United States

"I Used to Think the Law Would Protect Me"

Illinois's Failure to Test Rape Kits

HUMAN RIGHTS WATCH

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"I Used to Think the Law Would Protect Me"

Illinois's Failure to Test Rape Kits

I. SUMMARY

I learned a lesson when I found out that the police had closed my case without even interviewing [the rapist], or testing the rape kit. I learned that you cannot trust that the justice system will bring hope to you or bring your rapist to jail. You cannot hope that what went wrong will be righted.

—Justine, raped in Springfield, IL, in 2007

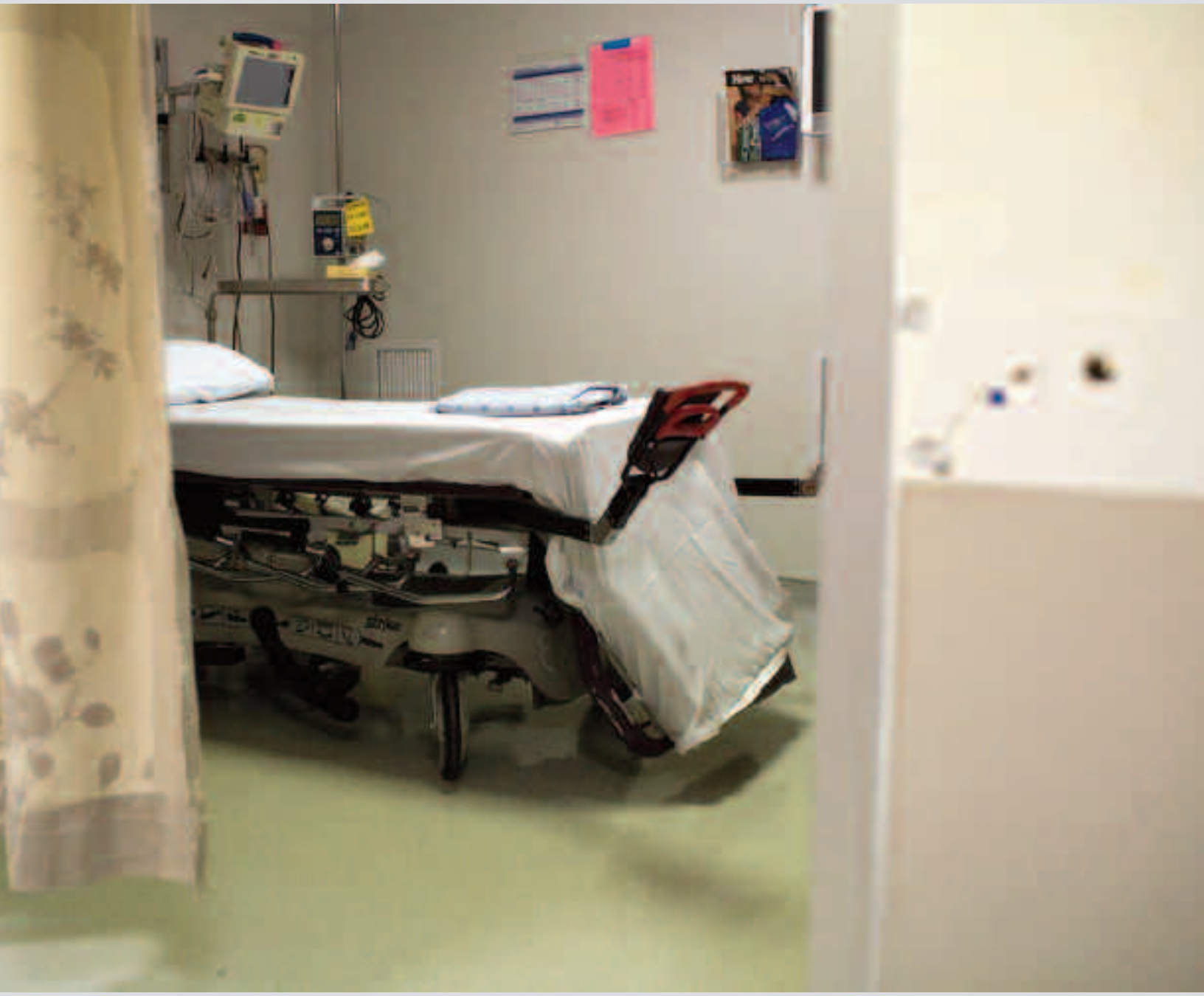
When a victim has a rape kit collected, she is doing everything that is asked of her in the immediate aftermath of a traumatic crime. How can we, on the one hand, encourage every rape victim to get a kit done regardless of whether she knows the suspect or not, while on the other accept that police discretion means many of these kits will never get tested? If we are going to go to the considerable and worthwhile effort to collect rape kits, the least we can do is test them to see what is there.

—Polly Poskin, executive director, Illinois Coalition Against Sexual Assault

"I USED TO THINK THE LAW WOULD PROTECT ME"

Photographs Lorena Ros/Institute

Carrie was a high school student in 2008 when she was raped in an alleyway by her home in Chicago Heights, Illinois.[1] The man was a family friend of her father's, but someone she barely knew. When a person is sexually assaulted and reports the crime, she will be asked by the hospital staff or the police to consent to the collection of a rape kit. A rape kit is the DNA evidence gathered from an examination of the victim's body, a process which can last between four and six hours. Immediately after the rape, Carrie went to the local hospital to have her body examined for a rape kit.



Rape victims in Illinois have their rape kit administered in hospital emergency rooms. While some hospitals, like the Chicago area Hospital pictured here, have Sexual Assault Nurse Examiners [SANEs], many do not, leaving rape victims to be examined by emergency room doctors and nurses with no special training for sexual assault victims.

In Illinois, the police collect the rape kit evidence from the hospital, and are responsible for sending the rape kit to the crime lab for testing at the request of either the police or a state's attorney's office ("prosecutor's office"). Testing a rape kit can identify the assailant, confirm a suspect's contact with a victim, corroborate the victim's account of the sexual assault, and exonerate innocent defendants. When police came to the hospital to interview Carrie, they indicated that they previously picked up the individual in question—for sexually assaulting the teenage daughter of a family friend. The police took Carrie's rape kit with them when they left the hospital, and Carrie assumed it was tested.

