

NEWS

Ky. overhauling system of rape kit testing

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Michelle Kuiper remembers the cold table against her back, how she lay there so long the blood on her legs dried and cracked. The white box the doctor was filling, labeled "rape kit," seemed impossibly small for its purpose.

"That kit held every horrific moment of what happened to me," Kuiper says.

Yet for more than a decade after she was dragged off her porch in Louisville and raped by a stranger, Kuiper had no idea what became of that box.

Kentucky has no procedure for tracking rape kits. There is no standardized policy for getting them from hospitals to law enforcement to the Kentucky State Police crime lab. No one knows how many are sitting untested at agencies across the state. Estimates range from 2,000 to 10,000.

"I'm appalled that these things are just sitting around," said State Sen. Denise Harper Angel, who sponsored a resolution in March that requires the state to sort through the backlog of untested rape kits.

Last month, state Auditor Adam Edelen announced plans to overhaul the state's broken system, starting with figuring out how many untested rape kits are in closets, on shelves and in basements at agencies across Kentucky.

The rape kits are collected at hospitals and handed over to law enforcement. That's where the trail tends to break down.

Rape victims often ask Eileen Recktenwald, executive director of the Kentucky Association of Sexual Assault Programs, how to find out where their kit is and if it's been tested.

"We have to tell them we don't know and we can't find out," said Recktenwald. "It's a big nobody-knows. There's no way of accounting for them."

Kentucky has more than 300 police departments plus 120 county sheriff's offices. There are no guidelines for getting the rape kits from law enforcement to the state police crime lab.

Edelen sent a survey to each agency asking them how many untested rape kits they have and what their process is for dealing with them, said Libby Carlin, assistant state auditor.

Once they account for the backlog, the auditor plans to study what other states have done to streamline the process, analyze funding and recommend reforms. The office hopes to issue its finding in September.

When Edelen made the announcement, the Lexington Police Department found 283 untested kits.

Lexington Police Lt. Matt Brotherton said his department was cognizant of the backlog at the state crime lab. Understaffed and hampered by rapid employee turnover, the crime lab's average turn-around time for a case is six to nine months, according to figures provided by the state police. At full staff, they average four months.

Over the last three years, the number of kits submitted to the lab hovered between 400 and 500 each year, according to the state police. Edelen's announcement sparked a number of departments to rush to clear their shelves. In just the first five months of 2015, 530 rape kits have been submitted to the lab for testing.

The state crime lab now has a line of 778 kits awaiting testing.

Because of the jam at the crime lab, the Lexington police department started triaging cases on its end. They prioritized and sent off rape kits when the identity of a suspect was unknown.

They hung on to cases where the kit was unlikely to help with immediate prosecution, like a woman who alleged that her estranged husband raped her. He said the sex was consensual, and she soon declined to pursue to charges.

Still, Brotherton's work as a homicide detective has taught him the importance of testing and storing all DNA evidence. In 1998, a woman reported to police that a man tied her to a tree and raped her. Robert Franklin Smallwood was arrested and tried, but argued at trial that the woman was a prostitute who consented to the sex. The jury found him not guilty. But his DNA remained in the woman's untested rape kit.

More than a decade later, the department received a federal grant to clear its rape kit

Smallwood's DNA was finally entered into the state's database and matched the woman's

murders and the unsolved rape of an 83-year-old retired school teacher. He is now serving a life sentence without the possibility of parole, according to prison records.

Since Edelen's audit began, the Lexington Police Department has sent its entire backlog of 283 cases to the lab.

The AP generally does not identify victims of sexual assault, but Kuiper, who was raped in Louisville in 1994, voluntarily identified herself to campaign for clearing the backlog. She was a college student, sitting on her porch near Cherokee Park, when a man grabbed her, dragged her into an alley and raped her. The case went unsolved for more than a decade.

In 2011, DNA collected from a felon named Curtis Boyd, in prison on a robbery charge, matched the evidence from Kuiper's rape kit and the kits of two other women who were raped at knifepoint in the 1990s. He pleaded guilty and is serving a 33-year sentence.

To Kuiper, the glut of untested rape kits is not only an evidentiary problem, it is a symbolic one.

"It says that rape no longer is urgent."