which can be valuable to the investigation.

Another question that needs to be answered is: *Who owns the rape kit?* Law enforcement, the hospital, the crime lab, the prosecutor’s office, or the victim? Answering this question can help clarify a community’s response to sexual assault, both for the victim and for the system handling the case. This issue has implications regarding how much control each of these players has over the case. From the victim perspective, he or she may want to be able to ask the jurisdiction to analyze or not analyze the backlogged kit, but may have no control over the process.

## **C. Need for Better and Timely Information**

Victim advocates recommended that victims should have access to real-time information on their case so they can stay informed on the latest developments. Access to timely information allows the victim to better understand the criminal justice process and how her specific case is being processed.



## **IV. Other Promising Victim–Centered Approaches to Eliminating Backlogs**

### **A. Systems for Following Up after a CODIS Hit**

Availability of resources is a major factor in determining if and when law enforcement follows up on a CODIS hit. The volume of CODIS hits may exceed the ability of detectives and prosecutors to adequately follow up on leads. Thus, hits are prioritized, and sometimes suspects who are already incarcerated are designated as lower priority because they do not pose an immediate threat to the public.

The Phoenix Police Department has developed a Post Match Prioritization Model, which is an internal database that tracks all sexual assault cases. Once a DNA hit is obtained, priority is given to suspects who will be released from incarceration soon. Next priority is given to cases with a high likelihood of prosecution. Finally, cases with suspects who are in custody for 10 or more years are assigned lowest priority for follow-up.

NYC OCME uses a notification system that sends out emails to all interested district attorneys, DNA examiners, and police departments on CODIS hits. It is a central system that is accessible for all parties involved in the case. This increase in communication around CODIS hits has facilitated better follow-up investigations.

When a positive CODIS hit is obtained, law enforcement and prosecutors must consider if the suspect has a prior arrest record and, if so, whether the agency has the resources to locate victims and witnesses. They must also consider if the suspect can be reasonably eliminated as a consensual partner, and determine if the victim has been located and whether she wishes to participate in the criminal justice process. It should be noted that, in some jurisdictions, a request to send a sexual assault kit to the crime laboratory for DNA analysis is not approved by the law enforcement agency until samples from potential consensual partners of the victim are obtained for elimination purposes.

### **B. Support during Investigations and CODIS Hit Follow-up**

In some jurisdictions, victim advocates may assist with victim notification of rape kit processing and CODIS hits, but in other jurisdictions this may be seen as a task outside the role of the victim advocate. Advocates can explain the criminal justice system and can link victims to counseling and other services that can support the victim's recovery, as well as other resources such as victim's compensation. Since victims may be anxiously wondering if a confirmation sample has been collected, if interviews are being conducted, or if the perpetrator is going to be prosecuted, advocates can help guide the victim through this process and help her know what to expect.

## **Next Steps for Eliminating the Backlog**

Participants were asked to identify what must be accomplished and what resources should be made available to reduce and eventually eliminate the rape kit backlog. Their recommendations are listed below.

### **SANEs and Other Healthcare Professionals**

- Develop education and standards for healthcare professionals, to foster consistency and quality in forensic medical services.
- Integrate forensic medical exams into a broader continuum of providing comprehensive healthcare to patients.
- Place more emphasis on delivering quality care by establishing and improving quality reviews and implementing peer review processes.
- Update SANE training curricula, web-based trainings, on-site training, and technical assistance.

### **Victim Advocates**

- Increase federal funding to support victim advocates, SANEs, and Sexual Assault Response Team (SART) programs.
- Increase resources for victim advocate groups, many of which lack the basic resources necessary to run a not-for-profit organization and respond to victim needs. There are 1,350 rape crisis centers across the country with 900 operating in rural areas, and more support should be provided to victim advocates in rural areas.
- DOJ should consider organizing a victim-led conversation or working group about issues related to victim notification, both in sexual assault cases with CODIS hits and in backlogged cases that are at a standstill.
- Greater data are needed to help victim advocates educate legislators on the issues that have precipitated the national backlog of sexual assault kits. Data on the size and scope of the backlog are used by victim advocates to discuss with Congressional representatives the need for additional and continued resources to support sexual assault victims and the elimination of backlogs.
- Victim advocates would like to be able to answer questions such as: What is the outcome of the forensic analysis? What comes next after kit processing and how many of these backlogged sexual assault cases are leading to a successful prosecution? Researchers and policymakers should be cautioned against relying exclusively on imperfect performance measures, such as successful convictions, given the numerous ways cases can be resolved in the legal system.
- More focus should be placed on ensuring that policies and services are culturally informed and responsive to diverse populations of victims.

- More clarity is needed on how DOJ is working on sexual assault backlogs through an interdisciplinary approach, with more information on how BJA, NIJ, OVC, OVW and the Vice President's Office are collaborating on these issues.
- Focus on long-term support to help victims return to normal life. This includes exploring ways to support the victim outside of the criminal justice process.
- Encourage changes to compensation laws related to reimbursement for the forensic exam, and examine how victim's compensation can be modified to meet the needs of victims from cold cases. Ensure that support is available for victims when cold cases become active cases, such as after a CODIS hit, and be prepared to meet victims' need for counseling and coverage for time lost from work, etc.
- Convene a working group on victim-centered approaches to eliminating the rape kit backlog. Ensure that culturally-based victim advocacy organizations are involved in this process.
- Encourage more informed research to better understand trauma response and its impact on a victim's participation in the criminal justice process.
- Encourage better approaches to balancing victim autonomy with the needs of the criminal justice system to hold offenders accountable and promote public safety.

## **Law Enforcement**

- Develop information technology support for evidence and case tracking, data archives, and analysis of information. This will enable law enforcement to better understand their caseloads and better target how they are going to locate all necessary evidence and eliminate backlogs.
- Develop training programs for investigators on how to understand crime scenes, DNA, prosecutor needs, prioritization of kit analysis, and assembly of case books.
- Create funding for the analysis of sexual assault kits and for personnel to investigate sexual assaults before and after CODIS hits.
- Research current ways of triaging and prioritizing cases.
- Identify appropriate ways to notify victims that cold cases are being reopened.

## **Forensic Scientists**

- Better communication with law enforcement will lead to an intelligent evaluation of the actual need to conduct forensic analysis on evidence in a given kit. Investigators and prosecutors may not need to request that the kit be analyzed if they fully review the case data.
- Improve communication across law enforcement agencies on the types of evidence that can and cannot yield DNA results. Give victims better information on the uses of DNA analysis in investigations.
- Create a Crisis Management Plan that will be a set of guidelines that can be used by a state and local agencies that suddenly discover or decide to address a backlog

of sexual assault cases. This tool could serve as a guide for agencies grappling with this issue.

- Create a document that educates all criminal justice stakeholders and victim advocates outside of the criminal justice process on all parties' roles with respect to the backlog.
- Increase funding to support personnel in crime laboratories and provide incentives to keep DNA analysts employed by the agencies that train them, which will keep the laboratory competency intact. A suggestion was made to develop retention policies that would require analysts to stay at their training agency for several years.
- Provide instructions on how to implement procedures in all crime laboratories that allow for faster analysis of DNA to build additional capacity. It was mentioned that the American Society of Crime Laboratory Directors (ASCLD) may be able to help NIJ better convey this information to their members and encourage the adoption of high-throughput capabilities.
- Fund more research on how to perform DNA analyses faster, better, and at a lower cost.
- Generate more research and information on storage conditions for sexual assault kits.
- Develop a working group of practitioners to better support the capacity to gather, process, and analyze evidence in United States Territories. The working group should be comprised of individuals from those areas. Tribal groups could have a working group to discuss evidence issues for their communities.
- Conduct more research on how analyzed forensic evidence compares to information in the initial police reports about the crime.
- Develop enhanced training for new DNA analysts, since training is currently a resource-heavy, time-consuming process. Explore ways to streamline training for criminalists.
- Enable crime laboratories to make better use of process mapping on evidence flow through the lab, which could enhance productivity.
- Consider methods that will allow SANEs to help with evidence processing such as doing sperm searches or preparing slides for processing at the laboratory. In New York, slides included in sexual assault kits have a specific location for the SANE to place the sample. This helps the criminalist in the laboratory “zero-in” on the area that requires a sperm search.

## **Prosecutors**

- Conduct evidence submission meetings with prosecutors, lead investigators, and the laboratory scientists to inform them of decisions about what does and does not need to be tested.

- Create more resources and funding to support staffing and training for prosecutors. Trainings should also cover good interviewing and other investigative/prosecuting techniques, crime laboratory techniques, and use of forensic evidence.
- Educate prosecutors on how to employ equipment and software to create a visually effective, meaningful and informative prosecution for jurors.
- Coordinate grant solicitations and applications so that funding for laboratory personnel, for example, will also produce resources for prosecutors and others to support the increased workload.
- Support should be provided for crime laboratory scientists to educate the prosecutor's office on crime laboratory techniques.
- Educate judges about forensic science, since they serve as the gatekeepers for evidence.
- Offer training on how prosecutors are to manage large caseloads.
- Create information systems for case management that will automatically notify laboratories to stop working cases when they have pled or are no longer moving forward.

Overwhelmingly, participants emphasized the need for increased and targeted funding to address backlogs, better training and cross-training on DNA analysis and evidence processing, victim-centered approaches to notifying victims when cases are reopened, enhanced information management systems to track backlogs, and more research on promising practices to reduce and eliminate the rape kit backlog.

## **Closing Remarks**

NIJ Acting Director Kristina Rose provided closing remarks and thanked the participants for their contributions to the discussion. She highlighted the challenges that law enforcement faces, particularly having to make tough investigative decisions and prioritize cases. She acknowledged that crime laboratories have received an overwhelming influx of evidence and they struggle with limited resources to process rape kits in a timely fashion. Ms. Rose concurred with many forensic scientists that they must serve as "advocates for the evidence." She noted that there is a significant need for SANE services, which meet victims' immediate healthcare needs while also playing a critical role in the collection and preservation of evidence. She acknowledged that victim advocates support a victim from the time of the forensic exam up to and beyond the disposition of the case. Additionally, there are many issues that require more research and critical discussion, such as the appropriate time and approach to notifying victims about the status of their rape kits, and the best way for law enforcement to engage the victim in this process.