After that night in the hospital, Carrie did not hear back from the police. She called once a day, then once a month. Six months after her rape Carrie finally received a call back from the prosecutor who reviewed her case. The prosecutor told her she was keeping the case open, but "didn't have any evidence to move it forward." Carrie inquired about the results

Julie, 25, was raped by a friend of a friend on June 24, 2007, in Bloomington, Illinois.

She went to watch a movie at a friend's house. Her attacker waited until he got her alone on the couch. Julie's rape kit is one of thousands in Illinois that remain untested and one of hundreds of thousands in police storage facilities throughout the United States.

"I tried pushing him, I tried screaming, 'No,' I screamed, 'Stop,' I said, 'You're hurting me,' nothing was helping so I ran out of the apartment and got into my car and was in hysterics and then we ended up going immediately to the hospital. From there I agreed to do a rape kit.

Being raped is tragic enough but you go through a rape kit and it's just as tragic. Having to undress in front of people you don't know, having pictures taken, having people pick and prod at your fingernails and taking black lights and going from head to toe looking for anything they can find.

It literally feels like your body is turned into a crime scene.

I feel like even though my case may have not gone to court regardless if my kit were tested or not, I feel like I would have had somewhat of a closure, I feel like I would have had answers, maybe not answers that I liked, but I would have answers.

If the rape kit was tested, I feel like I, in some part, would have internal justice. It would have, I wouldn't be wondering why. It's hard and it's difficult to think that you could potentially be setting someone free to do it to someone else, and the reason not testing a kit."

of her rape kit, and was informed that it had not been tested because her case "would not be a strong candidate for prosecution." When she asked the prosecutor's office why, she was told that "it is too hard to prove that what happened to you was rape. You may think its rape, but it's your word against his." Carrie mentioned that the police had told her they had arrested this individual before on suspicion of rape, but the prosecutor told her that there was not enough evidence in either case to move them forward. In fact, the prosecutor told Carrie, "Maybe if we get this guy coming in again for rape, we can move forward. In acquaintance rapes, it helps to establish a pattern." Carrie asked whether the prosecutor's office would test her kit to see if it could link her rapist to any other cases, but the prosecutor declined the suggestion. Carrie requested the police file in her case and was provided with a redacted version which indicated that the police had not interviewed the suspect, not interviewed other potential witnesses, nor considered the hospital examiner's report, which indicated "vaginal swelling and tearing consistent with forced penetration." As far as Carrie knows, her rape kit continues to sit in police storage, untested.

Carrie is not alone. In Illinois, of the 7,494 rape kits entered into law enforcement evidence over the past fifteen years by the 127 agencies that provided Human Rights Watch with rape kit data, only 1,474, or 19.7 percent, of rape kits booked into local law enforcement agencies could be confirmed as tested. This means that only one in five rape kits collected by law enforcement were definitely tested.[2] Public records data from the Illinois State Police (ISP) indicate that a majority of sexual assault cases sent to the crime laboratory are eventually tested. Untested rape kits in Illinois represent lost justice for the victims who reported their rape to the police; many have lost faith in the criminal justice system. As one rape survivor told Human Rights Watch, "When I learned my kit would not be tested, and my case closed, I thought, why did I even report my rape? What was the point?"[3]

This report constitutes the second installment in HRW's national investigation of unprocessed rape kit evidence, and the failure to investigate and prosecute sexual assault in the US.[4] Illinois, according to the most recent Federal Bureau of Investigation (FBI) data, makes arrests in only 11 percent of the reported cases of rape (the national average is 22 percent), and the rape kit backlog both contributes to and results from this failure of justice. In 2004 after news reports revealed thousands of untested rape kits in Illinois, then-Governor Rod Blagojevich announced that the state would attempt to address this backlog, and helped promote the passage of a law requiring the testing of all rape kit evidence by the state crime lab.[5]

In May 2010, during the course of Human Rights Watch's research into the continuing rape kit backlog in Illinois, the state legislature, under the leadership of the Illinois Attorney General Lisa Madigan, passed a second law—the most comprehensive rape kit testing reform law in the US—to become the first state to definitively require that every booked rape kit be tracked and sent to the crime lab for testing. The governor is expected to sign the legislation but has not at the time of this writing. While the bill is a significant step forward and provides a potential reform model for other states to follow, the legislation's success will require a commitment of resources, oversight, and enforcement from the legislature, the governor, and other major enforcement bodies.

The first law, the Sexual Assault Survivors Emergency Treatment Act of 2004, mandated that rape kits collected by Illinois state and local police on or after January 1, 2005, and sent to the Illinois State Police for testing were required to be tested by the ISP crime laboratory within one year. It also required the testing of every kit sent to the crime laboratory before January 1, 2005, within two years of the law's enactment.[6]

The 2004 law's provisions were vague and confusing as to whether they required every rape kit collected by law enforcement be sent to the crime lab for testing. Human Rights Watch found only six law enforcement agencies that thought they were obligated under the 2004 law to send every kit to the crime lab. As a result, the law seems to have had a limited effect on rape kit testing policies of police departments in Illinois. It is also not clear whether the law helped the ISP reduce the rape kit backlog in their crime laboratory, possibly because of a significant loophole in the 2004 law, that testing of every kit within the timeframes specified would only occur "if sufficient staffing and resources are available." While the Illinois State Police may have needed more funds to eliminate the rape kit backlog, the auditor general, in a report issued in 2009, found that the ISP misused some of the state funds they were given to test rape kits and other DNA evidence.

Capacity constraints and limited resources may explain the number of untested rape kits at the crime laboratory, but cannot explain the large numbers of untested or unaccounted-for rape kits in police custody. Most individual police department policies that Human Rights Watch reviewed allow detective or department discretion in deciding which rape kits to send to the crime lab. Kit processing may be stymied on the level of investigating officers, who exercise their discretion not to send the kits to laboratories for any number of reasons; for example, if they presume that in cases of acquaintance rape the collected evidence is unnecessary, or that, even without interviewing a suspect, the case is too weak to move forward. Some jurisdictions in Illinois empower their local prosecutors (state's attorneys) to conduct what is known as a "felony review" of each potential criminal case in order to

One of the Illinois State Police Labs in Springfield that will test Illinois's rape kits. While the Sexual Assault Evidence Submission Act of 2010 is a significant step forward and provides a potential reform model for other states to follow, the legislation's success will require a commitment of resources, oversight, and enforcement from the legislature, the governor, and other major enforcement bodies.

