







Comprehensive Rape Kit Reform

A LEGISLATIVE HANDBOOK

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Every two minutes, someone is sexually assaulted in the United States. When the victim reports the assault to the police, a hospital, or a rape crisis center, a medical professional conducts an exhaustive and invasive four to six-hour examination of the victim's body for DNA evidence left behind by the attacker. During the examination, the victim's body will be photographed and swabbed for biological evidence. The examiner collects and preserves this evidence in a **sexual assault evidence—or rape—kit**.

DNA is an incredibly powerful tool for law enforcement. When tested, DNA evidence can identify an unknown assailant, confirm the presence of a known suspect, affirm the survivor's account of the attack, discredit the suspect, connect the suspect to other crime scenes to identify serial offenders, and exonerate the wrongly convicted. Testing rape kits for **DNA evidence can both solve and prevent crimes**; however, many of these kits are never tested.

What is the backlog?

The rape kit backlog is a term used to refer to untested (or “unsubmitted”) rape kits stored by law enforcement agencies and crime labs nationwide. Because most jurisdictions do not have systems for tracking or counting rape kits, we cannot be sure of the total number of untested kits sitting in police and crime lab storage facilities around the country. However, experts estimate that there are **hundreds of thousands of untested kits**. To date, nearly 200,000 kits have been uncovered by investigative reporters and through [The Accountability Project](#) —a Joyful Heart Foundation initiative that uses public records requests to ascertain the number of untested kits in cities across the country.

Every rape kit booked into evidence and connected to a reported sexual assault should be submitted to a crime lab for testing, and public crime labs must commit to testing all rape kit evidence in a timely manner. Since 2010, Joyful Heart has made the **elimination of the national backlog of untested rape kits** our top advocacy priority. Through partnerships with federal, state and local government, non-profit organizations, law enforcement, advocates, survivors, and other stakeholder, we are working to raise awareness, unlock critical funding, and enact reforms to improve the criminal justice response to sexual violence.

Why does the backlog exist?

The backlog of untested rape kits represents the failure of the criminal justice system to take sexual assault seriously, prioritize the testing of rape kits, protect survivors, and hold offenders accountable. There are several key contributing factors that create a backlog, including:

- 1. Lack of policies or protocols for rape kit testing.**
Most jurisdictions do not have clear, written policies outlining the testing of rape kits. This results in decisions about whether to submit a kit being made on a case-by-case basis, without any guidelines, and means that individual detectives or prosecutors may have discretion over whether to send a kit for analysis. Without written guidelines to follow, testing decisions can be unduly impacted by a variety of factors irrelevant to the crime, including officers' own biases and victim-blaming beliefs.
- 2. Knowledge gaps and lack of training.**
Trauma can lead survivors to present in a wide range of manners that, to the untrained eye, may not seem



“credible.” This can include having trouble recalling details and acting in a way that those who do not understand trauma may think is not “typical” for a sexual assault survivor. Law enforcement professionals who lack training or knowledge of victimization and trauma often erroneously close cases as “unfounded” or label survivors as “uncooperative.”

3. The identity of the perpetrator.

Many jurisdictions only test kits in cases where the assailant is unknown, in the hopes of identifying a suspect through DNA evidence. Rape kit testing, however, has significant value beyond identifying an unknown suspect. Acquaintance rapists are often serial offenders, and may have also assaulted strangers. [Testing every rape kit connected to a reported crime](#) ensures that jurisdictions can link crimes together, regardless of the relationship between the victim and the perpetrator.

4. Lack of resources.

On average, it costs between \$1,000 and \$1,500 to test one rape kit. Law enforcement agencies often lack the technology to track untested rape kits, as well as the personnel needed to ship or transport untested kits to a crime lab in a timely manner. Many also don't have the staffing resources necessary to investigate leads that arise from the rape kit testing. As the technology has advanced and demand for DNA testing has grown, public crime labs have struggled to maintain sufficient funding and personnel. Many labs have exceedingly long turnaround times—sometimes years—for testing DNA evidence, including rape kits.

Why test all kits?

Joyful Heart joins other national experts in calling for the **mandatory submission and testing of every rape kit booked into evidence** and connected to a reported sexual assault. Each untested kit represents a missed opportunity to bring justice and healing to a survivor and increased safety to a community.

Mandating the swift testing of every sexual assault kit sends a **powerful message to survivors** that they—and their cases—matter. Sexual assault has the **lowest arrest rate** of all violent crimes. Leaving rape kits on shelves sends a message to survivors that their cases don't matter, and a message to perpetrators that they can escape punishment for rape. Testing all previously unsubmitted and newly collected kits demonstrates a commitment to survivors' well-being.

Testing rape kits is also the pathway to a more effective criminal justice system. By testing kits, communities can identify serial perpetrators, take dangerous offenders off the streets, prevent future crimes, and exonerate the innocent. Testing rape kits also **saves communities millions of dollars**. According to a study from the Begun Center for Violence Prevention Research and Education at Case Western Reserve University, testing just 4,300 previously unsubmitted kits in Cleveland has saved the community **\$38.7 million** dollars, or **\$8,893 per tested sexual assault kit**.

Special consideration must be given to **unreported or anonymous** kits. We must keep our promise to survivors of sexual assault to allow them to decide the path to healing and justice that works best for them. It is critical to a survivor's wellbeing that their choices about engaging in the criminal justice system are honored. Therefore, we call for the mandatory submission and testing of **every rape kit booked into evidence and connected to a reported sexual assault, except anonymous or unreported kits**. By testing every such kit, communities can promote justice, improve safety, and save money.








How can we end the backlog?

Survivors and advocates have worked for decades to raise awareness, expand access to services, and promote legislative changes to ensure that victims of sexual violence receive the justice they deserve. We are grateful to leaders like survivor-advocate Debbie Smith, who built a national movement in support of DNA testing; former prosecutor Linda Fairstein, who pioneered the use of DNA in investigations of sexual assault; Manhattan District Attorney Cyrus Vance, who reached across state lines with \$38 million to help jurisdictions nationwide; and Vice President Joe Biden, who has made addressing sexual violence a cornerstone of his career in public service.