Ms. Rose articulated the importance of holistically examining sexual assault response to better understand particular issues in the criminal justice process like the rape kit backlog. She noted that it would have been advantageous to have a representative from corrections at the roundtable, since there is going to be an impact on those agencies as strategies to eliminate the backlog are implemented.

She offered the concept of setting up an emergency fund to support sudden, unforeseen increases in backlogs, citing the examples of Detroit and Los Angeles. Ms. Rose suggested holding a focus group for each discipline represented at the roundtable, to explore the issues in more depth and develop protocols on how to address sudden increases in sexual assault case backlogs. This work could inform a crisis management protocol that jurisdictions could apply when they encounter such a challenge.

Ms. Rose also discussed establishing small technology grants to help jurisdictions build and procure information technology solutions to track evidence. Finally, there is a need for long-term studies of the impact of sexual assault on victims and a study on prosecutors' workloads and secondary trauma.

Ms. Rose expressed her thanks to all the participants, Director Susan Carbon from OVW, and all the federal collaborators that made the meeting a success.

# Appendix 1: Agenda

## Eliminating the Rape Kit Backlog: A Roundtable to Explore A Victim-Centered Approach

NCJFCJ - Training Center  
801 Pennsylvania Avenue NW, Suite 375  
Washington, DC 20004  
May 11- 12, 2010

### AGENDA

---

**May 11, 2010**

- 1. Registration and Continental Breakfast (8:30AM – 9:00AM)**
- 2. Facilitator Introductory Remarks (9:00AM – 9:05AM)**  
*Marnie Shields, Attorney Advisor, Office on Violence Against Women*
- 3. Welcome and Overview (9:05AM – 9:20AM)**  
*Susan B. Carbon, Director, Office on Violence Against Women*  
*Sarah Lynn Rosenthal, Office of the Vice President*  
*Kristina Rose, Acting Director, National Institute of Justice*
- 4. Introductions (9:20AM – 9:50AM)**
- 5. Framing the Issues (9:50AM – 10:00AM)**  
*Michael Sheppo, Office Director, OIFS, National Institute of Justice*
- 6. Why Are We Here? – A Survivor’s Perspective (10:00AM – 10:20AM)**  
*Kellie Greene, Speaking Out About Rape, Inc.*
- 7. Break (10:20AM – 10:30AM)**
- 8. What is the Current Holistic Approach to Processing Sexual Assault Cases? (10:30AM – Noon)**
- 9. Working Lunch: Presentation on Law Enforcement Forensic Evidence Processing Study (12:30PM – 1:00PM)**  
*Jeri D. Roper Miller, Senior Research Forensic Scientist, RTI International*
- 10. What is the Current Holistic Approach to Processing Sexual Assault Cases? Continued (1:00PM – 2:30PM)**
- 11. Break (2:30PM – 2:45PM)**

**12. What are Successful Victim-Centered Approaches to Eliminating Backlogs or Mitigating Their Development? (2:45PM – 4:00PM)**

**May 12, 2010**

- 1. What is Needed to Improve Current Performance? (9:00AM – 10:30AM)**
- 2. Break (10:30AM – 10:45AM)**
- 3. What is Needed to Improve Current Performance? *continued* (10:45AM – 11:45AM)**
- 4. Closing Remarks (11:45AM - Noon)**



## **Appendix 2: Participant Contact List**

### **Eliminating the Rape Kit Backlog: A Roundtable to Explore a Victim-Centered Approach**

**Hosted by the U.S. Department of Justice Office on Violence Against Women, in  
collaboration with the Office of Justice Programs, National Institute of Justice,  
Bureau of Justice Assistance, and Office for Victims of Crime**

**National Council of Juvenile and Family Court Judges Training Center  
801 Pennsylvania Avenue NW, Suite 375  
Washington, DC**

**May 11, 2010 – May 12, 2010**

### **Participant Contact List**

---

---

**Gail Abarbanel**  
Director  
Rape Treatment Center  
Santa Monica-UCLA Medical Center  
1250 Sixteenth Street  
Santa Monica, CA 90404  
Phone: 310-319-4503  
Fax: 310-319-4809  
Email: Gabarbanel@mednet.ucla.edu

**Elizabeth Barnhill**  
Executive Director  
Iowa Coalition Against Sexual Assault  
515 28th Street, Suite 107  
Des Moines, IA 50312-5259  
Phone: 515-244-7424  
Email: director@iowacasa.org

**Joanne Archambault**  
Executive Director  
EVAW International  
Co-Editor Sexual Assault Report  
P.O. Box 33  
Addy, WA 99101-0033  
Phone: 509-684-9800  
Fax: 509-684-9801  
Email: joanne@evawintl.org

**Scott Berkowitz**  
President  
Rape, Abuse & Incest National Network  
(RAINN)  
2000 L Street NW, Suite 406  
Washington, DC 20036  
Phone: 202-544-3210  
Fax: 202-544-3556  
Email: scottb@rainn.org

Juliet Bickmore  
Supervisory Forensic Examiner  
Federal Bureau of Investigation (FBI)  
2501 Investigation Parkway  
Quantico, VA 22135  
Phone: 703-632-7494  
Email: juliet.bickmore@ic.fbi.gov

Condencia Brade  
Executive Director  
National Organization of Sisters of Color  
Ending Sexual Assault (SCESA)  
P.O. Box 625  
Canton, CT 06019  
Phone: 860-693-2031  
Email: brade@sisterslead.org

Debi Cain  
Executive Director  
Michigan Domestic Violence Prevention and  
Treatment Board (MDVPTB)  
235 South Grand Avenue, Suite 506  
P.O. Box 30037  
Lansing, MI 48909  
Phone: 517-241-5114  
Fax: 517-241-8903  
Email: caind@michigan.gov

Nancy Cline  
Consultant  
Alliance of Local Service Organizations  
(ALSO)  
35-53 77th Street, #2H  
Jackson Heights, NY 11372  
Phone: 917-447-3062  
Email: njcline@aol.com

Lori Crowder  
Senior Program Director  
Alliance of Local Service Organizations  
(ALSO)  
2401 West North Avenue  
Chicago, IL 60647  
Phone: 773-235-5705 x 33  
Fax: 773-235-5747  
Email: lcrowder@also-chicago.org

Kim Day  
SAFE Technical Assistance Coordinator  
International Association of Forensic Nurses  
(IAFN)  
1517 Ritchie Highway, Suite 208  
Arnold, MD 21012  
Phone: 410-626-7805  
Fax: 410-626-7804  
Email: kimday@iafn.org

Lydia M. de Castro  
Criminalist IV  
Office of Chief Medical Examiner  
Department of Forensic Biology  
421 East 26 Street, 13th Floor  
New York, NY 10016  
Phone: 212-323-1280  
Fax: 212-323-1590  
Email: ldecastro@ocme.nyc.gov

Kellie Greene  
Founder/Director  
Speaking Out About Rape, Inc. (SOAR)  
817-A Virginia Drive  
Orlando, FL 32803  
Phone: 407-898-0693  
Email: soar99@att.net

Danielle Hagaman-Clark  
Assistant Prosecuting Attorney  
Wayne County Prosecutor's Office  
Frank Murphy Hall of Justice  
1441 St. Antoine  
Detroit, MI 48124  
Phone: 313-224-6410  
Fax: 313-224-6408  
Email: dhagman@co.wayne.mi.us

Arlene K. Hall  
Commander  
Illinois State Police Forensic Sciences  
Command  
801 South 7th Street, Suite 900-A  
P.O. Box 19461  
Springfield, IL 62794-9461  
Phone: 217-782-4649  
Fax: 217-557-4608  
Email: Arlene\_Hall@isp.state.il.us

Susan Howley  
Public Policy Director  
National Center for Victims of Crime  
2000 M Street NW, Suite 480  
Washington, DC 20036  
Phone: 202-467-8722  
Email: showley@ncvc.org

Sally Laskey  
Associate Director  
National Sexual Violence Resource Center  
123 North Enola Drive  
Enola, PA 17025  
Phone: 717-909-0710 x 104  
Email: slaskey@nsvrc.org

Jennifer Long  
Director  
AEquitas  
801 Pennsylvania Avenue NW, Suite 375  
Washington, DC 20004  
Phone: 202-558-0029  
Email: jlong@AEquitasResource.org

Jim Markey  
Detective Sergeant  
Phoenix Police Department  
Sex Crimes Unit/Cold Case Team  
2120 North Central Avenue, Suite 250  
Phoenix, AZ 85004  
Phone: 602-534-5200  
Fax: 602-534-9807  
Email: james.markey@phoenix.gov

Jenifer R. Markowitz  
Medical Advisor  
AEquitas: The Prosecutor's Resource on  
Violence Against Women  
801 Pennsylvania Avenue NW, Suite 375  
Washington, DC 20004  
Phone: 202-596-4224  
Email: jmarkowitz@aequitasresource.org

Gregory B. Matheson  
Crime Laboratory Director  
Los Angeles Police Department Crime  
Laboratory  
1800 Paseo Rancho Castilla  
Los Angeles, CA 90032  
Phone: 323-415-8112  
Fax: 323-276-1942  
Email: B8927@lapd.lacity.org

Joseph Musselman  
Consultant  
Alliance of Local Service Organizations  
(ALSO)  
2401 West North Avenue  
Chicago, IL 60647  
Phone: 773-235-5705 x 17  
Fax: 773-235-5747  
Email: joemusselman@also-chicago.org