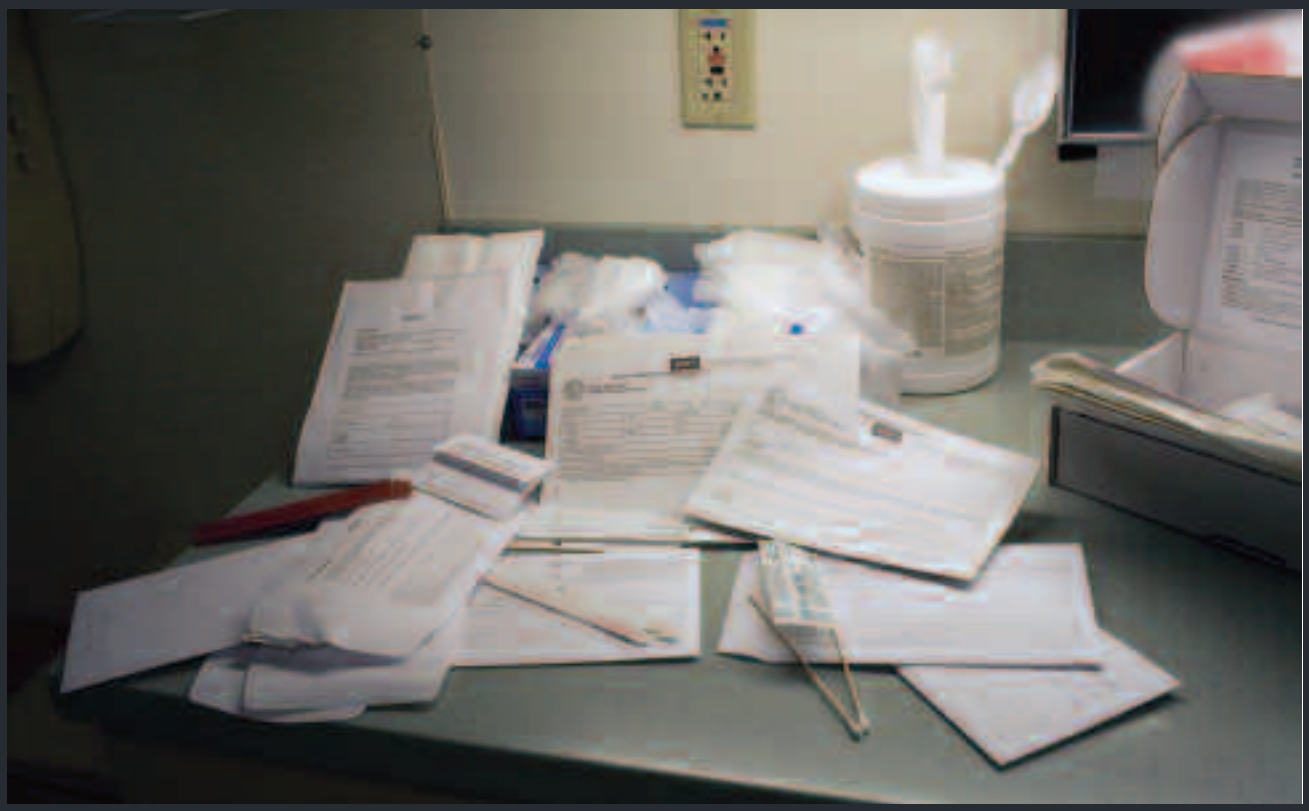
approve charges (other jurisdictions conduct similar reviews but may not officially refer to it as "felony review"). The state does not collect information on the ultimate disposition of each case of sexual assault. But what is clear from anecdotal evidence is that, without regard to the state case law standard allowing cases of felony sexual assault to proceed if "credible victim testimony" exists, state's attorneys reject many of these cases even in the presence of such testimony. This failure to lodge charges then indicates to police that processing collected rape kits would be futile. State's attorneys also seem to stop the processing of kits by intervening directly with state crime labs, according to testimony collected by Human Rights Watch. Overall, the failure to process rape kits reflects an inadequate law enforcement response to the crime of sexual assault, one which violates the human rights of victims.

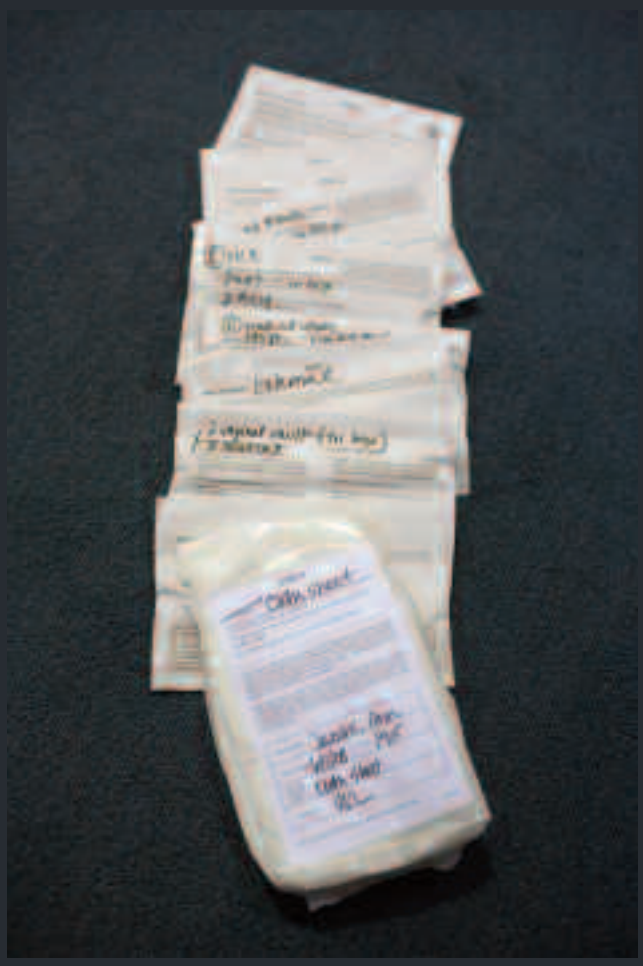
In response to the continuing backlog of cases since the 2004 law and news of significant numbers of untested rape kits in police storage facilities, and to address inadequacies of clarity and enforcement in the prior legislation, in May 2010 the Illinois legislature passed the Sexual Assault Evidence Submission Act, a landmark rape kit reform which was championed by Illinois Attorney General Lisa Madigan. The bill significantly expands upon the 2004 law—it mandates that every rape kit be sent to the crime lab within 10 days of its entrance into local law enforcement evidence and be tested within six months of its receipt by the crime lab; adds rape kit data reporting requirements; and requires the Illinois State Police to produce a plan to test every new rape kit it receives

