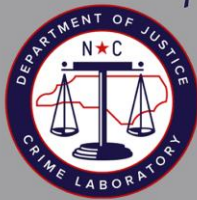
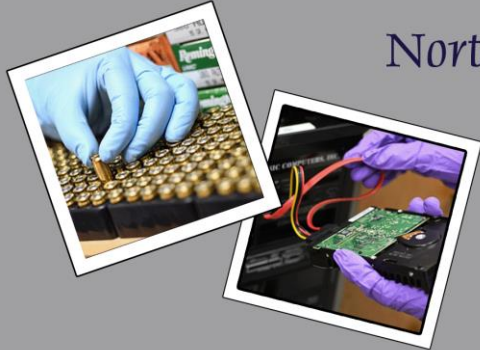


North Carolina State Crime Laboratory Forensic Update



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Dear Criminal Justice Stakeholders,

Happy New Year and best wishes for a productive 2019. Our partners at the NC Conference of District Attorneys recently published a great overview of **Sexual Assault Kit Testing and Tracking** that we wanted to share with you. This article was written by Domestic and Sexual Violence Resource Prosecutor, Amber Lueken Barwick, at the Conference of DA's and is reprinted with her permission.

John Byrd
Director, North Carolina State Crime Laboratory

"Truth through science so justice is served."

Sexual Assault Evidence Collection Kit Testing and Tracking

In 2017, the General Assembly passed SL 2017-57, which required all law enforcement agencies across the state to report to the State Crime Lab the number of untested kits in their possession. The 2017 Sexual Assault Evidence Collection Kit Law Enforcement Inventory Report, released March 1, 2018, by the Department of Justice and the State Crime Lab, concluded that based on the results of the survey, 15,160 kits were in law enforcement custody statewide and had not been tested. This report also made various recommendations on how to handle these previously untested kits, as well as how to handle all kits going forward, so as to avoid such a problem again in the future. As a result, the General Assembly passed SL 2018-70, which directed the Department of Public Safety to convene a working group to make findings and recommendations.

Inventory Survey Results

Type of Kit	Number Untested
Victim wished to remain anonymous and did not report the incident to LE.*	390
Kit was tied to a case resolved in court (conviction, dismissal, or otherwise).	2,741
Suspect admitted to the sexual act in question.	1,054
Allegations were determined to be unfounded as a result of further investigation.	3,820

Kits LEAs did not place in above categories.

7,545

*At the time of the report, an additional 862 kits were being held at the Law Enforcement Support Services (LESS) warehouse, per the Anonymous Reporting Protocol, which allows an adult victim of sexual assault to get a sexual assault forensic evaluation and medical treatment without reporting the crime to law enforcement.

The Attorney General's Office made three recommendations in the Inventory Report:

1. Test all previously untested reported kits currently in LE custody.
2. Institute a statewide Sexual Assault Evidence Collection Kit (SAECK) tracking system.
3. Develop a protocol to test all kits reported to law enforcement going forward.

Obviously, neither the State Crime Lab, nor private labs, will be able to test over 15,000 kits immediately. With respect to previously untested kits, the working group created a recommended framework for working through the list of untested kits to determine which kits get sent for testing and in what order. First, determine which kits can be tested. Second, determine what the priority is for those kits able to be tested. Among the factors to consider is the investigative and evidentiary value for the individual case, as well as the potential for a CODIS hit which would match other crimes and identify a possible serial offender. Third, there is a preference that these be outsourced to another lab if older than 1 year, to allow the State Crime Lab to keep up with current cases.

With respect to the tracking system recommendation, the Statewide Sexual Assault Evidence Collection Kit Tracking System was implemented by SL 2018-70, effective October 1, 2018. This means all new kits purchased or distributed shall be trackable and in compliance with the statute. The information maintained in the System is confidential and not a public record. It is also not meant to be a chain of custody. All medical facilities, LEAs, forensic labs, or others having custody or use of any SAECK shall participate and comply, meaning they will enter data in the tracking system every time they do something with the kit (i.e. use it for an exam; transfer it to law enforcement; receive it into evidence; transfer it to the crime lab; and test it). The victim will be able to track the location and progress of the kit. Previously untested kits must be trackable, as well, and the State Crime Lab has forwarded bar code stickers for those kits and instructed law enforcement agencies that possess these kits to add them to the system. Victims of previously untested kits must be notified and provided tracking information as well. The district attorneys will have a portal as well, so that they may monitor the progress of the kit and be ready to answer questions from the victim once that kit has been tested. Anonymous reporting kits will be tracked within the system, but will not be submitted for testing unless the victim decides to report the crime at a later date.

With respect to future SAECKs, all future kits involving a reported sexual assault should be tested. There will be target timelines for the transfer of the SAECK to law enforcement and the submission of evidence to the Crime Lab.

There are several important things to keep in mind as this process unfolds. First, a trauma-informed approach to victim notification of both the testing and any potential CODIS hit must be utilized. Second, G.S. 15A-268 requires the preservation of biological evidence or anything containing biological evidence and contemplates possible sanctions for the knowing and willful destruction, tampering, concealing or altering of such evidence, so even those kits that are not sent for testing, for one reason or another, must continue to be stored. The Conference will continue to be a part of this process as it develops.