Matt Redle  
County and Prosecuting Attorney  
Sheridan County Attorney's Office  
148 South Brooks  
Sheridan, WY 82801  
Phone: 307-674-2580  
Fax: 307-674-2585  
Email: attorney@sheridancounty.com

Ted Staples  
Manager Forensic Biology  
Georgia Bureau of Investigation Crime  
Laboratory  
321 Panthersville Road  
Decatur, GA 30034  
Phone: 404-270-8041  
Fax: 404-270-8010  
Email: ted.staples@gbi.ga.gov

Robert Taylor  
Associate Director  
Scientific Services Bureau, Los Angeles  
Sheriff's Department  
1800 Paseo Rancho Castilla  
Los Angeles, CA 90032  
Phone: 323-260-8507  
Email: rwtaylor@lasd.org

Terri Poore, MSW  
Vice President  
National Alliance to End Sexual Violence  
1820 East Park Avenue, Suite 100  
Tallahassee, FL 32301  
Phone: 850-297-2000 x 105  
Fax: 850-297-2002  
Email: tpoore@fcasv.org

Jeri Roper Miller PhD, D-ABFT  
Senior Research Forensic Scientist  
RTI International  
Johnson Building  
3040 Cornwallis Road, #206  
Research Triangle Park, NC 27709  
Phone: 919-485-5685  
Fax: 919-541-7042  
Email: jerimiller@rti.org

Debra Suiter-Figarelli  
DNA Technical Manager  
National Forensic Science Technology  
Center (NFSTC)  
7881 114th Avenue North  
Largo, FL 33772  
Phone: 602-326-5636  
Fax: 602-801-2657  
Email: debra.figarelli@nfstc.org

Patrick Welsh  
Sergeant  
Dallas Police Department  
1400 South Lamar Street  
Dallas, TX 75215  
Phone: 214-671-3593  
Fax: 214-670-8675  
Email: patrick.welsh@dpd.ci.dallas.tx.us

Maile Zambuto  
Executive Director  
Joyful Heart Foundation  
826 Broadway, 4th Floor  
New York, NY 10003  
Phone: 212-475-2026  
Fax: 212-475-2033  
Email: [maile@joyfulheartfoundation.org](mailto:maile@joyfulheartfoundation.org)

## **Appendix 3: Federal Attendees**

### **FEDERAL ATTENDEES/PARTICIPANTS**

#### **Eliminating the Rape Kit Backlog: A Roundtable to Explore A Victim-Centered Approach**

NCJFCJ - Training Center  
801 Pennsylvania Avenue NW, Suite 375  
Washington, DC 20004  
May 11- 12, 2010

---

Bernard Auchter  
Senior Social Science Analyst  
National Institute of Justice  
810 Seventh Street NW  
Washington, DC 20531  
202 307-0154  
[Bernie.Auchter@usdoj.gov](mailto:Bernie.Auchter@usdoj.gov)

Karen Bachar  
Social Science Analyst  
National Institute of Justice  
810 Seventh Street NW  
Washington, DC 20531  
202-514-4403  
[Karen.Bachar@usdoj.gov](mailto:Karen.Bachar@usdoj.gov)

Bethany Backes  
Social Science Analyst  
National Institute of Justice  
810 Seventh Street NW  
Washington, DC 20531  
202-305-4419  
[Bethany.Backes@usdoj.gov](mailto:Bethany.Backes@usdoj.gov)

Juliet Bickmore  
Nuclear DNA Unit  
Federal Bureau of Investigation  
2501 Investigation Parkway  
Quantico, VA 22135  
[Juliet.Bickmore@ic.fbi.gov](mailto:Juliet.Bickmore@ic.fbi.gov)

Michelle Brickley  
Office on Violence Against Women  
U.S. Department of Justice  
800 K Street, NW, Suite 920  
Washington, DC 20530  
202-514-3590  
[Michelle.Brickley@usdoj.gov](mailto:Michelle.Brickley@usdoj.gov)

Thurston Bryant  
Policy Advisor  
Bureau of Justice Assistance (BJA)  
Office of Justice Programs  
US Department of Justice  
810 Seventh Street, NW (Fourth Floor)  
Washington, D.C. 20531  
Phone: (202) 514-8082  
E-mail: [Thurston.Bryant@usdoj.gov](mailto:Thurston.Bryant@usdoj.gov)

Susan B. Carbon  
Director  
Office on Violence Against Women  
U.S. Department of Justice  
800 K Street, NW, Suite 920  
Washington, DC 20530  
202-307-6026  
[OVWDirector@usdoj.gov](mailto:OVWDirector@usdoj.gov)

Mike Crowley  
Office of Management and Budget -  
Justice Branch  
(202) 395-1091  
[Michael.F.Crowley@omb.eop.gov](mailto:Michael.F.Crowley@omb.eop.gov)

Kathleen "Kaught-lane" Gless, M.A.  
Victim Justice Program Specialist  
Office for Victims of Crime (OVC)  
Office of Justice Programs (OJP)  
Department of Justice (DOJ)  
810 7<sup>th</sup> Street, NW  
Washington DC 20531  
202-307-6049  
[kathleen.gless@usdoj.gov](mailto:kathleen.gless@usdoj.gov)

John Paul Jones II  
Office on Violence Against Women  
U.S. Department of Justice  
800 K Street NW, Suite 920  
Washington, DC 20530  
202-305-1657  
[john.paul.jones2@usdoj.gov](mailto:john.paul.jones2@usdoj.gov)

Kim Ball Norris, JD  
Senior Policy Advisor for Adjudication  
Bureau of Justice Assistance (BJA)  
Office of Justice Programs  
US Department of Justice  
810 Seventh Street, NW (Fourth Floor)  
Washington, D.C. 20531  
202-307-2076  
[Kim.Norris@usdoj.gov](mailto:Kim.Norris@usdoj.gov)

Nancy Ritter  
Writer-Editor  
National Institute of Justice  
810 7<sup>th</sup> Street NW  
Washington, DC 20531  
202-307-0460  
[Nancy.Ritter@usdoj.gov](mailto:Nancy.Ritter@usdoj.gov)

Kristina Rose  
Acting Director  
National Institute of Justice  
U.S. Department of Justice/OJP  
810 7th Street, NW  
Washington, DC 20531  
(202) 307-0466  
[Kristina.Rose@usdoj.gov](mailto:Kristina.Rose@usdoj.gov)

Sarah Lynn Rosenthal  
White House Advisor on Violence  
Against Women  
Office of the Vice President  
Executive Office of the President  
[srosenthal@ovp.eop.gov](mailto:srosenthal@ovp.eop.gov)

Melissa Schmisek  
Program Specialist  
Office on Violence Against Women  
U.S. Department of Justice  
800 K Street NW, Suite 920  
Washington, D.C. 20530  
202-305-1271 - Office  
[Melissa.Schmisek@usdoj.gov](mailto:Melissa.Schmisek@usdoj.gov)

Olivia P. Schramm  
Victim Justice Program Technician  
Office for Victims of Crime  
810 7th Street, NW  
Washington, DC 20531  
202-616-8803  
[Olivia.Schramm@usdoj.gov](mailto:Olivia.Schramm@usdoj.gov)

Michael G. Sheppo  
Director  
Office of Investigative & Forensic  
Sciences  
National Institute of Justice  
810 7<sup>th</sup> Street N.W.  
Washington, DC 20531  
(202) 353-3756  
FAX: (202) 307-6394  
[Mike.Sheppo@usdoj.gov](mailto:Mike.Sheppo@usdoj.gov)

Marnie Shiels  
Attorney Advisor  
Office on Violence Against Women  
800 K Street, NW, Suite 920  
Washington, DC 20530  
202-305-2981  
[Marnie.shiels@usdoj.gov](mailto:Marnie.shiels@usdoj.gov)



# Appendix 4: Resource List

## RESOURCE LIST

### **Eliminating the Rape Kit Backlog: A Roundtable to Explore A Victim-Centered Approach**

NCJFCJ - Training Center  
801 Pennsylvania Avenue NW, Suite 375  
Washington, DC 20004  
May 11- 12, 2010

---

#### **1. Sexual Assault Response Teams: Partnering for Success (April 2006)**

This 7 ½-minute DVD (NCJ 209842) provides a history and context of the multidisciplinary response to sexual assault. Developed by the Minneapolis Medical Research Foundation, the DVD describes the positive benefits of a collaborative response to victims of sexual violence, highlights the progress the field has made in serving victims, and addresses several emerging issues facing first responders and the ways in which those challenges continue to shape the response of sexual assault response teams.  
<http://www.ovc.gov/videos/welcome.html#sart>

#### **2. Sexual Assault Nurse Examiner (SANE) Programs: Improving the Community Response to Sexual Assault Victims (April 2001)**

[http://www.ojp.usdoj.gov/ovc/publications/bulletins/sane\\_4\\_2001/welcome.html](http://www.ojp.usdoj.gov/ovc/publications/bulletins/sane_4_2001/welcome.html)

#### **3. Sexual Assault–Forensic and Clinical Management (Virtual Practicum)**

This unique, comprehensive and cost-effective training tool helps you advance skills in all aspects of sexual assault forensic examinations, from initial meeting, to patient-centered medical examination and treatment, to proper collection and preparation of evidence, to pretrial and courtroom preparation. At your own computer, on your own schedule, a distinguished faculty of master practitioners, legal experts, and other professionals will take you through an interactive virtual forensic facility to experience and explore best practices that lead to improved outcomes.

<http://www.safeta.org/displaycommon.cfm?an=5>

#### **4. National Protocol For Sexual Assault Medical Forensic Examinations of Adults/Adolescents**

The National Protocol for Sexual Assault Medical Forensic Examinations was designed as a guide for health care practitioners who respond to adolescent and adult victims of sexual assault. It is intended as a guideline for suggested practices, and can be a useful tool for those wishing to develop new protocols or to review or revise their existing protocols.