The Illinois State Police will store Illinois's rape kits in storage facilities like this vault in Springfield, IL. In May 2010 the Illinois General Assembly, with the leadership of the Illinois Attorney General Lisa Madigan, passed the Sexual Assault Evidence Submission Act of 2010 to make Illinois the first state to definitively require that every booked rape kit be tracked and sent to the crime lab for testing.

and to eliminate the current backlog. The law does contain the same testing requirement loophole that may have contributed to the mixed results of the 2004 Sexual Assault Survivors Emergency Treatment in reducing the crime lab backlog: the timeframe for crime lab analysis is contingent upon the availability of "sufficient staffing and resources." The Illinois State Legislature has not yet appropriated any funds for the police and crime labs to implement this law. According to the law's provisions, the legislature may authorize funding for the law once the Illinois State Police submits a plan for analysis which will include resource needs. This plan is due to the legislature no later than February 15, 2011. Given that police departments across the state currently do not submit to the crime lab all of the rape kits they enter into evidence, successful implementation of the law will require, among other things, an increased fiscal commitment from the legislature to make this good law a practical reality. If the necessary resources are not made available to law enforcement and the crime laboratories to test every rape kit, Illinois must adopt a uniform decision-making process to determine which rape kits are tested. Objective criteria that are relevant to the probative value of the evidence to the case must guide this process.

During the course of its research into the rape kit backlog in Illinois, Human Rights Watch encountered numerous obstacles which made it difficult to get an accurate account of the status of rape kits collected in the state, obstacles that also affect treatment of sexual assault in the state's criminal





During a rape kit exam, a nurse or doctor conducts the medical and forensic examination. The following are steps that should be followed according to best practices for the administration of a rape kit:

- The victim undresses while standing over a large sheet of paper, and anything that falls from the clothing or body that may provide links to a perpetrator or a crime scene—for example, hairs, debris, and carpet or clothing fibers—is collected and placed in the rape kit.
- A nurse or doctor examines the victim on a gynecological table with stirrups.
- The nurse or doctor scans the body with an ultraviolet light to find what may be otherwise undetectable semen or saliva that might contain the assailant's DNA.
- The nurse or doctor then swabs every part of the victim's body that the ultraviolet light fluoresces.
- The victim is examined from "head to toe" to identify any physical injuries sustained during the assault, which can include scratches, bruises, bite marks, ligature marks, and burst blood vessels caused by strangulation.
- Every visible physical injury is photographed.
- A magnifying digital camera called a colposcope—which is noninvasive and can photograph inside body cavities without requiring insertion—is placed near the anal, vaginal, and oral cavities to record any lacerations or other injuries inside those areas.
- The nurse or doctor then collects other samples, such as fingernail scrapings, pubic hair combings, and urine and blood, placing each in separate envelopes or tubes. The swabs are labeled and sealed in containers with evidence tape. All of the evidence is then placed in a large white envelope—the rape kit.

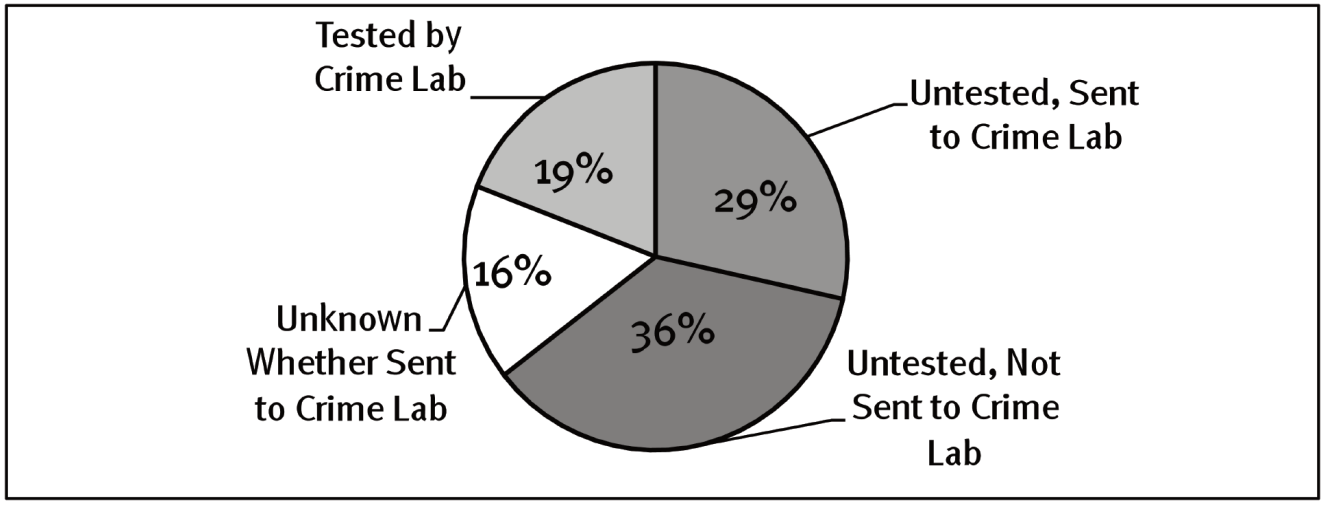
justice system. There is a distinct lack of uniformity among jurisdictions in how rape kits are tracked by police and sheriff's departments once booked into their evidence storage facilities. While the new 2010 law addresses some of these issues, at the time of our research, there were no state guidelines regarding how jurisdictions should track rape kits, record the status of rape kits, or format chain of custody and incident reports. Until Human Rights Watch requested the rape kit data from jurisdictions, many had never counted their untested rape kits or set up a system to track such kits.