Eliminating the rape kit backlog will take a coordinated effort and deep commitment at all levels of government across the United States. To date, 27 states have passed rape kit reform laws, but no state has implemented comprehensive reform. To learn more about reform in your state, consult our Laws By State chart (p. 23).

To successfully address the rape kit backlog, a series of specific policies must be secured and implemented. These policies include:

 Annual or periodic statewide audits	 Tracking system for rape kits
 Mandatory testing of previously unsubmitted kits	 Victim notification rights
 Mandatory testing of newly collected kits	 Funding to implement reforms

Additional best practices to consider when drafting legislation include: articulating the **intent of the law**, writing **definitions of key terms**, reforming the **statute of limitations**, improving **victim compensation** policies, and expanding the period of **evidence retention**. For an in-depth guide to drafting legislation, refer to our Drafter's Checklist (p. 6).

Joyful Heart stands ready to help state legislators enact comprehensive reform, and to assist all communities working to address their backlogs of untested rape kits.



Ending the backlog of untested rape kits in the United States will take a deep commitment at all levels of government. Every state must have clear laws and policies mandating rape kit tracking and deadlines for testing kits. Clear policies for handling rape kits ensure that the criminal justice system holds offenders accountable and builds opportunities for justice and healing for survivors. This checklist provides guidance to state lawmakers drafting rape kit reform legislation. It covers all of the provisions that should be included in a comprehensive rape kit reform law.

Essential reforms to eliminate the backlog include:



An **annual statewide audit** to identify the number of untested kits (in law enforcement facilities, hospitals, crime labs, and any other storage facility) to get a clear picture of the scope of the problem. Mandate that all relevant facilities in your state submit this information to a designated state-level agency within a timeframe of 180 days.



Mandatory submission and testing of all previously unsubmitted rape kits, with deadlines for both submission and testing. Mandate that each and every untested rape kit (including those past the statute of limitations) be submitted to the lab within a timeframe of 180 days.



Testing of all newly collected kits, with deadlines for both submission and testing. Mandate that, for all ongoing rape kit examinations: hospitals must notify the appropriate law enforcement agency within 24 hours of kit collection; law enforcement agencies must pick up the kit within 72 hours of notification; law enforcement agencies must submit the kit to the lab for analysis within seven days of pickup; and the lab must test the kit and enter any resulting DNA profiles into the CODIS DNA database within 30 days of receipt.



A system for **tracking kits** that provides a way for survivors to check the status of their kits throughout the entire process, from collection to analysis.



A process for **victim notification** about the status of a kit, and a mandate that victims be notified if there is a decision not to test a kit or if there is any planned destruction of a kit.



Appropriation of **state funding** to implement these reforms.

Additional best practice policies for legislators to consider when drafting include:

- Expressly articulating the **intent of the law**;
- Including **clear definitions** for all terms used in the law;
- Eliminating or otherwise reforming the **statute of limitations** for relevant crimes;
- Reforming policies for **victim compensation** funds; and
- Enumerating **evidence retention** policies to guide kit preservation and destruction.



Essential Reforms: Annual Statewide Audit

Reform should start with a baseline audit—or inventory—to determine the number of untested rape kits in law enforcement facilities, hospitals, crime labs, and any other rape kit storage facilities across the state. Audits bring transparency and accountability to rape kit testing practices in states and local communities. Once the number of untested rape kits is known, planning for the necessary resource allocation, testing, and legislative initiatives addressing rape kit procedures can begin.

Audit policies should:

- Assign responsibility to one state agency for carrying out the audit. This can be the state crime lab, the Attorney General, the State Auditor, or the Governor's office.
- Mandate the audit be completed **within 180 days**.
- Describe the information to be reported, such as the date each kit was collected and the reason it was not submitted to a crime lab for testing.
- Be clear that all untested rape kits must be counted, **including kits collected past the statute of limitations** for the relevant crime.
- Specify **anonymous or unreported kits** be counted separately.
- Require a final report of the results, including a list of any agencies that failed to participate in the audit, be sent to state legislative bodies and/or governing officials, and be **made publicly available** online by a specific deadline.
- Mandate **recurring annual or periodic audits**, with regular reports of the results to be made available online, as above.

To date, **19 states and Washington, D.C.** have passed laws requiring one-time, annual, or periodic audits of untested rape kits.

Essential Reforms: Testing All Previously Unsubmitted Kits

Sexual assault survivors whose kits have languished for years—sometimes even decades—deserve to have their kits tested, regardless of how much time has passed since the sexual assault. When tested, DNA evidence from rape kits can be an incredibly powerful tool to solve and prevent crimes: it can identify unknown assailants, confirm known suspects, identify serial offenders by linking crimes together, and exonerate the wrongly convicted. To accomplish these actions, previously unsubmitted kits must be tested.

Backlogged kit testing policies should:

- Mandate **all previously untested kits connected to a reported crime** be sent to the crime laboratory for analysis.
- Mandate all kits in storage outside of law enforcement agencies (for instance, hospitals or rape crisis centers) be submitted to the local law enforcement agency for assessment and submission to the lab.



- Include kits **past the statute of limitations** within the definition of “all” kits.
- Set a deadline for submission of untested kits of **no later than 180 days**.
- Set a deadline for the crime laboratory to complete analysis once a kit has been submitted to the lab of **no later than one year**.
- Consider including language requiring the lab to **outsource unsubmitted kits for speedier testing** if it is unable to meet the specified testing deadline.
- Consider **compliance or accountability mechanisms** to ensure local law enforcement agencies comply with the new requirements.

To date, **nine states** across the country require the submission and testing of backlogged kits.

Sample Language: Mandatory Submission of Previously Unsubmitted Kits

Colorado [H.B. 13-1020](#) - Submit to lab within 120 days

Subject to available laboratory space, on or before one hundred twenty days after the effective date of this section, each law enforcement agency shall forward to the Colorado Bureau of Investigation or other accredited crime laboratory the forensic medical evidence identified on the inventory submitted to the Colorado Bureau of Investigation.