<http://www.safeta.org/displaycommon.cfm?an=4>

### **5. Survey of Law Enforcement Forensic Evidence Processing 2007**

The Survey of Law Enforcement Forensic Evidence Processing (LEFP) was conducted to estimate the number of unsolved homicide, rape, and property cases in the United States that involved forensic evidence which was not submitted to a crime laboratory for analysis, as well as to determine the policies and procedures used in law enforcement agencies for processing, submitting, and retaining forensic evidence.

<http://www.ncjrs.gov/app/Search/Abstracts.aspx?id=250434>

### **6. National Crime Victim Center's DNA Educational Webinars:**

[http://www.ncvc.org/ncvc/main.aspx?dbID=DB\\_DNAWebinars165](http://www.ncvc.org/ncvc/main.aspx?dbID=DB_DNAWebinars165) NCVC is proud to present two free educational Webinar series for victim service providers, law enforcement officers, prosecutors, and allied professionals. Series topics are available on the website.

### **7. Backlogs of Forensic DNA Evidence**

The website provides information on Defining DNA Backlogs, Counting the Backlog and Reducing the Backlog.

<http://www.dna.gov/backlog-reduction/>

### **8. Principles of Forensic DNA for Officers of the Court**

An interactive, self-paced, resource tool to educate and assist prosecutors, defense attorneys, and judges in forensic DNA cases. The course consists of fifteen modules and covers:

- The biology of DNA, including statistics and population genetics.
- DNA laboratories, quality assurance in testing, and understanding a laboratory report.
- Forensic databases.
- Victim issues.
- The presentation of DNA evidence at trial.
- Post-conviction DNA cases.

<http://www.dna.gov/training/otc/>

### **9. DNA Analyst Training Program**

The DNA Analyst Training Program is designed to assist in forensic DNA analysis training in accordance with the DNA Advisory Board Quality Assurance Standards for Forensic DNA Testing. DNA Technical Leaders can use this program for new analyst and remedial training. Practicing DNA analysts will find the material useful as a refresher and resource guide.

<http://dna.gov/training/dna-analyst-program/>

### **10. Understanding DNA Evidence: A Guide for Victim Service Providers**

This OVC bulletin (NCJ 185690) and brochure (BC 000657) offer victim service providers an understanding of how DNA testing may be used in victims' cases, the process and procedures used, and the potential outcomes from the test.


Bulletin (April 2001): [HTML](#), [ASCII](#) (14 kb), or [PDF](#) (573 kb)

Brochure (May 2001): [ASCII](#) (14 kb) or [PDF](#) (360 kb)

Link to document:

[http://www.ojp.usdoj.gov/ovc/publications/bulletins/dna\\_4\\_2001/NCJ185690.pdf](http://www.ojp.usdoj.gov/ovc/publications/bulletins/dna_4_2001/NCJ185690.pdf)

### **11. DNA: Critical Issues for Those Who Work With Victims (April 2007)**

This 24-minute DVD (NCJ 211970) raises awareness for victim advocates, criminal justice practitioners, and others who work with crime victims about the issues involved for those whose cases involve DNA evidence. The video highlights issues such as collection and preservation of evidence, the crime's impact on the victim, victim notification at points along the process, and victim involvement and participation in the process.  [VIEW CLIP](#)

Link to DVD: <http://www.ojp.usdoj.gov/ovc/publications/infores/other.htm#dna>

### **12. DNA Evidence: Enhancing LE's Impact from Crime Scene to Courtroom and Beyond (Volume II: Victim's Roundtable Report, October 2003):**

<http://www.theiacp.org/Portals/0/pdfs/Publications/ACF2A3.pdf>

### **13. Bureau of Justice Assistance – Forensic Science Link**

In today's world, forensic science is a critical and necessary element of a successful criminal investigation. Its introduction is regularly expected by juries and prosecutors because it is not susceptible to the shortcomings of human memory or the pitfalls of witness motivation. Collected, managed, and analyzed correctly, it provides powerful, probative evidence that goes directly to the guilt or innocence of an individual. As part of its mandate to enhance the criminal justice system, BJA forensic science efforts focus on increasing knowledge of the various applications that can ensure quality investigations and substantiate verdicts of guilt or innocence.

<http://www.ojp.usdoj.gov/BJA/topics/forensics.html>

## **Appendix 5: Texas Central Index Legislation**

### **Texas Central Index Legislation**

#### **SUBCHAPTER D-1. CENTRAL INDEX OF CERTAIN ADDITIONAL OFFENSES SUSPECTED TO HAVE BEEN COMMITTED BY CRIMINAL DEFENDANTS**

Sec. 411.0601. DEFINITION. In this subchapter, “criminal justice agency” has the meaning assigned by Article 60.01, Code of Criminal procedure.

Added by Acts 2009, 81<sup>st</sup> Leg., R.S., Ch. 1152, Sec. 1, eff. September 1, 2009.

Sec. 411.0602. ESTABLISHMENT OF CENTRAL INDEX; ENTRY OF INFORMATION. (a) In the law enforcement information system maintained by the department, the bureau of identification and records shall establish and maintain a central index to collect and disseminate information regarding additional offenses that forensic DNA test results indicate may have been committed by a defendant who has been arrested for or charged with any felony or misdemeanor offense, other than a misdemeanor offense punishable by fine only.

(b) Information relating to a defendant described by Subsection (a) may be entered in the central index only if the information is based on forensic DNA test results indicating that the DNA profile of the defendant cannot be excluded as a donor to the DNA profile of a person suspected to have committed an offense, regardless of whether the defendant has been or will be arrested for or charged with that offense. The information must be:

(1) submitted in the form of an affidavit signed by a representative of an investigating criminal justice agency and approved by a district judge; and

(2) accompanied by a set of the defendant’s fingerprints.

Added by Acts 2009, 81<sup>st</sup> Leg., R.S., Ch. 1152, Sec. 1, eff. September 1, 2009.

Sec. 411.0603. CONFIDENTIALITY AND DISSEMINATION OF INFORMATION IN CENTRAL INDEX. (a) Information maintained by the department in the central index established under this subchapter is confidential. The department may not disseminate the information except as otherwise provided by this section.

(b) On proper inquiry, the department shall disseminate to a criminal justice agency the information collected under Section 411.0602. The criminal justice agency may disseminate the information to any other criminal justice agency if the dissemination of that information is for a criminal justice purpose.

(c) A criminal justice agency or an employee of a criminal justice agency is not liable for an act or omission relating to the collection, use, or dissemination of information collected under Section 411.0602 if that collection, use, or dissemination is performed in accordance with rules adopted by the director.

Added by Acts 2009, 81<sup>st</sup> Leg., R.S., Ch. 1152, Sec. 1, eff. September 1, 2009.

Sec. 411.0604. RULES. The director shall adopt rules to implement and enforce this subchapter.

Added by Acts 2009, 81<sup>st</sup> Leg., R.S., Ch. 1152, Sec. 1, eff. September 1, 2009.

Sec. 411.0605. RIGHT TO REQUEST NOTICE OF ENTRY IN CENTRAL INDEX. (a) A defendant described by Section 411.0602(a) may submit to the bureau of identification and records a request to determine whether the bureau has entered information relating to the defendant in the central index established under Section 411.0602. The bureau shall respond to the request not later than the 10<sup>th</sup> business day after the date the bureau receives the request.

(b) Before responding to a request under Subsection (a), the bureau may require reasonable written verification of the identity of the defendant submitting the request, including written verification of an address, date of birth, driver's license number, state identification card number, or social security number.

Added by Acts 2009, 81<sup>st</sup> Leg., R.S., Ch. 1152, Sec. 1, eff. September 1, 2009.

Sec. 411.0606. RIGHT TO REQUEST REVIEW OF ENTRY IN CENTRAL INDEX. (a) On receipt by the bureau of identification and records of a written request that is submitted by a defendant described by Section 411.0602(a), that is accompanied by a set of the defendant's fingerprints, and that alleges that the bureau may have entered inaccurate information relating to the defendant in the central index established under Section 411.0602, the head of the bureau or that person's designee and the head of the department's crime laboratory in Austin each shall review the information to determine whether there is a high likelihood that the information is accurate.

(b) If after review the head of the bureau or that person's designee or the head of the department's crime laboratory in Austin determines there is not a high likelihood that the information relating to the defendant is accurate, the bureau shall:

(1) promptly remove that information from the central index; and


(2) notify other appropriate divisions of the department, the investigating criminal justice agency, and the defendant of the bureau's determination and the removal of the information.

(c) If after review the head of the bureau or that person's designee and the head of the department's crime laboratory in Austin jointly determine there is a high likelihood that the information relating to the defendant is accurate, the bureau shall notify the defendant of that determination.

Added by Acts 2009, 81<sup>st</sup> Leg., R.S., Ch. 1152, Sec. 1, eff. September 1, 2009.

# **Appendix 6: 2007 Survey of Law Enforcement Forensic Evidence Processing**


**Presented by**  
Jeri Roper Miller, Ph.D., D-ABFT  
RTI International  
Research Triangle Park , NC




## 2007 SURVEY OF LAW ENFORCEMENT FORENSIC EVIDENCE PROCESSING

*Presented by*  
*Jeri Ropero Miller, Ph.D., D-ABFT*  
*RTI International*  
*Research Triangle Park, NC*



*Presented at*  
Eliminating the Rape Kit Backlog: A Roundtable to Explore A Victim-Centered Approach  
Washington DC  
May 11-12, 2010



Phone 919.485.5685 | e-mail [jerimiller@rti.org](mailto:jerimiller@rti.org)



## ACKNOWLEDGEMENTS



This document is a research report submitted to the U.S. Department of Justice. This report has not been published by the Department. Opinions or points of view expressed are those of the author(s) and do not necessarily reflect the official position or policies of the U.S. Department of Justice.