Furthermore, some of the largest jurisdictions in Illinois did not respond to our data requests by the time this report went to press. Chicago, the state's largest urban area by far with over 2.7 million people and at least 21 percent of the state's population, provided limited data to Human Rights Watch—they agreed to audit the rape kits collected over the past two years—but did not respond to our request for more comprehensive data. And although the Illinois Attorney General public records response training program given to over 500 law enforcement officers and 12,000 public agencies in the state, jurisdictions failed to respond appropriately to our public records requests.

There were also egregious instances of agencies providing, or failing to properly redact, sensitive identifying information in their public records responses. More than 25 agencies supplied victims' names and 22 agencies also gave suspects' names. In total, more than 1,000 victims' names—nearly 100 of them child victims—were handed over to Human Rights Watch from public records requests. Victim and suspect addresses, telephone numbers, and social security numbers were also given by a number of law enforcement agencies. Several agencies submitted the private information of juvenile victims. DNA test results were also mailed to Human Rights Watch in response to the public records request, which did not—and could not legally—have sought such information. These errors in public record data management occurred despite the fact that the Illinois Office of the Attorney General offers comprehensive data training to law enforcement offices in Illinois. It is troubling that, despite receiving adequate public records training, law enforcement departments continue to make these serious mistakes.

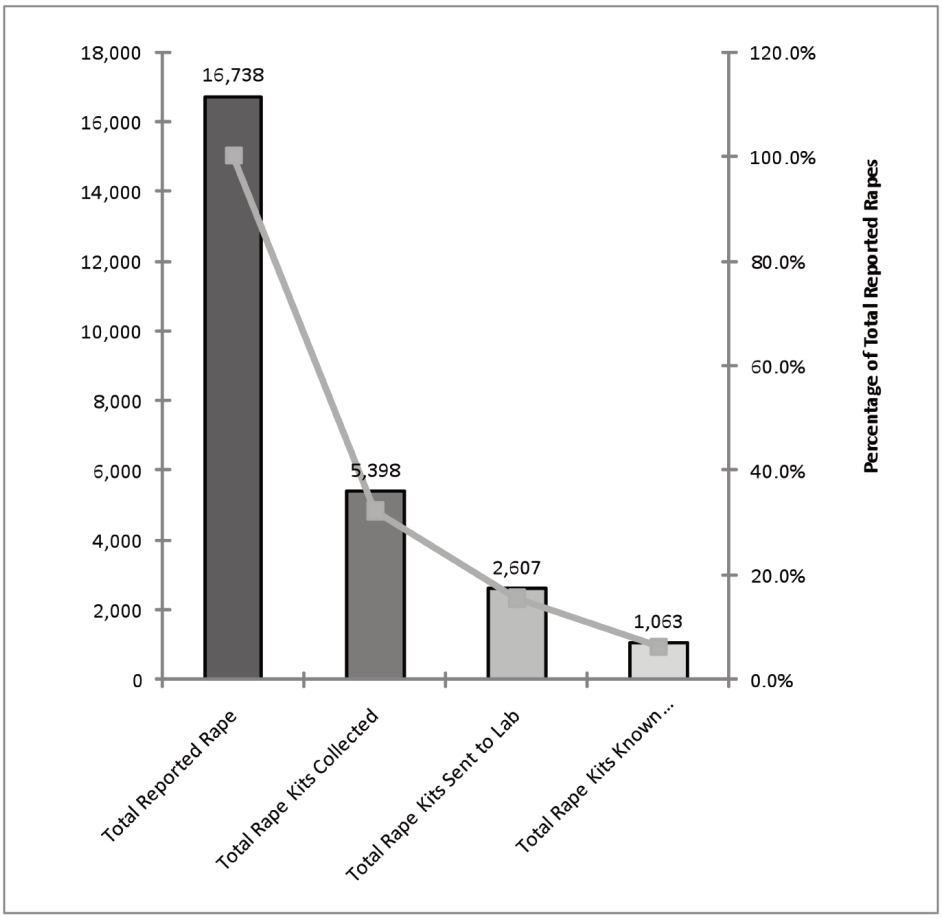
Despite these obstacles, we have been able to capture a significant portion of the number of untested rape kits in Illinois. In total, from rape kit information provided by 127 law enforcement agencies to Human Rights Watch, at least 7,458 rape kits were entered into law enforcement storage in Illinois in the past 10 years, of 16,738 rapes reported in recent years. Only 31 percent of reported rapes resulted in the administration of a rape kit. Law enforcement agencies reported that 3,547 (47.6 percent) of these kits were sent to crime labs, and knew that only 1,420 (19.7 percent) of the kits were tested although the Illinois State Police told Human Rights Watch a majority of rape cases sent to them are eventually tested. Police and sheriff's departments also reported that a total of 4,173 kits were presently stored in local facilities, 38 rape kits were stored with the Illinois State Police, and 1,890 kits were known to be destroyed.

Figure 1—Status of Rape Kits Entered into Evidence by Police and Sheriff's Departments in Illinois



Source: Contains all data of collected rape kits (N=7,458) Human Rights Watch received in response to public records requests.

Figure 2—Portion of Total Rapes Reported to Police Departments in Illinois Resulting in Tested Rape Kits