Illinois [P.A. 096-1011](#) - Submit to lab within 180 days

Within 180 days after the effective date of this Act, appropriate arrangements shall be made between the law enforcement agency and the Department of State Police, or a laboratory approved and designated by the Director of State Police, to ensure that all cases that were collected prior to the effective date of this Act and are, or were at the time of collection, the subject of a criminal investigation, are submitted to the Department of State Police, or a laboratory approved and designated by the Director of State Police.

Ohio [130 S.B. 316](#) - Submit to lab within one year

A law enforcement agency shall review all of its records and reports pertaining to its investigation of any offense specified in division (B)(1) of this section as soon as possible after the effective date of this amendment. If the law enforcement agency's review determines that one or more persons may have committed or participated in an offense specified in division (B)(1) of this section or another offense committed during the course of an offense specified in division (B)(1) of this section and the agency is in possession of a sexual assault examination kit secured during the course of the agency's investigation, as soon as possible, but not later than one year after the effective date of this amendment, the agency shall forward the contents of the kit to the bureau of criminal identification and investigation or another crime laboratory for a DNA analysis of the contents of the kit if a DNA analysis has not previously been performed on the contents of the kit.



Sample Language: Mandatory Testing of Previously Unsubmitted Kits

Texas [S.B. 1636](#) – September 1, 2014 (three years following effective date)

Not later than September 1, 2014, and to the extent that funding is available, the Department of Public Safety of the State of Texas shall, as provided by Sections 420.042 and 420.043, Government Code, as added by this Act, analyze or contract for the analysis of, and complete the required database comparison regarding all sexual assault evidence submitted to the department under Subdivision (2), Subsection (a) of this section.

Pennsylvania [P.L. 142, No. 27](#) – Three years

A laboratory shall complete the testing or analysis of the evidence as soon as possible, but no later than three years from the date of submission of the evidence to the laboratory.

Essential Reforms: Testing All Newly Collected Kits

Survivors expect the evidence recovered during the forensic exam after a sexual assault to be handled carefully and tested expeditiously. To prevent future backlogs, states must mandate deadlines for the submission and testing of newly collected rape kits.

Newly collected kit testing policies should:

- Mandate timeframes for each step of the process:
 - Hospitals and all other facilities conducting medical forensic exams must notify the appropriate law enforcement agency **within 24 hours** of the collection of a new kit.
 - Law enforcement must pick up the kit from the hospital **within 72 hours** of notification.
 - Law enforcement must submit the kit to the lab for analysis **within seven days** of picking up the kit from the hospital.
 - Law enforcement agencies picking up kits outside of their jurisdiction must notify the appropriate law enforcement agency **within seven days** of picking up the kit, and the receiving jurisdiction must pick up the kit **within seven days** of notification.
- Require the state crime lab to test the kit, and enter any resulting DNA profile into the CODIS database **within 30 days** of receiving the kit from law enforcement.
- Consider requiring the state crime lab to **outsource testing** to private laboratories if it cannot meet the deadline established by the law.

To date, **17 states and Washington, D.C.** mandate the timely submission and testing of newly collected kits.

SAMPLE LANGUAGE: Mandatory Submission of Newly Collected Kits

Georgia [S.B. 304](#) – Hospitals must notify police upon victim request

When a forensic medical examination is performed, evidence is collected, and the alleged victim has requested that law enforcement officials be notified, the individual performing such exam, or his or her designee, shall notify the appropriate law enforcement agency of the collection of such evidence.



Pennsylvania [P.L. 142, No. 27](#) – Police must collect from hospitals within 72 hours

The local law enforcement agency shall take possession of the sexual assault evidence within 72 hours of receiving notice.

New York [S08236](#) – Police must submit to the lab within ten days

Each such police agency and prosecutorial agency shall submit any sexual offense evidence kits in its custody or control to an appropriate forensic laboratory within ten days of receipt.

SAMPLE LANGUAGE: Mandatory Testing of Newly Collected Kits

Kentucky [16 R.S. S.B. 63](#) – Test within 90 days by 2018 and 60 days by 2020

The department shall analyze and classify all sexual assault evidence collection kits it receives. In cases where a suspect has been identified, the department may give priority to analysis and classification of sexual assault evidence collection kits where the reference standard for comparison is provided with the kit. Except as provided in subsection (3)(e) of this section, by July 1, 2018, the average completion rate for this analysis and classification shall not exceed ninety (90) days, and by July 1, 2020, the average completion rate for this analysis and classification shall not exceed sixty (60) days.

Essential Reforms: Tracking Kits from Collection to Testing

States should mandate the implementation of a tracking system to follow the path of a rape kit throughout the entire process: from the hospital, to the local law enforcement agency, and throughout the analysis process at the lab. The first step may be creating a multidisciplinary taskforce or workgroup comprised of law enforcement, crime lab personnel, prosecutors, victim advocates, and Sexual Assault Forensic Examiners to develop recommendations for a tracking system.

In 2016, **Washington** became the first state in the country to pass a law requiring the development of a statewide tracking system. **Idaho** also enacted legislation requiring the establishment of a statewide tracking process for use by law enforcement, but without requirements for survivor access to kit status information.

SAMPLE LANGUAGE: Mandatory Submission of Newly Collected Kits

Washington [H.B. 2530](#) – Statewide tracking system

The statewide sexual assault kit tracking system must:

(a) Track the location and status of sexual assault kits throughout the criminal justice process, including the initial collection in examinations performed at medical facilities, receipt and storage at law enforcement agencies, receipt and analysis at forensic laboratories, and storage and any destruction after completion of analysis;



(b) Allow medical facilities performing sexual assault forensic examinations, law enforcement agencies, prosecutors, the Washington State Patrol Bureau of Forensic Laboratory Services, and other entities in the custody of sexual assault kits to update and track the status and location of sexual assault kits;

(c) Allow victims of sexual assault to anonymously track or receive updates regarding the status of their sexual assault kits; and

(d) Use electronic technology or technologies allowing continuous access.

Essential Reforms: Victim Notification

Sexual assault survivors want and deserve information about the status of their cases. In 2016, Joyful Heart conducted a research study on victim notification, which found that access to information about the status of their cases can promote healing for survivors of sexual assault. States should ensure survivors' rights to notification are established in law.