**The author(s) shown below used Federal funds provided by the U.S. Department of Justice and prepared the following final report:**

**Document Title:** The 2007 Survey of Law Enforcement Forensic Evidence Processing

**Author(s):** Kevin J. Strom, Jeri Ropero-Miller, Shelton Jones, Nathan Sikes, Mark Pope, and Nicole Horstmann

**Date Received:** October 2009

**Award Number:** 2007F\_07165

Opinions or points of view expressed are those of the author(s) and do not necessarily reflect the official position or policies of the U.S. Department of Justice.

Presented findings of RTI International contract number 2007\_F07165, awarded by the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice. Final report available through National Criminal Justice Reference Service (NCJRS) at: <http://www.ncjrs.gov/pdffiles1/nij/grants/228415.pdf>



## BACKGROUND

- Forensic laboratory backlogs well established
  - 2002 BJS census of crime laboratories reported over 262,000 backlogged cases and 500,000 backlogged requests (Peterson & Hickman, 2005)
  - 2005 BJS update reported **24% increase** in case backlogs (Durose, 2008)
- NIJ-funded survey of state and local law enforcement agencies, 2002 (Lovrich et al. 2004)
  - Estimated **unsolved cases with DNA not submitted for analysis**
    - 52,000 homicide
    - 169,000 rape
    - 264,000 property crime

[www.rti.org](http://www.rti.org)



## OBJECTIVES

- In 2007, RTI was funded by NIJ to conduct the Survey of Law Enforcement Forensic Evidence Processing (LEFP)
- Primary objectives —
  - Estimate number of unsolved violent crime cases (homicide and rape) and property cases that contained forensic evidence, but that were not submitted to a crime laboratory for analysis
  - Estimate types of forensic evidence contained in these **unanalyzed cases**
  - Describe the capabilities and procedures used in law enforcement for processing, submitting, and retaining forensic evidence



[www.rti.org](http://www.rti.org)



**IRTI**  
INTERNATIONAL

## STUDY OVERVIEW

- Surveyed nationally representative sample of state and local law enforcement agencies (n=3,094)
- Multi-mode data collection which included web, mail, fax, and telephone follow-up response options
- Expert panel of forensic scientists, law enforcement, and researchers assisted with instrument development and follow-up with specific agencies
- NIJ provided overall guidance and assisted with finalizing the survey instrument and with obtaining letters of support

[www.rti.org](http://www.rti.org)

**IRTI**  
INTERNATIONAL

## RESPONSE RATES BY MODE

Mode	Percentage
Telephone	2%
Fax	11%
Hard Copy	41%
Web	46%

[www.rti.org](http://www.rti.org)

**THE LEFP WEBSITE**

Survey of Law Enforcement Forensic Evidence Processing  
National Institute of Justice

**LEFP Home**  
Complete Survey On-line  
Designate Agency Contact  
FAQ  
Contact Us  
Home

**Webinars**  
Welcome to the web site for the 2008 Survey of Law Enforcement Forensic Evidence Processing (LEFP). Here you can learn more about the purpose of LEFP by reading below or by clicking on the "Frequently Asked Questions" link. You may complete the LEFP survey on-line in a completely secure environment by clicking on the "Complete Survey On-line" link on the menu list on the left side of this page.

**LEFP Overview**  
Forensic evidence has increasingly been used as an important tool for investigating and solving crimes, as well as for exonerating the innocent. Yet the emergence of forensics has also created an added need for law enforcement agencies to review old cases for evidence that could be sent to a crime laboratory for testing.

**Links**  
Adobe PDF Reader  
Download Blank Survey  
International Association of Chiefs of Police  
Letter of Support - IACP  
National Institute of Justice  
RTI International

The NIJ survey will develop much-needed information on the number of unsolved criminal cases containing forensic evidence that have not been submitted to crime laboratories. Law enforcement agencies will be asked about the number of unsolved homicide, rape, and property crime cases maintained, the percentage of cases with forensic evidence available for testing, and procedures used for reviewing unsolved violent crimes to develop new investigative leads.

A better understanding of these issues can support the development of plans to improve the efficiency and functionality of the evidence collection, submission, and analysis process. This could include new resources dedicated to resourcing and analyzing forensic evidence in criminal cases.

Respondents can complete the questionnaire through multiple user-friendly methods including mail, fax, and on-line options. Findings from the survey will be available on the NIJ website, <http://www.ojp.usdoj.gov/nij>.

[www.rti.org](http://www.rti.org)

**RESPONSE RATES BY AGENCY TYPE**

	Number of Sampled Agencies	Number of Agencies Completing Survey	Response Rate
Municipal Police Departments	1,724	1,294	75.1%
Sheriff's Offices	1,327	929	70.0%
State Police Agencies	43	27	62.8%
<b>Total</b>	<b>3,094</b>	<b>2,250</b>	<b>72.7%</b>

[www.rti.org](http://www.rti.org)

**RTI INTERNATIONAL** **RESPONSE RATES BY AGENCY SIZE**

	<i>Number of Sampled Agencies</i>	<i>Number of Agencies Completing Survey</i>	<i>Response Rate</i>
100+ officers	963	735	76.3%
50-99 officers	681	524	76.9%
25-49 officers	745	536	71.9%
<25 officers	705	455	64.5%
<b>Total</b>	<b>3,094</b>	<b>2,250</b>	<b>72.7%</b>

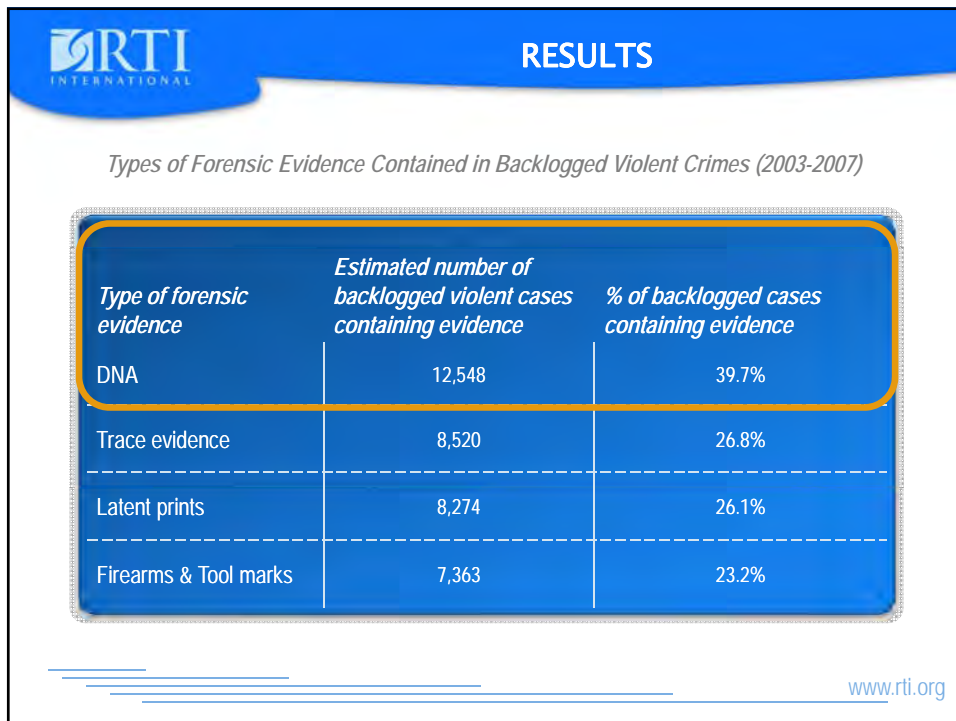
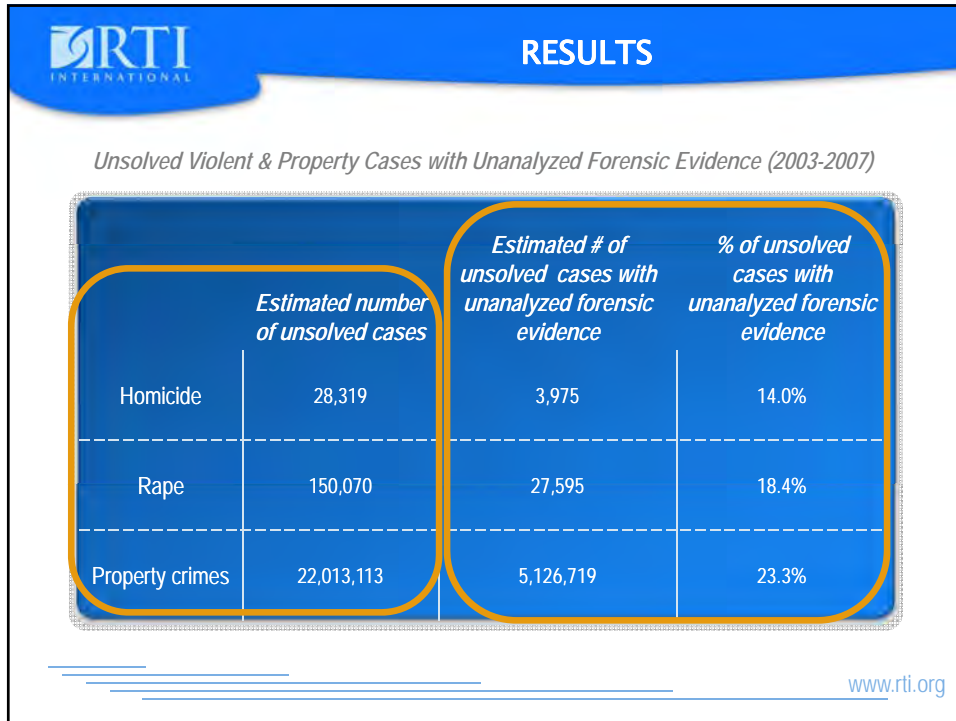
[www.rti.org](http://www.rti.org)