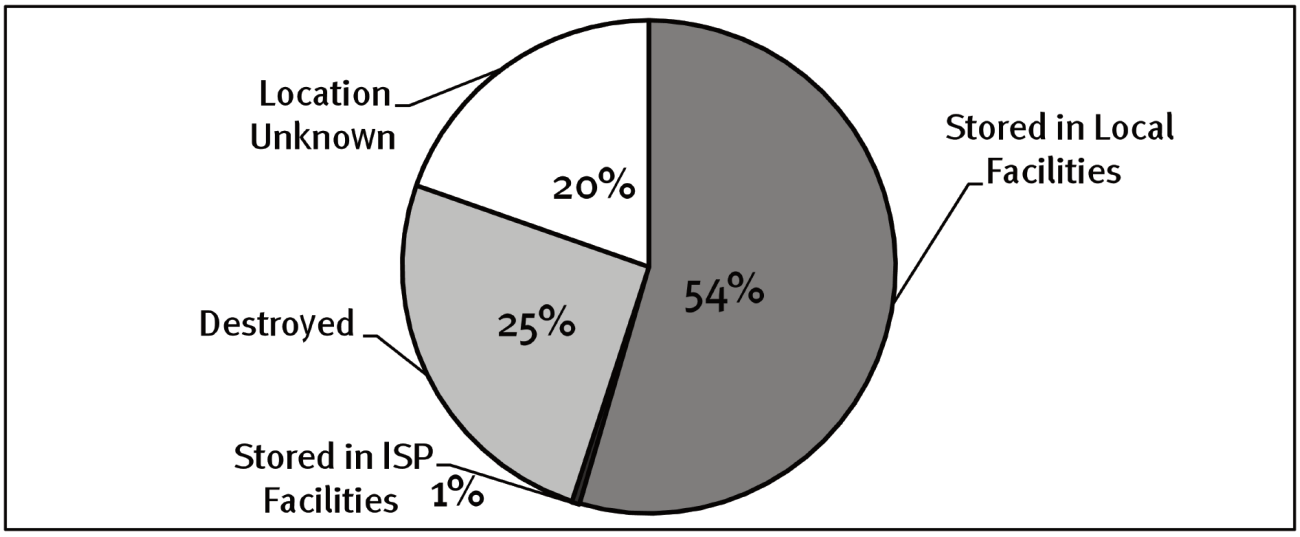


Source: Eighty-four city police departments that provided data on both reported rapes and rape kits.

In addition to untested rape kits in police storage facilities, Human Rights Watch also found other failures reflective of the inadequate law enforcement response to reported sexual assaults: a shortage of sexual assault nurse examiners (SANEs) to perform rape kit collections; insufficient hospital treatment facilities for rape victims; and testing delays at the state crime laboratory.

This report focuses primarily on the number of untested rape kits Human Rights Watch found in police storage facilities, using data from Human Rights Watch public records requests. It also points to larger concerns with the state crime lab's current capacity to handle the influx of untested rape kits it will receive from police departments when the 2010 Sexual Assault Evidence Submission Act goes into effect, assuming it is signed by the governor. The 2010 law

Figure 3—Location of Collected and Confirmed Untested Rape Kits in Illinois



Source: Data related to the years 1995 to 2009 received by HRW in response to public records requests (N=7,458).

will require the Illinois State Police to come up with a plan to test this influx of rape kits, and we urge the legislature, when presented with the plan, to appropriate the necessary funds required to implement the ISP plan.

If Illinois public officials wish to implement good public safety policy standards and conform to human rights law they should move decisively to comply with the 2010 law and eliminate untested rape kits in Illinois, and more vigorously investigate and prosecute reported cases of rape. Rape victims deserve justice and the people of Illinois expect law enforcement to do all they can to prevent future crime. International human rights law requires police to investigate reports of sexual violence and take steps to protect individuals from sexual assault. The United States is party to a number of treaties that acknowledge rape as a human rights abuse and require the US to ensure the protection of its citizens from sexual assault and rape. These treaties also entitle victims of violations to an effective remedy, placing obligations on the US to ensure there is effective access to justice when such crimes are committed.

For example, the United States is party to the International Covenant on Civil and Political Rights (ICCPR), and to the Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment ("Convention against Torture"), both of which set out important standards for victims of rape.[7] The ICCPR guarantees the right to security of the person under Article 9, which includes a right to protection of bodily integrity against third parties.[8] Both the Convention against Torture and the ICCPR (under Article 7) guarantee the right to be free from torture and cruel, inhuman, or degrading treatment.[9] International tribunals and other bodies have established that rape is covered by these prohibitions on torture.[10]

The United Nations Human Rights Committee (HRC) has made it clear to states party to the ICCPR that they must "take appropriate measures or … exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities."[11] The Committee against Torture requires states party to prevent and protect victims from gender-based violence and rape by exercising due diligence in investigating, prosecuting, and punishing perpetrators—even private actors—of rape and sexual assault.[12]

Specifically, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) obligates states party to combat discrimination against women.[13] The Committee on the Elimination of Discrimination against Women, the treaty body that interprets and monitors compliance with CEDAW, has affirmed that violence against women is a form of discrimination against women, and that states party to it should have effective legal, preventive, and protective measures in place to provide justice for victims, hold offenders accountable, and protect society from future acts of sexual violence.[14] While the US has not ratified CEDAW and is therefore not a full party to the treaty, it did sign the treaty in 1980 and therefore still bears a number of legal obligations including, at a minimum, not to act in a way that would undermine the intent and purpose of the treaty.[15]

The Inter-American system, of which the US is a member, pays special attention to violence committed against women and children.[16] The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ("the Convention") prohibits violence against women and affirms a woman's right to physical integrity and security. It further requires state parties to act with "due diligence to prevent, investigate and impose penalties for violence against women."[17] Since rape is a crime that is primarily committed against women, states party to the Convention have a special obligation to respond to and prevent rape and sexual assault. The United States is one of three members of the Organization of American States that has not ratified the Convention.[18]

Bearing in mind these standards, governments should take the necessary measures to avoid the significant consequences of delayed or denied justice for victims of rape. Illinois is grappling with those consequences, and the 2010 Sexual Assault Evidence Submission Act provides unprecedented potential for rape reform. Given the large number of untested kits in Illinois local law enforcement storage and the significant resources necessary to complete the task, resolving the way Illinois deals with its untested rape kits and ensuring the success of the 2010 law will require the continued leadership of many of Illinois's elected officials. In order for laws like the Sexual Assault Evidence Submission Act to have concrete results for rape victims, Illinois will need to demonstrate greater commitment, in both oversight and resources, to enforcing its laws on rape kits. The value a state places on its rape kits is one measure of how seriously it takes the crime of rape and the victims who report sexual violence. Testing rape kits has a practical effect on criminal justice outcomes, but it also sends an important message to rape victims—that their cases matter.

[1] Human Rights Watch telephone interview with Carrie (last name withheld), Chicago Heights, Illinois, August 3, 2009.

[2] The Illinois State Police crime laboratory also provided Human Rights Watch with data on the aggregate annual total of cases of sexual assault evidence submitted to the crime laboratory and aggregate cases of sexual assault evidence moved forward through the testing process. This data was not used in our calculations because it was not specific enough to track each rape kit from its collection from the victim to its current status; extraction beyond the aggregate was not possible.

[3] Human Rights Watch telephone interview with rape victim, Illinois, October 26, 2009.

[4] Human Rights Watch, *Testing Justice: The Rape Kit Backlog in Los Angeles City and County*, March 2009, http://www.hrw.org/en/reports/2009/03/31/testing-justice-0.