In cases in which a rape kit was backlogged or untested, the policies should:

- Grant survivors (or a designated representative, as appropriate) the right to be notified, upon request, about **any change in the status** of their case; and
- Ensure this right extends to a **match in the DNA database** or the **re-opening** of the case.

In new cases, the policies should:

- Grant survivors the right to be notified, upon request, about the status of their rape kit, including notification about when the kit is submitted to the lab, when the kit is entered into the DNA database, and when a match occurs; and
- Ensure this right extends to notification if the **decision is made not to test their kit**, as well as notification **in advance of planned kit destruction** in accordance with the law.

To date, **11 states and Washington, D.C.** have passed laws establishing victim notification rights for sexual assault survivors.

SAMPLE LANGUAGE: Victim Notification Rights

Utah [14 H.B. 157](#) – Rights to case information and designated recipient

Victims of sexual offenses have the following rights...

(ii) the right to be informed whether a DNA profile was obtained from the testing of the rape kit evidence or from other crime scene evidence;

(iii) the right to be informed whether a DNA profile developed from the rape kit evidence or other crime scene evidence has been entered into the Utah Combined DNA Index System;

(iv) the right to be informed whether there is a match between a DNA profile developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Utah Combined DNA Index System, provided that disclosure would not impede or compromise an ongoing investigation; and



(v) the right to designate a person of the victim's choosing to act as a recipient of the information provided under this Subsection.

Oregon 16 S.B. 1571 – Process and protocol for victims' inquiry

No later than January 1, 2017, each law enforcement agency within this state shall adopt policies and procedures concerning contact with the victims and the provision of information to victims concerning sexual assault forensic evidence kits. The policies and procedures must include:

(a) A requirement that the agency designate at least one person within the agency to receive all telephone inquiries concerning sexual assault forensic evidence kits and to serve as a liaison between the agency and the Department of State Police.

(b) A requirement that, at the time that a sexual assault forensic evidence kit is collected, a victim be provided with the contact information of a person described in paragraph (a) of this subsection.

(c) Provisions allowing sexual assault victims to request and receive information concerning sexual assault forensic evidence kits, including but not limited to the location, testing date and testing results of a kit, whether a DNA sample was obtained from the kit, whether or not there are matches to DNA profiles in state or federal databases and the estimated destruction date for the kit.

(d) A requirement that a person described in paragraph (a) of this subsection provide, in response to a victim inquiry concerning a sexual assault forensic evidence kit, any information the victim requests in a manner of communication designated by the victim, as soon as possible and within 30 days of the inquiry, unless the agency declines to provide the information pursuant to paragraph (e) of this subsection.

(e) Provisions allowing the agency to decline to provide information that interferes with the investigation or prosecution of a case.

(f) A procedure that allows a sexual assault victim to provide the agency with written authorization for a designee to access information on the victim's behalf.

(g) Provisions allowing a victim to contact a person described in paragraph (a) of this subsection to request that an untested nonanonymous kit be reclassified as an anonymous kit, or an untested anonymous kit be reclassified as a nonanonymous kit, and a requirement that the agency notify the department of the reclassification.

Essential Reforms: Funding

This work takes political will and significant resources. As states and local jurisdictions enact legislation and update policies to reform law enforcement practices around rape kit testing, the need for funding to implement a multi-disciplinary response will increase. **Federal funding** is currently available for jurisdictions working to eliminate their backlogs (see “Addressing the Cost of Testing All Kits,” p. 19).

Additional state funding is a critical element of addressing the backlog and should be considered as policies are being drafted. It will be difficult for a state to forecast the resources necessary to institute mandatory testing until an audit is completed. The report issued at the completion of the audit should include information about the laboratory's projected workload increase and the funding it will need to carry out the mandate.



States have appropriated funds to support rape kit reform in varied ways:

- In **Kentucky**, after an audit report found a backlog of at least 3,090 untested kits across the state, the Attorney General used \$4.5 million from a settlement against a pharmaceutical company to test backlogged kits.
- In **Texas**, legislators appropriated \$10.8 million in the state budget for the 2014–2015 biennium for processing untested rape kits.
- In **Michigan**, the 2013 budget bill dedicated \$4 million in state legal settlement funds toward clearing the backlog of untested rape kits.

So far, **11 states and Washington, D.C.** have appropriated funds for rape kit reform.

Additional Best Practices: Intent of the Law

The purpose of an intent section is to give the public and the people responsible for implementing the law a clear vision of the goals of the legislation. Where permissible in state legislative drafting rules, intent sections can provide an explanation of the problem and the proposed solution. It might also include statistics and state-specific information.

SAMPLE LANGUAGE: Intent of the Law

Idaho [H.B. 528](#) – Power of DNA

The legislature finds that DNA evidence is a powerful law enforcement tool that can identify unknown suspects, connect crimes together and exonerate the innocent. It is the intent of the legislature that rape kits are tested in a timely manner to advance public safety.

New Mexico [16 S.M. 050](#) – Incidence of sexual assault in the state

WHEREAS, reports of sexual assaults in New Mexico have increased sixty-two percent since 2003, and from 2003 through 2012, state funding for services for survivors of sexual assault has not increased to meet the increase in reports; and

WHEREAS, sixty-six percent of incidents of sexual violence in New Mexico are committed against children and adolescents, which is twelve percent higher than the national average; and

WHEREAS, one in four women and one in twenty men in New Mexico experience an attempted or completed rape in their lives, and eighty-three percent of those attempted or completed rapes are not reported...

Additional Best Practices: Definitions

Different interpretations of standard terms can result in people and entities failing to comply with rape kit reform laws. Defining terms reduces the chance for misunderstanding or “lack of clarity” to be cited as an excuse to ignore the law.