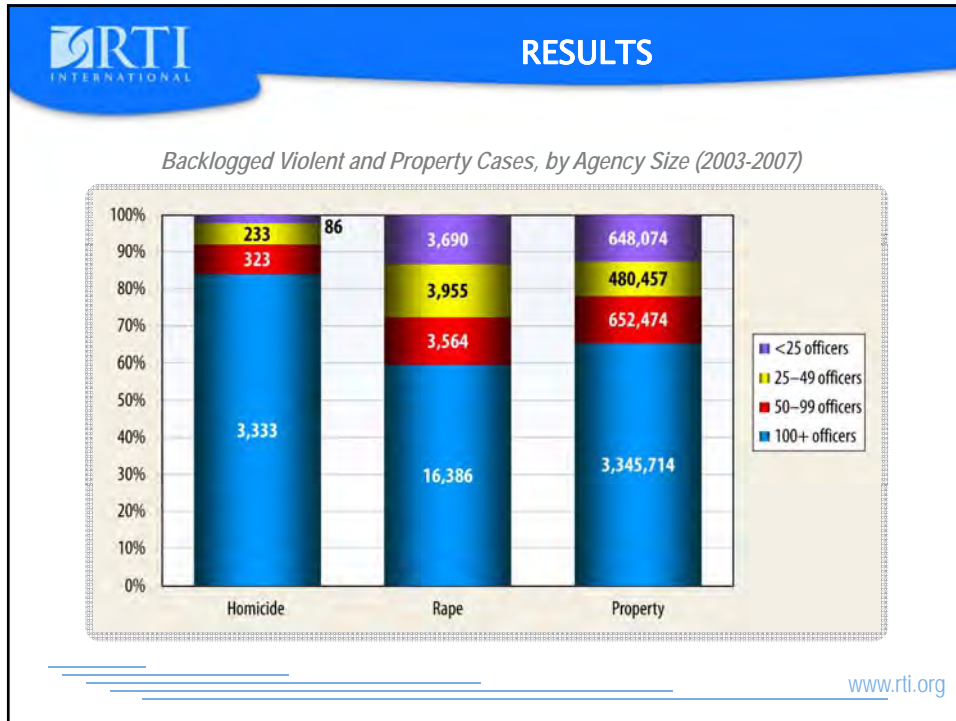
**RTI INTERNATIONAL** **RESULTS — APPLES & ORANGES**

*Unsolved Violent & Property Cases in U.S. Law Enforcement Agencies (2002, 2007)*

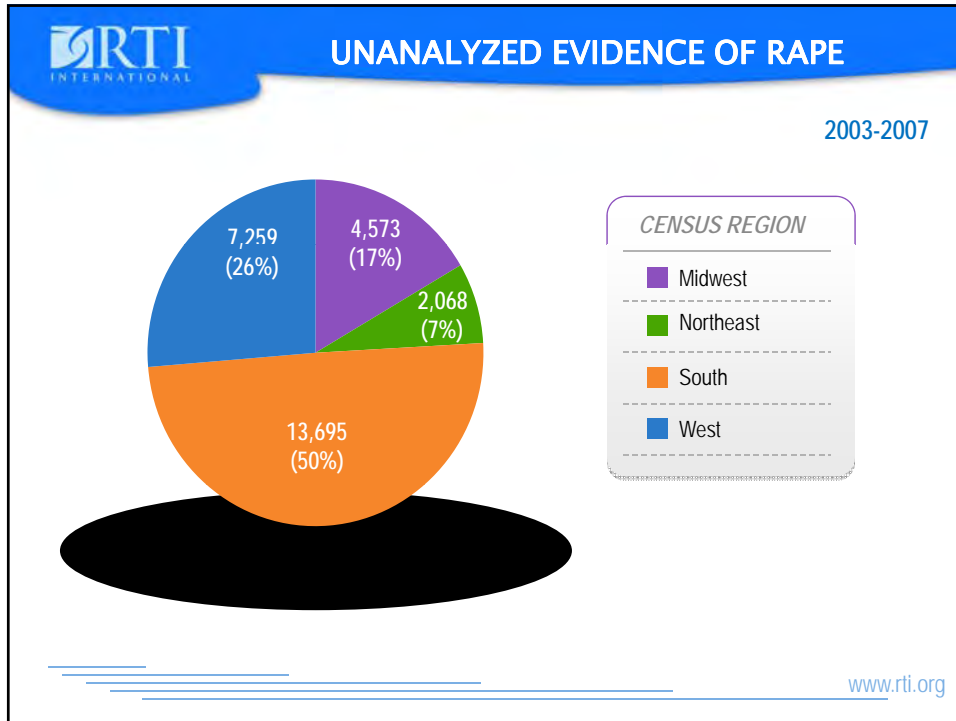
	<i>Estimated # of unsolved cases with unanalyzed forensic evidence (Lovrich, 2004)</i>	<i>Estimated # of unsolved cases (LEFP, 2009)</i>	<i>% of unsolved cases forensic evidence collected</i>
Homicide	52,000	6,728	88.0%
Rape	169,000	33,696	73.0%
Property crimes	264,000	4,776,127	29.0%

[www.rti.org](http://www.rti.org)






- RTI**  
INTERNATIONAL
- ## AGENCY CHARACTERISTICS
- Agency type:
    - Municipal police departments accounted for about four out of five unsolved homicides (79%) but slightly lower percentage of unsolved rapes (73%)
    - Sheriff's departments reported about 18% of homicide and 19% of rape cases
    - State police agencies accounted for about 9% of all unsolved rape cases and 3% of homicides
- www.rti.org




**FACTORS INHIBITING SUBMISSION**

- Most common factors for not submitting forensic evidence
  - Not considered a tool for criminal investigation—
    - Evidence not submitted because no suspect had been identified (44%)
    - Suspect had been identified but not formally charged (12%)
    - Analysis had not been requested by the prosecutor (15%)


www.rti.org

 **FACTORS INHIBITING SUBMISSION**


- Factors for not submitting forensic evidence (continued)
  - Laboratory resource or timeliness issues—
    - Inability of the laboratory to produce timely results (11%)
    - Insufficient funding for analysis (9%)
    - Lab will not accept evidence due to backlog issues (6%)




[www.rti.org](http://www.rti.org)

 **FACTORS INHIBITING SUBMISSION**

- Factors for not submitting forensic evidence (continued)
  - Court action occurred
    - Suspect adjudicated without forensic evidence testing (24%)
    - Case has been dismissed (19%)
  - Further investigation needed
    - Other inhibiting factors not listed or detailed (24%)
    - Uncertain of usefulness of forensic evidence (17%)
    - Uncertain where to send evidence for analysis (2%)




[www.rti.org](http://www.rti.org)


 **EVIDENCE RETENTION**

- Evidence Retention for Closed Cases
  - 42.6% reported having a policy in place for preserving biological evidence for cases in which the defendant is found guilty
  - One in five agencies reported they were unsure if their agency had such a policy
  - Policy primarily dictated by State statute (51.4%) or Agency (42.7%)
  - For agencies with policy, investigating agency was responsible for storing the evidence in 80% of cases
  - 92% reported that unanalyzed evidence stored in on-site storage locations

[www.rti.org](http://www.rti.org)


 **INFORMATION SYSTEMS & BACKLOG REDUCTION**

- 57% of law enforcement agencies *do not* have a computerized system
  - Larger agencies 75% do have IS system for forensic evidence tracking
- Less than 3% of law enforcement agencies currently have a forensic backlog reduction program or initiative
  - State police 58%
  - Large Agency (+100 officers) 14%




[www.rti.org](http://www.rti.org)




 **STUDY IMPLICATIONS**

- LE agencies continue to face substantial forensic case backlogs for homicide, rape, and property cases
- Estimated unsolved cases with unanalyzed forensic evidence:
  - 1 in 7 homicides cases
  - 1 in 5 rape cases
  - 1 in 4 property crimes
  - Backlogs not limited to only large police agencies
- LE agencies require improved training and enhanced policies regarding the use of forensic analysis
  - Mindset that forensic evidence is beneficial primarily for prosecuting crimes *NOT* for developing new investigative leads



[www.rti.org](http://www.rti.org)

 **STUDY IMPLICATIONS**

- Law enforcement information systems should be enhanced so that they can systematically track and monitor forensic evidence associated with criminal cases
  - 6 in 10 LE agencies reported not having a computerized information system in place capable of tracking forensic evidence inventory
- More guidelines, documentation, and resources are required for evidence processing and evidence retention in law enforcement agencies
  - Policies must take into account the resources available to law enforcement agencies for evidence storage
  - Improve the capacity of police agencies to track and discard of evidence that is no longer required to be maintained by law

[www.rti.org](http://www.rti.org)



## LEFP RECOMMENDATIONS

K. Rose, *The Police Chief*, (April 2010)

- More training for police on the benefits and use of forensic evidence, including guidelines or protocols on prioritizing cases for lab analysis
- Creating (or, where they exist, improving) computerized systems to track and monitor forensic evidence
- Standardizing evidence retention policies across the country
- Improving storage capacity for analyzed and unanalyzed forensic evidence
- A system-wide approach to improve coordination among the police, forensic lab, and the prosecutor's office; this could include dedicated staff for case management, regular team meetings for case review and computerized systems to allow information sharing across these agencies

[www.rti.org](http://www.rti.org)



## QUESTIONS

*Thank You!*

**Kevin Strom**  
**[kstrom@rti.org](mailto:kstrom@rti.org) | 919.485.5729**

**Jeri D. Ropero-Miller**  
**[jerimiller@rti.org](mailto:jerimiller@rti.org) | 919.485.5685**

<http://www.ncjrs.gov/pdffiles1/nij/grants/228415.pdf>

[www.rti.org](http://www.rti.org)

# The 2007 Survey of Law Enforcement Forensic Evidence Processing

Jeri D. Roper-Miller, PhD, D-ABFT<sup>1\*</sup>; Kevin J. Strom, PhD<sup>1</sup>; Matthew J. Hickman, PhD<sup>2</sup>

<sup>1</sup>RTI International, Research Triangle Park, NC; <sup>2</sup>Seattle University, Department of Criminal Justice, Seattle, WA

## 1. Introduction

Research has shown that more forensic evidence is collected than analyzed, resulting in substantial backlogs. Yet, while the forensic backlogs within crime laboratories have been relatively well established, the size and characteristics of forensic evidence caseloads in law enforcement agencies are less certain (Lovrich, 2004).