[5] Ray Long, "State to target DNA cases; Budget will aim at backlog, take cops out of office," *The Chicago Tribune*, February 13, 2004.

[6] Sexual Assault Survivors Emergency Treatment Act, 410 ILCS 70/6.4, ch. 111 1/2, par. 87-6.4, "Sec. 6.4. Sexual assault evidence collection program," http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1531&ChapAct=410%A0ILCS%A070/&ChapterID=35&ChapterName=PUBLIC%20HEALTH&ActName=Sexual%20Assault%20Survivors%20Emergency%20Treatment%20Act (accessed May 13, 2010), a-5. Emphasis added.

[7] International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976,, ratified by the United States on June 8, 1992; and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987, ratified by the United States on October 21, 1994.

[8] ICCPR , art. 9. The UN Human Rights Committee (HRC), which oversees the implementation of the ICCPR, has confirmed that the right to security of person in Article 9 means that persons have a right to protection from interference with their personal integrity by private persons, see, for example, *Delgado Paez v Colombia*, No. 195/1985, Decision of July 12, 1990.

[9] ICCPR, art. 7; and Convention against Torture.

[10] See, for example, Aydin v. Turkey, Eur. Ct. of H.R., Judgment of 25 September 1997, paras. 62-88; Prosecutor v. Furundija, ICTY, Case No. IT-95-17/1-T, Judgment of 10 December 1998, paras. 163-86.

[11] UN HRC, ICCPR, General Comment No. 31, Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13 (2004), http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CCPR.C.21.Rev.1.Add.13.En?Opendocument (accessed June 23, 2010).

[12] UN Committee Against Torture (CAT), General Comment No. 2, Implementation of article 2 by States parties, CAT/C/GC/2 (2008), http://www.unhcr.org/refworld/publisher,CAT,GENERAL,,47ac78ce2,0.html (accessed June 23, 2010).

[13] Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force September 3, 1981, signed by the United States on July 17, 1980.

[14] Committee on the Elimination of Discrimination against Women, General Recommendation No. 19, Violence against women, UN Doc. A/47/38, para. 24 (t), (1992), http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm#recom19 (accessed June 23, 2010). The Committee on the Elimination of Discrimination against Women authoritatively interprets and monitors state compliance with CEDAW.

[15] Vienna Convention on the Law of Treaties, adopted May 23, 1969, entered into force January 27, 1980, article 18.

[16] The Organization of American States (OAS) is a regional organization which hosts a number of institutions known as the Inter-American system. Its founding document is the 1948Charter of the OAS and it has 35 independent states of the Americas, including the US which was one of the original members in 1948.

[17] Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, adopted June 9, 1994, OAS/ser.L/II.2.27, CIM/doc.33/94, entered into force March 5, 1995, http://www.oas.org/cim/english/convention%20violence%20against%20women.htm (accessed June 23, 2010), art. 7 (b).

[18] Canada, Cuba, and the United States have not ratified the Convention. However, from 1962 until June 3, 2009, Cuba was suspended from participating in the Inter-American system, a suspension that was lifted by OAS Resolution AG/RES. 2438 (XXXIX-O/09), http://www.oas.org/dil/general_assembly_resolutions_39_regular_session_honduras_june_2009.htm (accessed June 23, 2010).

II. METHODOLOGY

This report relies on data collected by Human Rights Watch over the course of an ongoing, 10-month investigation into rape kits in Illinois. During the course of our research, Human Rights Watch conducted 304 telephone or in-person interviews with police officers, chiefs of police and police executives, crime lab personnel, crime lab directors and officials, sexual assault forensic nurses, rape treatment providers, elected city officials, victims of rape, family members of rape victims, rape victim advocates, state and city sexual assault organization directors and senior staff, national sexual assault and victim's rights organizations' directors and senior staff, senior staff at the US Department of Justice Office of Justice Programs, civil attorneys, public defenders, county attorneys, state legislators, officials at the Illinois Office of the Attorney General, local newspaper reporters who have covered the issue of rape kit backlogs extensively, and statisticians from state and city criminal justice statistics offices.

We conducted on-site visits to the Illinois State Police crime labs and evidence storage facilities in Springfield and Chicago.

We submitted more than 260 requests under the Illinois Public Records Act to every county and the most populous cities in the state, as well as to the Illinois State Police crime laboratory system. We requested rape reporting, arrest, prosecution, conviction, and dismissal rates, and documents pertaining to the collection, processing, and backlog of rape kits. The records requests were mailed out of Human Rights Watch's Washington, DC, office on or around June 9, 2009, and agencies had until May 2010 to return data for inclusion in this report.

DATA ANALYSIS METHODOLOGY

Data arrived from city and county law enforcement agencies in a variety of formats. While some departments provided data in aggregate form, others submitted electronic and paper files of individual cases. When individual case files were submitted, Human Rights Watch staff compiled and aggregated statistics. Data was then entered into a database and subsequently cleaned for errors. All data analysis was completed using statistical software (SPSS v.17).

In addition to the data obtained through our public records requests, Human Rights Watch obtained data on reported rape and rape arrests from the Illinois Uniform Crime Reports.[19] Population and demographic data for selected cities and counties was obtained from the American Community Survey 3-year estimates (2006-2008).[20] Data analysis mainly consisted of descriptive statistics including frequencies, rates, and cross-tabulations.

While Human Rights Watch's public records requests asked for data corresponding with the years 1995 through 2009, agencies provided data for an assortment of years. Some agencies provided reported rape and arrest data for one set of years, and rape kit testing data for a different set of years. When this occurred, analysis of the rape kit data only included reported rapes and arrests from the corresponding years.

There were three cities (Du Quoin, Charleston, and Centralia) where the years for rape kit data and the corresponding years for reported rapes and arrests could not be isolated because reported rape and rape arrest data was aggregated, making it impossible to extract data from specific years. In these cases, estimates for year-specific reported rapes and arrests were generated assuming a linear trend in rapes and arrests.

Human Rights Watch requested information from 267 law enforcement agencies and received no response from 82 departments (30.7 percent). An additional 36 (13.5 percent) agencies that did respond to the initial request refused or failed to provide us with the requested data. Seventy-two (27.0 percent) agencies provided Human Rights Watch with all of the data requested while 78 (29.2 percent) provided at least partial answers to our requests.[21] Of those agencies that provided Human Rights Watch with full or partial data, 105 were city police departments and 44 were county-level agencies. For a complete listing of responses, see Appendix I.