Common terms to define include:

“accredited laboratory”

“anonymous” or “unreported” kit

“awaiting testing” or “untested”

“CODIS” or “DNA database”

“DNA analysis”

“law enforcement agency”

“sexual assault kit”

SAMPLE LANGUAGE: Definitions

Michigan [H.B. 5445](#) – Accredited laboratory

“Accredited laboratory” means a DNA laboratory that has received formal recognition that it meets or exceeds a list of standards, including the FBI director’s quality assurance standards, to perform specific tests, established by a nonprofit professional association of persons actively involved in forensic science that is nationally recognized within the forensic community in accordance with the provisions of the federal DNA identification act, 42 USC 14132, or subsequent laws.

Virginia [S.B. 291](#) – Anonymous kit

“Anonymous physical evidence recovery kit” means a physical evidence recovery kit that is collected from a victim of sexual assault through a forensic medical examination where the victim elects, at the time of the examination, not to report the sexual assault offense to a law-enforcement agency.

Pennsylvania [H.B. 272](#) – Awaiting testing

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

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

Ohio [130 S.B. 316](#) – Law enforcement agency

“Law enforcement agency” means a police department, the office of a sheriff, the state highway patrol, a county prosecuting attorney, or a federal, state, or local governmental body that enforces criminal laws and that has employees who have a statutory power of arrest.

Tennessee [S.B. 1426](#) – Sexual assault kit

“Sexual assault collection kit” means a human biological specimen or specimens collected by a health care provider during a forensic medical examination from the victim of a sexually-oriented criminal offense.



Additional Best Practices: Statute of Limitations Reform

Rape is a crime with a lifelong, profound impact on survivors. To ensure survivors of rape and sexual assault have access to justice and offenders are held accountable for their crimes—no matter how much time has passed—states should eliminate the statute of limitations for rape or enact a DNA exception, which allows prosecution to commence when identification of the offender has been made through DNA testing.

Several states implemented statute of limitations reforms in 2016:

- **California** [eliminated the statute of limitations](#) for criminal felony sex offenses, including rape;
- **Colorado** [extended the statute of limitations](#) for felony sexual assault to 20 years; and
- **Nevada** [extended the statute of limitations](#) for criminal sexual assault from four years to 20 years.

SAMPLE LANGUAGE: DNA and other new evidence exception

Indiana [119 Act No. 94](#) - Discovery of evidence through DNA analysis

A prosecution for rape as a Level 3 felony that would otherwise be barred under this section may be commenced not later than five (5) years after the earlier of the date on which:

(1) the state first discovers evidence sufficient to charge the offender with the offense through DNA (deoxyribonucleic acid) analysis;

(2) the state first becomes aware of the existence of a recording (as defined in IC 35-31.5-2-273) that provides evidence sufficient to charge the offender with the offense; or

(3) a person confesses to the offense.

Additional Best Practices: Victim Compensation

In many states, victims of crime are eligible to receive reimbursement for out-of-pocket expenses associated with their victimization. Applications for reimbursement must be submitted within a specific period of time following the crime. These time limits may preclude survivors in cases with renewed investigative activity who did not apply for victim compensation funds at the time of the crime. The submission and testing of previously untested rape kits—and resulting new action in these cases—may bring up counseling or other needs for survivors. Survivors should not have to bear the burden of these costs alone due to a delay outside of their control.

States should ensure survivors whose kits were left untested remain eligible for reimbursement funds by **enacting clear exceptions to the existing application period**. Such exceptions should include a clear explanation of what constitutes **appropriate** cause for the exception, including any **further investigation initiated by law enforcement** into a previously reported crime.



SAMPLE LANGUAGE: DNA and other new evidence exception

Delaware [Title 11, Chapter 90](#) - Exceptions to existing victim compensation rules

13a. Notwithstanding the provisions of paragraph 10 of this section or any other provisions of this chapter to the contrary, where:

1. Further investigation into a previously reported crime is initiated by a law-enforcement agency;
2. An offender appears in any judicial or administrative proceeding regarding a criminal charge, conviction, or sentence, including but not limited to a trial, appeal, postconviction relief, mediation, penalty, parole or pardon hearing;
3. The offender is released from incarceration; or
4. The death penalty is imposed pursuant to § 4209 of this title; any victim or secondary victim of such crime committed by such offender may apply for reimbursement as set forth in paragraph (13)b. of this section.

b. A victim or secondary victim may apply for reimbursement under the circumstances set forth in paragraph 13a. of this section for the following:

1. The cost of mental health counseling services, not to exceed 50 sessions;
2. Reasonable expenses incurred due to attendance at criminal proceedings;
3. Expenses for essential personal safety property, not to exceed \$1,500; provided that such costs are incurred within 1 year prior to, or within 2 years after, the opening of such investigation, the date of such judicial or administrative proceeding or the release or execution date of the offender.

Additional Best Practices: Evidence Retention

The law should clearly mandate the length of time for which rape kits must be retained. In many states, this timeframe is identical to the statute of limitations. In some states, the evidence retention law is longer than the statute of limitations. Rape kits should be kept at least as long as the case can be prosecuted.

There is a growing movement to pass evidence retention laws across the country. In 2016:

- Congress passed a **federal law** granting survivors the right to have their kits preserved for [either the maximum possible statute of limitations](#) or for 20 years, whichever is shorter;
- **Massachusetts** enacted a law requiring government entities to preserve all rape kits for [either 15 years or the statute of limitations](#), whichever is longer; and
- **Oregon** passed a law requiring law enforcement to retain all rape kits for [no less than 60 years](#).

Testing Rape Kits Stops Serial Rapists



Major cities like Cleveland, Detroit, and Memphis have discovered thousands of backlogged kits in storage, and taken action. These jurisdictions are testing their kits, submitting eligible DNA profiles into the national database (CODIS), and investigating and prosecuting resulting cases.

As of August 2016, testing these backlogged rape kits has resulted in the identification of over 1,200 potential serial rapists. These serial offenders, linked to kits in just three cities, have committed crimes across at least 40 states and Washington, D.C. They have not just committed rape—many have been linked to other violent crimes as well.

In March 2016, researchers at Case Western Reserve University published an analysis of serial vs. one-time sexual offenders, based on a random sample of cases associated with previously backlogged kits from Cuyahoga County, Ohio. Their analysis found that **more than half of these sexual assaults were connected to serial offenders**, suggesting that serial offenders are more common than previously believed. They recommend that jurisdictions thoroughly investigate every sexual assault case as possibly perpetrated by a serial offender, and test all sexual assault kits associated with a reported crime.