In 2007, the National Institute of Justice funded the Survey of Law Enforcement Forensic Evidence Processing (LEFP), which was conducted to estimate the volume and type of forensic evidence collected and processed by law enforcement agencies. For the purposes of LEFP, forensic evidence was defined as "any physical evidence collected during a criminal investigation that could be processed by scientific methods and usable in the courts."

Backlogs within law enforcement agencies represent evidence from unsolved cases that have not been submitted to a crime laboratory for analysis. For this survey, unsolved cases were defined as cases that had not been officially cleared by the law enforcement agency, including all cases that had not been closed by arrest or cleared by exceptional means (e.g., cases closed because of the death of the primary suspect).

## 2. Objectives

The primary study objectives were:

- to estimate the number of unsolved homicide, rape, and property cases in the United States that contained forensic evidence, but that were not submitted to a crime laboratory for analysis
- to estimate the types of forensic evidence (biological samples to include DNA, trace evidence, latent print, firearms/toolmarks) that comprise the nation's forensic evidence caseload for homicides, rapes, and property crimes
- to describe the capabilities and procedures used in law enforcement agencies for processing, submitting, and retaining forensic evidence, including evidence retention policies and availability of information systems capable of tracking forensic evidence inventory.

## 3. Research Design and Methods

The LEFP sampling frame used BJS' national 2004 Census of State and Local Law Enforcement Agencies, which represents nearly 18,000 state and local law enforcement agencies, to select a nationally representative sample of state and local law enforcement agencies (Reaves, 2007). Agencies were stratified by agency type (state police agency; municipal police agency; sheriff's department), by agency size, and by Census region. Agency size was defined as full-time sworn personnel or full-time equivalents based on four agency-size categories of (1) fewer than 25 officers, (2) 25 to 49 officers, (3) 50 to 99 officers, and (4) 100 or more officers. All U.S. agencies with 100 or more sworn officers were included with certainty in the LEFP sample.

Data collection was conducted between August and December 2008 using three modes: (1) Web response, (2) hardcopy return (mail or fax), and (3) computer-assisted telephone interview. For all modes, questionnaires were reviewed as they were received, and follow-up communication with agencies was conducted as needed. Telephone follow-ups were mainly used to prompt the agency to complete the survey utilizing the Web or a hardcopy response method.

From a probability sample of 3,153 agencies, 59 agencies were deemed ineligible for the study and were removed because they either did not investigate crimes (e.g., sheriff's departments that only perform jail and court security), were not the lead investigating agency for criminal cases in their jurisdiction, or had merged with another agency in the sample. The resulting final sample which received LEFP questionnaires was 3,094 agencies.

**References** Lovrich, N. P., Pratt, T. C., Gaffney, M. J., Johnson, C. L., Asplen, C. H., Hurst, L. H., et al. (2004). National Forensic DNA Study Report, final report (Report No. 203970). Washington, DC: U.S. Department of Justice.

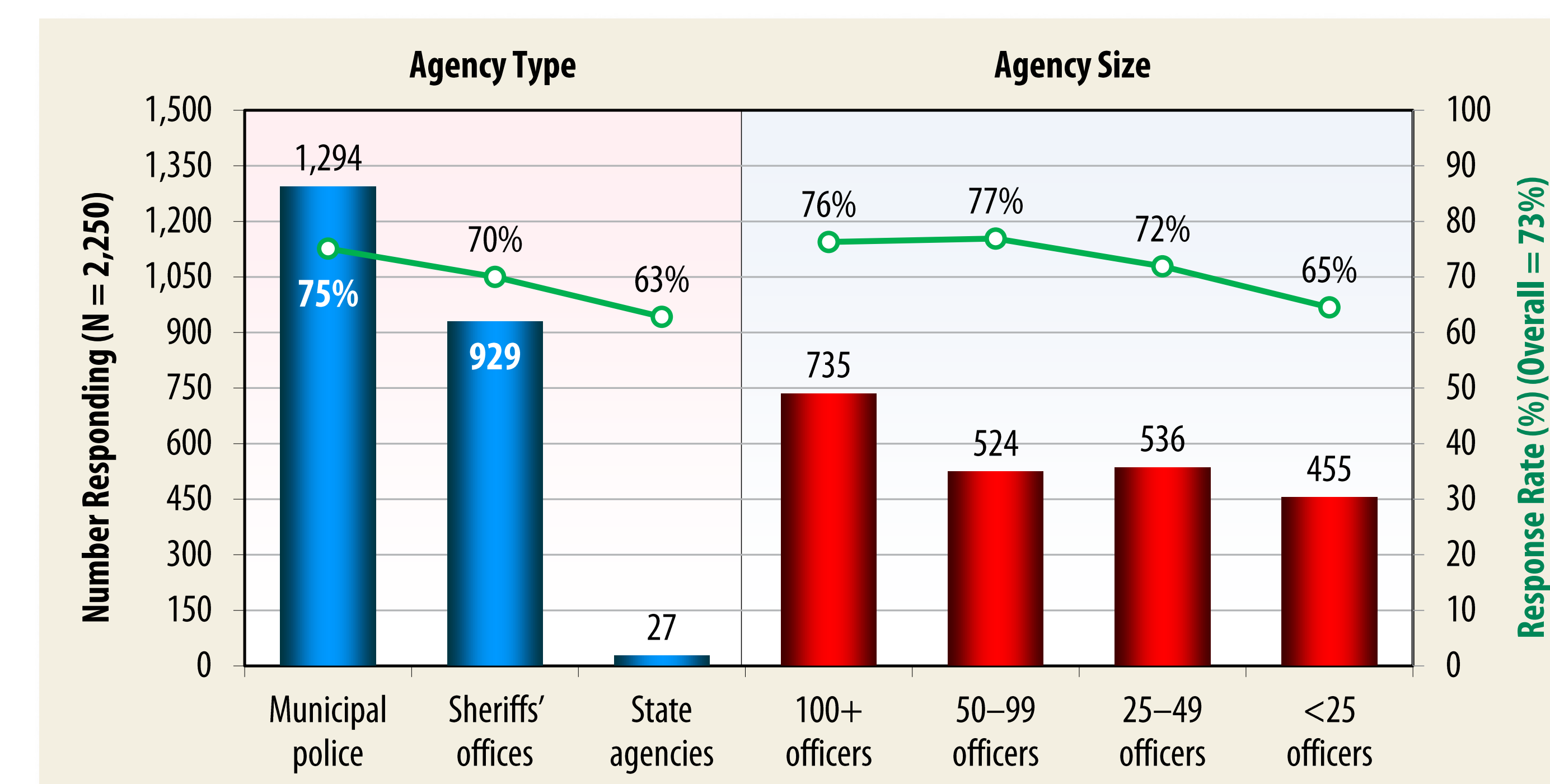
Reaves, B. A. (2007). Census of state and local law enforcement agencies, 2004 (Report No. NCJ 212749). Washington, DC: U.S. Department of Justice. Retrieved May 9, 2009, from <http://www.ojp.usdoj.gov/bjs/pub/pdf/cslea04.pdf>.

## 4. Results

### LEFP Response

- A total of 2,250 agencies responded to the survey for an overall response rate of 73% (Figure 1).
- Among agencies completing the survey, 46% responded via the Web; 41% returned hardcopy questionnaires by mail, 11% returned completed surveys by fax, and 2% completed the survey by telephone.

**Figure 1. LEFP Response Rates, by Agency Type and Size**



### Forensic Evidence Processing by Offense Type in 2007

- Of crimes received by U.S. law enforcement agencies during 2007, there were an estimated total of 6,728 unsolved homicides; 33,696 unsolved rapes; and 4,776,127 unsolved property crimes.
- Among these unsolved crimes, agencies reported that forensic evidence was collected in 88% of homicides, 73% of rapes, and 29% of property crimes.

### Unanalyzed Forensic Evidence by Offense Type, 2003-2007

- Of crimes reported by state and local law enforcement agencies from 2003 to 2007, 14% of all unsolved homicides (an estimated 3,975 cases) and 18% of unsolved rapes (an estimated 27,595 cases) contained forensic evidence that was not submitted to a crime laboratory for analysis.
- Results also indicated that 23% of all unsolved property crimes (an estimated 5,126,719 cases) contained forensic evidence that had not been submitted to a crime laboratory.

**Table 1. Unsolved Homicide, Rape, and Property Crime Cases Containing Unanalyzed Forensic Evidence, 2003-2007**

Crime Type	Estimated Number of Unsolved Cases	Estimated Number of Unsolved Cases with Unanalyzed Forensic Evidence	Percentage of Unsolved Cases with Unanalyzed Forensic Evidence
Property crime	22,013,113	5,126,719	23
Rape	150,070	27,595	18
Homicide	28,319	3,975	14

### Factors Inhibiting Submission of Forensic Evidence

- Almost half of police departments (44%) reported that forensic evidence has not been submitted because no suspect had been identified. Other inhibiting factors included that the suspect in the case had been adjudicated without forensic testing (24%) and the agency was uncertain where to send forensic evidence for analysis (2%).
- Some explanations for unsubmitted forensic evidence concerned laboratory resource or timeliness issues—these factors included the inability of the laboratory to produce timely results (11%), insufficient funding for analysis (9%), and that the laboratory would not accept evidence due to backlog issues (6%).