The following case studies illuminate the fact that rapists are often serial offenders and that DNA is one of the best tools we have to take these dangerous offenders off the streets and keep communities safe.



Cleveland, Ohio

In 2011, the Ohio Attorney General launched the Sexual Assault Kit Testing Initiative, which incentivized law enforcement agencies across the state to submit all untested kits in storage to the state crime lab. As of November 2016, 294 law enforcement agencies across Ohio have submitted 13,931 kits for testing.

As of November 2016, the crime lab has completed analysis on **6,056 sexual assault kits** from Cuyahoga County, resulting in the identification of **399 serial rapists**. One rapist identified through the backlog testing effort has been linked to **17 victims**. Thus far, the backlog testing effort has led to the **indictment of 546 offenders** in Cuyahoga County alone.

Cold Case Convictions: Cleveland

Former Lake County probation officer Nathan Ford has been linked to at least 15 rapes since the early 1990s. In 2006, Ford was convicted of raping seven women and one child. Ford was sentenced to 138 years in prison. Since the launch of the Ohio Sexual Assault Kit Testing Initiative in 2011, DNA evidence from previously unsubmitted rape kits has linked Ford to 14 additional sexual assaults. In 2015, while in prison, Ford was indicted in four of these assaults.



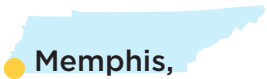
Detroit, Michigan

In 2009, the Wayne County Prosecutor's Office discovered **11,341 untested rape kits** in a Detroit Police Department storage facility. As of October 2016, Detroit has tested approximately 10,000 kits, resulting in 2,616 DNA matches and the identification of **775 suspected serial rapists**. The Wayne County Prosecutor's Office has obtained 64 convictions, and DNA from the testing of these kits has been linked to crimes committed in **40 states and Washington, D.C.**



Cold Case Convictions: Detroit

In 2003, DeShawn Starks sexually assaulted two women in Detroit, six months apart. Both women submitted to rape kits, but their kits were not tested and their cases were not investigated until a decade later. In 2013, Starks sexually assaulted two more women in Detroit. Both women submitted to rape kits, and their kits were tested. When the resulting profile was entered into CODIS, the DNA hit linked the case to another crime. Ten years after Sparks' 2003 crimes, Detroit tested all of these kits as part of its backlog elimination initiative, and DNA linked Starks to both crimes. Had the kits been tested following collection, at least two sexual assaults could have been prevented. Sparks is currently serving a sentence of 45-90 years in prison.



Memphis, Tennessee

During the summer of 2013, the City of Memphis announced that it had **12,164 untested rape kits** in law enforcement storage. As of August 2016, **9,754 kits have been analyzed** or are currently at the laboratory awaiting testing. As a result, MPD has opened **1,209 investigations** and **188 requests for indictment** have been issued.

Cold Case Convictions: Memphis

Between July 2005 and February 2006, seven women reported being violently raped in South Memphis. All of these victims indicated that their attacker had lured them into a White Jeep, and three of the women identified Eric Curry as their attacker in a photo lineup. At least one of the women also submitted to a rape kit. In 2009, Curry pleaded guilty to three of these crimes, and was sentenced to 10 years in prison. When Memphis began testing its backlogged kits in 2013, more of Curry's past crimes as a violent serial offender were finally revealed. In 2014, after being released from prison and assigned to lifetime supervision by the state, Curry was charged with two additional sexual assaults dating back to the early 2000s. Had these kits been tested sooner, it is likely that some of this violence could have been prevented. Curry is suspected in as many as 18 other sexual assaults.



Most jurisdictions have failed to prioritize funding for testing rape kits, which cost an average of \$1,000 to \$1,500 per kit. Rape kit reform can be costly: jurisdictions must count and test kits; expand investigation, prosecution, and laboratory capacity; implement victim notification and re-engagement protocols; and employ a multi-stakeholder approach to reform.

The federal government has a key role to play in investing in justice for survivors, accountability for perpetrators, and safety for our communities. Over a decade ago, Congress took a major step toward addressing the rape kit backlog with the creation of the Debbie Smith Act. This law has been essential to drawing attention to rape kit backlogs—especially those in crime laboratories—and galvanizing lawmakers and the public to action.

After years of advocacy for dedicated federal funding to assist jurisdictions seeking to clear their backlogs of untested rape kits, in 2014, Joyful Heart helped unlock significant funding—nearly \$80 million—to address the rape kit backlog nationwide. In September 2015, Joyful Heart Founder & President Mariska Hargitay stood beside Vice President Joe Biden, Attorney General Loretta Lynch, and Manhattan District Attorney Cyrus Vance, Jr. as they awarded these grant funds from the Department of Justice and the [Manhattan District Attorney's office](#) to 48 law enforcement agencies in 27 states to address their backlogs of untested rape kits.

Since 2015, the [Sexual Assault Kit Initiative \(SAKI\)](#), as the federal grant program is known, has provided communities across the country with vital resources to develop and implement comprehensive, multi-disciplinary rape kit reform. These funds are used to test backlogged kits, investigate and prosecute cases connected to the backlog, and support victim reengagement with the criminal justice system. These grants can also be used to develop tracking systems, train law enforcement, conduct research on outcomes of testing kits, and expand the collection of offender DNA. This grant requires the coordination of a multidisciplinary group of stakeholders for a successful application. The application cycle for this grant is currently open, and applications are due on March 2, 2017. [Click here to learn more.](#)

Other Ongoing Federal Grant Programs:

- The National Institute of Justice (NIJ) offers the [DNA Capacity Enhancement and Backlog Reduction grants](#), which can be used to process DNA samples and increase the capacity of public labs to process more DNA samples (for instance, by funding the salaries of new employees). Last year, this solicitation was released in late March and applications were due in May. Going forward, this solicitation will be amended to enable the funds to be used for auditing or tracking kits. [Click here to learn more.](#)
- The NIJ also offers the [Sexual Assault Forensic Evidence-Inventory, Tracking and Reporting Program \(SAFE-ITR\) grants](#), which can be used to fund the development of auditing, tracking, or reporting systems for rape kits statewide. This is a new grant program--to date, the program has awarded nearly \$3.5 million to four states (MT, GA, OR, and NE) to undertake this work. The [2016 solicitation](#) was released in mid-March, and applications were due at the end of May. [Click here to learn more.](#)

In many cases, federal funding is not sufficient to fully address a state's backlog. Additional funding should be set aside by state elected officials to ensure this work is fully funded.



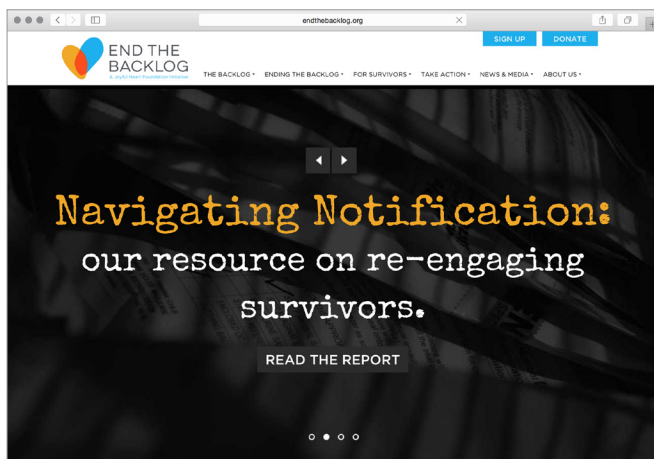
Talking Points

- Every two minutes, someone is sexually assaulted in the U.S. After an assault, a victim may choose to have **evidence of the crime collected and preserved in a rape kit**. The process, conducted by a doctor or nurse, is an exhaustive and invasive four-to six-hour examination of the victim's body for DNA evidence left behind by the attacker.
- DNA is a **powerful law enforcement tool**. When tested, rape kit evidence can identify an unknown assailant, reveal serial offenders, bring justice to the survivor, and exonerate the wrongly convicted. To accomplish these things, rape kits must be tested for the presence of DNA.
- Right now, **hundreds of thousands of untested rape kits** are in storage at law enforcement agencies nationwide. Because most jurisdictions do not have systems for counting or tracking rape kits, we cannot be sure of the total extent of the problem. To date, Joyful Heart has identified at least 200,000 kits in jurisdictions across the country.
- Every rape kit that goes untested is a **missed opportunity for justice for survivors and to promote public safety** for the greater community. If we allow rape kits to sit untested on a shelf, cases remain unsolved, serial rapists remain undetected, and innocent people remain incarcerated—all while survivors continue to wait for justice.
- The reasons for the rape kit backlog are myriad. In most jurisdictions, there is **no law or policy mandating** the testing of all rape kits, leaving the decision of which kits to test up to individual police or prosecutors. These decisions are too often based on bias or victim-blaming, lack of knowledge about the power of DNA technology, and the limited resources available to law enforcement agencies.
- Testing rape kits collected in connection to acquaintance cases is critical. Although the identity of the attacker is already known, testing these kits enables law enforcement to **identify serial perpetrators** who might otherwise escape notice. Results from cities across the country indicates that the prevalence of serial rapists may be higher than previously believed; for instance, researchers studying backlog testing in Detroit found that testing rape kits from both stranger and acquaintance cases led to the identification of 18 serial offenders through case-to-case associations, and researchers studying backlog elimination efforts in Cleveland found that over half of backlogged kits were connected to serial perpetrators.
- Testing rape kits makes **communities safer and saves them millions of dollars**. According to a study from the Begun Center for Violence Prevention Research and Education at Case Western Reserve University, testing just 4,300 previously unsubmitted kits in Cleveland has saved the community \$38.7 million dollars, or **\$8,893 per tested sexual assault kit**.
- Eliminating the backlog of untested rape kits is a cornerstone to improving our nation's criminal justice response to sexual violence.
- Ending the rape kit backlog will take a coordinated effort and deep commitment at all levels of our government and in communities across the U.S. **To successfully address the rape kit backlog, we are calling on state leaders to enact the following key reforms:**
 - An **annual statewide audit** to identify the number of untested kits and to get a clear picture of the scope of the backlog.



- Mandatory **submission and testing of all previously unsubmitted kits** within a timeframe of no longer than 180 days.
- Mandatory **submission and testing of all newly collected kits**: hospitals must notify law enforcement within 24 hours; law enforcement must pick up the kit within 72 hours; law enforcement must submit the kit to the lab within seven days; and the lab must test the kit and upload eligible DNA profiles to CODIS within 30 days.
- A **tracking system** for survivors to check the status of their kit at any time.
- **Victim notification** rights, including the right to notification if there is a decision not to test a kit or when there is any planned destruction of a kit.
- **Appropriation of state funding** to implement reform as efficiently as possible.

Endthebacklog.org



Joyful Heart is proud to have www.endthebacklog.org, the premier website for public research, information, and action on the rape kit backlog in the United States.