### Types of Forensic Evidence Contained in Violent Crime Cases

- About a third of unsolved homicide and rape cases were estimated to have contained DNA evidence (an estimated 12,548 cases).
- About 21% of unsolved homicide and rape cases were estimated to contain trace evidence (8,520 cases) and 21% contained latent print evidence (8,274 cases).

## 4. Results (continued)

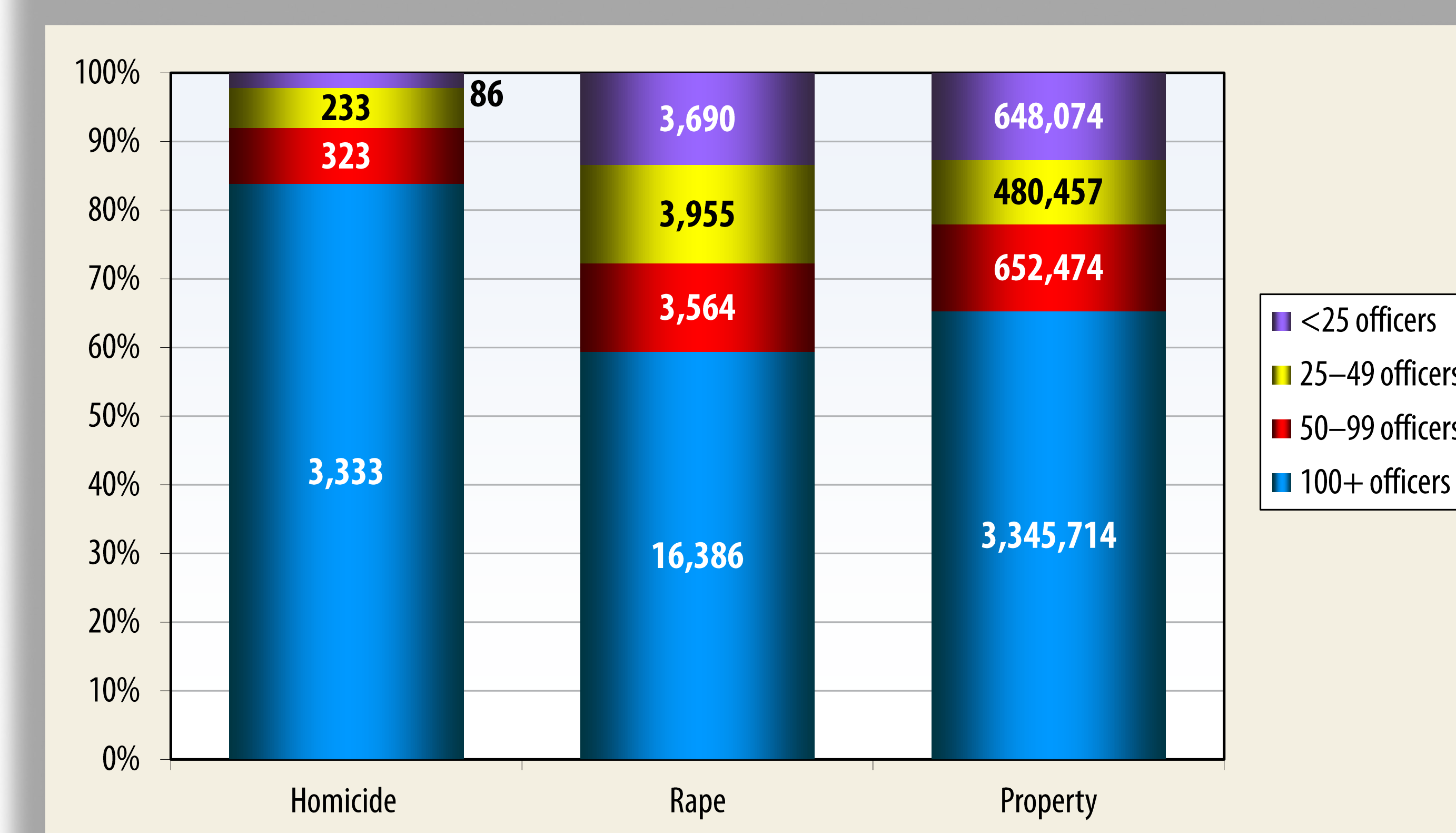
**Table 2. Type of Forensic Evidence Contained in Unanalyzed Homicide and Rape Cases, 2003-2007**

Type of Forensic Evidence	Estimated Number of Backlogged Homicide and Rape Cases Containing Evidence Type	Percentage of Backlogged Cases Containing Evidence Type
DNA	12,548	39.7
Trace evidence	8,520	26.8
Latent prints	8,274	26.1
Firearm/toolmarks	7,363	23.2

### Forensic Evidence of Crimes by Agency Size (Figure 2)

- Larger police agencies (those with 100 or more sworn officers) accounted for 80% of all backlogged homicide cases, 60% of all backlogged rape cases, and 65% of all backlogged property cases.
- Mid-sized agencies (those with 25 to 99 sworn officers) accounted for 15% of all unanalyzed homicide cases, 27% of unanalyzed rape cases, and 22% of unanalyzed property cases.
- Smaller agencies (with fewer than 25 sworn officers) indicated larger relative percentages of rape cases (13% of total backlogged rapes) and property cases (13% of total backlogged property cases) in comparison with total backlogged homicide cases (2% of total).

**Figure 2. Unsolved Cases Containing Unanalyzed Forensic Evidence, by Agency Size, 2003-2007**



### Law Enforcement Policies for Forensic Evidence Retention

- Nearly half of law enforcement respondents (46%) reported having an evidence retention policy for preserving biological evidence for cases in which the defendant was found guilty; these policies were most commonly dictated by state statute (51%) or agency policy (43%).
- In 80% of instances, the investigating law enforcement agencies were responsible for storing the biological evidence.
- Unanalyzed forensic evidence was stored on-site in law enforcement agencies for the vast majority of cases (92% of respondents).

### Law Enforcement Policies for Case Backlog Reduction and Information Tracking System for Forensic Evidence

- Less than half of all agency respondents (43%) reported having an information system capable of tracking forensic evidence.
- Less than 3% of law enforcement agencies reported having forensic backlog reduction programs or initiatives in place.
- About 58% of responding state police agencies and 14% of the largest police agencies (those with 100 or more sworn officers) reported having a backlog reduction program or initiative in place. Four percent of police agencies with 50 to 99 sworn officers, 3% of agencies with 25 to 49 officers, and less than 1% of agencies with fewer than 25 sworn officers reported having a forensic backlog program or initiative in place.

## 5. Implications and Recommendations

Law enforcement agencies vary considerably in their procedures for processing, analyzing, and submitting forensic evidence, and backlog problems are not limited to police agencies of certain sizes.

The challenge to policymakers is to identify the factors that contribute to successful case processing systems, as defined by reduced (or eliminated) backlogs and decreased turnaround time, while also maintaining high analytical standards. The implications of these findings are considerable.

- The LEFP survey indicates that law enforcement agencies face substantial forensic evidence caseloads. About one in seven unsolved homicide cases with forensic evidence, nearly one in five unsolved rape cases, and one in four property crimes were not submitted to a forensic laboratory for analysis. These forensic evidence backlogs were not limited to large police agencies.

**Recommendation:** More research is required to fully understand what forensic backlogs represent in terms of the proportion of open cases that could benefit from forensic testing. In addition, uniform submission protocols for prioritizing cases for analysis should be developed including procedures that ensure probative evidence is submitted and analyzed in a timely fashion. Prioritization could relate to case seriousness and instances where analysis of the evidence can have the greatest effect in terms of closing the case.

- Given the number of cases with unanalyzed forensic evidence that was not submitted to crime laboratories and the stated reasons for not submitting evidence, LEFP results suggest that personnel in some law enforcement agencies may still have a limited understanding for the full benefits of forensic evidence. This may include a mindset that forensic evidence is beneficial for prosecuting crimes, but is not a tool for developing new investigative leads.

**Recommendation:** Law enforcement agencies require both improved training and enhanced policies regarding the use of forensic analysis. More effective communication between law enforcement, their supporting laboratories, and prosecutors could reduce some of these inhibiting factors for forensic evidence submission for laboratory analysis.

- More than half of law enforcement agencies do not have a records management system capable of tracking forensic evidence associated with criminal cases.

**Recommendation:** Law enforcement information systems should be enhanced so that they can systematically track and monitor forensic evidence associated with criminal cases. These systems could also include connections with laboratories and prosecutors to provide status updates as cases move through the system.

- Many law enforcement agencies lack policies for evidence retention. Less than half of state and local police agencies reported having a policy in place for preserving biological evidence for cases in which the defendant was found guilty. Evidence retention policies are important in light of the fact that many states now have statutes allowing postconviction testing based on the availability of forensic evidence (<http://www.dna.gov/statutes-caselaw/state-statutes/postconviction-statutes>). Very few law enforcement agencies have a forensic backlog reduction program or initiative.

**Recommendation:** More guidelines, documentation, and resources are required for programs supporting forensic evidence processing in law enforcement agencies. Federal funding and support for these initiatives should also be available to smaller agencies which may have a more difficult time implementing and maintaining these programs.

## Acknowledgements

This research was supported by a contract from the National Institute of Justice (Contract No. 2007F\_07165). Points of view are those of the authors and do not necessarily reflect those of the U.S. Department of Justice or RTI International.

## Contact Information

\*Presenting author: Jeri Roper-Miller

Phone: 919-485-5685 · Fax: 919-541-7042 · Email: [jerimiller@rti.org](mailto:jerimiller@rti.org)

Presented at: the American Society of Crime Laboratory Directors (ASCLD) 37th Annual Symposium Anaheim, CA, September 13-17, 2009 · Updated: April 30, 2010

## For further information:

RTI International, 3040 Cornwallis Road, Research Triangle Park, NC 27709

RTI International is a trade name of Research Triangle Institute.