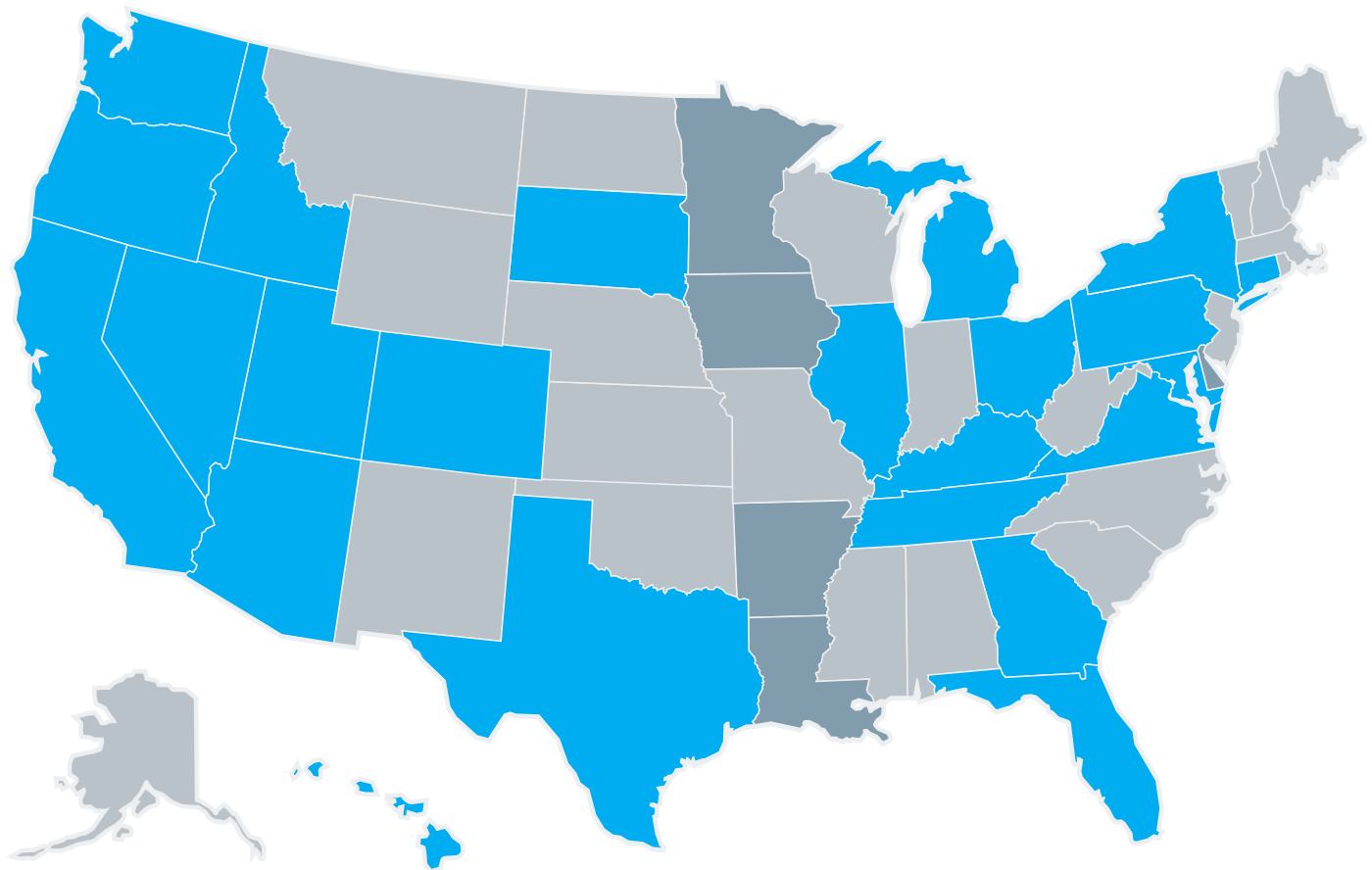
The website includes [an interactive map](#) of rape kit reform across the nation, easy to navigate guides on what is happening in your state, an extensive [media archive](#) of news about the backlog from across the country, an [integrated blog](#) with updates and commentary about the backlog, and more.

The website provides resources for multiple stakeholders, including survivors, legislators, and reporters.





The site features resources for legislators, including our [Drafter's Checklist](#) for rape kit reform and [best practice recommendations](#) from our research report on victim notification; resources for [reporters](#), including [guidance from journalists](#) experienced in working with survivors; and [resources for survivors](#) of sexual assault, including a guide to [locating a rape kit](#).

The site also features an [advocacy center](#) with action steps for grassroots engagement with supporters in all 50 states. Since the site's launch, it has generated more than 756,000 page views from over 304,000 unique visitors. Our supporters have used the site's advocacy center to send over 8,000 letters to state and federal legislators.

Connect with us on Twitter [🐦 \(@ENDTHEBACKLOG\)](https://twitter.com/ENDTHEBACKLOG) and [sign up for our newsletter](#) to learn more.



Map Key

-  No Statewide Reform
-  Statewide Audit Completed
-  Comprehensive Statewide Reform Enacted
-  Limited Statewide Reform Enacted

To eliminate the rape kit backlog, we urge you to enact comprehensive rape kit reform, including these six key elements:

1. Annual statewide audits of previously unsubmitted kits;
2. Mandatory submission and testing of all previously unsubmitted kits;
3. Mandatory submission and testing of all newly collected kits;
4. A statewide tracking system for rape kits;
5. Victim notification rights; and
6. State funding for reform.

As of January 1, 2017, no state has achieved comprehensive rape kit reform.

Make your state the first.

Rape Kit Reform Laws: Laws by State



	Audit Kits	Test All Kits		Victim Notification	Track Kits	State Funding
		Old	New			
Alabama						
Alaska						
Arizona						✓
Arkansas	✓**					
California				✓		
Colorado	✓*	✓	✓			✓
Connecticut			✓			
Delaware	✓*					
Florida	✓*		✓			✓
Georgia	✓**	✓	✓			
Hawaii	✓*			✓		✓
Idaho	✓**			✓	✓	✓
Illinois	✓**	✓	✓	✓		
Indiana						
Iowa	✓*					
Kansas						
Kentucky	✓*	✓	✓	✓		✓
Louisiana	✓**					
Maine						
Maryland	✓*			✓		
Massachusetts						
Michigan			✓			✓
Minnesota	✓*					
Mississippi						
Missouri						
Montana						
Nebraska						
Nevada						✓
New Hampshire						
New Jersey						
New Mexico						
New York	✓**	✓	✓			✓
North Carolina						
North Dakota						
Ohio		✓	✓			
Oklahoma						
Oregon	✓**		✓	✓		
Pennsylvania	✓**	✓	✓	✓		
Rhode Island						
South Carolina						
South Dakota			✓			
Tennessee	✓*		✓			
Texas	✓*	✓	✓	✓		✓
Utah				✓		✓
Vermont						
Virginia	✓*		✓	✓		
Washington			✓		✓	✓
West Virginia						
Wisconsin						
Wyoming						

*One-time audit **Annual or periodic audit