Data requests were sent to 165 cities. Human Rights Watch received no data from 60 city police departments, partial data from 55 departments, and complete data from 50 cities. Of the 20 largest cities in Illinois, Human Rights Watch received partial or complete data from 15 police departments. HRW also requested data from 102 county sheriff's departments. Twenty-one counties provided complete data, 23 provided partial data, and 58 counties did not provide data.

METHODOLOGY

The majority of the data sent by agencies failed to fully comply with the public records request. Only 33 percent of the agencies responded with data that was complete or did not include errors. The most common errors concerned the lack of information (either not answering a question, or responding that they did not know the answer to a question) on the status of rape kits including whether or not they were tested and where they were being stored.

Of the 149 agencies that responded with data to our public records request, 85 percent provided information on rape kits. However, data provided on rape kits, including the end-results of rape kits, was often incomplete, uncertain, or unknown. While most departments that responded could provide a total number of rape kits collected, many could not determine the destinations or final results of the kit. In many cases, departments required Human Rights Watch to comb through boxes of evidence they provided in response to our request in order to investigate final destinations of rape kits. Given these failings, the total statistics aggregated here cannot be assumed to tell the entire story of DNA rape kit processing in Illinois. Nevertheless, the data in this report are the best possible estimates of the administering, collection, processing, and storage of rape kits in Illinois given the data presented by law enforcement agencies.

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[19] Illinois State Police, "2008/2007 Crime Index Offense and Arrest Database," http://www.isp.state.il.us/crime/cii2008.cfm (accessed May 13, 2010).

[20] US Census Bureau, "2006-2008 American Community Survey 3-Year Estimates," http://factfinder.census.gov/servlet/DatasetMainPageServlet?_program=ACS&_submenuId=datasets_2&_lang=en&_ts= (accessed June 16, 2010).

[21] Numbers do not add up to 100 percent due to rounding.

III. RECOMMENDATIONS

TO THE ILLINOIS GENERAL ASSEMBLY:

- **Pass legislation requiring law enforcement to notify sexual assault victims of the testing status of their rape kit within a reasonable amount of time (that is, within three months) of its collection and periodically until the testing is completed;**
- **After the Illinois State Police present their rape kit backlog reduction plan as required by the 2010 Sexual Assault Evidence Submission Act , approve increased funding to the Illinois State Police necessary for the testing of all booked rape kits;**
    - **If this increased funding is not approved, establish uniform, objective statutory criteria for how rape kit testing should proceed in Illinois. This criteria should require that felony sexual assault cases cannot be rejected or closed until a rape kit in the case has been tested;**
- **Create a permanent rape kit task force to exercise oversight of the implementation of the 2010 Sexual Assault Evidence Submission Act; and**
- **Approve legislation to increase funding for the sexual assault nurse examiner program, and provide incentives for hospitals to employ full-time sexual assault nurse examiners.**

TO THE ILLINOIS OFFICE OF THE ATTORNEY GENERAL:

- **Continue efforts to operate the Rape Kit Task Force to address rape kit testing in Illinois:**
    - **Include rotating, formal representatives from various stakeholders in the criminal justice system, including sexual assault nurse examiners, crime lab personnel, state's attorney's offices, police and sheriff officials, and sexual assault providers;**
    - **Hold monthly meetings, open to the public; and**
- **Continue public records training for law enforcement to ensure private information of crime victims or suspects is not released to third parties as part of a public records request.**

TO ALL LOCAL LAW ENFORCEMENT DEPARTMENTS IN ILLINOIS:

- **Create a formal system to track all rape kits collected and to determine the status of a rape kit at any stage in the storage or testing process;**
- **Create a law enforcement unit tasked with investigating cold hit leads from the rape kit backlog;**
- **Create a permanent sexual assault unit to handle all sex crimes investigations, whose officers receive training in victim sensitive interviewing and interrogation of the suspect;**
- **Implement a system to inform sexual violence victims of the status of their rape kit test:**
    - **Identify an officer with specialized expertise in conveying sensitive information to sexual assault victims;**
    - **Create a policy to require law enforcement to notify victims of their rape kit's testing status within three months of its collection; and**
- **Require local law enforcement officers to participate in attorney general training on public records request responses.**

TO THE ILLINOIS STATE POLICE CRIME LABS:

- **Create monthly public reports on the number of rape kits tested each month, including the time it took for the testing's completion;**
- **Establish a system for simultaneous, electronic notification of the crime lab, law enforcement, and prosecutors when a DNA profile matches a profile in the Combined DNA Index System (CODIS) (a "cold hit");**
- **Address crime lab capacity concerns by securing the funding and space for the DNA analysts required to test every booked rape kit in a timely manner;**
- **Report to the governor, General Assembly, and attorney general on implementation of the 2010 Sexual Assault Evidence Submission Act; and**
- **Prioritize funds from the federal DNA Casework and Backlog Reduction Grant Program for the testing of rape kits.**

TO ALL STATE'S ATTORNEY'S OFFICES:

- **Create uniform, state-wide guidelines for how sexual assault cases are reviewed (such as the felony review process or similar review processes) which would, among other things:**
    - **Require that a case not be rejected until a standard number of investigative procedures have occurred, including testing a rape kit where one is available, interviewing all witnesses in the case, and interviewing both the victim and the suspect;**
    - **Ensure that "acquaintance rapes" are subject to the same standards of proof as "stranger rapes";**
    - **Require sexual assault victim-centered training for all state's attorneys who may interact with victims of sexual violence;**
- **Implement a "cold hit" tracking program, which would track the outcomes of rape kit testing on rape investigations, arrests, charges, prosecutions, dismissals, convictions, and exonerations;**
- **Create a special unit tasked with pursuing prosecutions from investigative leads generated from the testing of the rape kit backlog; and**
- **Oversee law enforcement implementation of victim notification policies.**

TO THE ILLINOIS CRIMINAL JUSTICE INFORMATION AUTHORITY:

- **Create data and technical support systems to assist local and state law enforcement with tracking rape kit evidence, including location, testing status, and investigative outcomes;**
- **Create a uniform data tracking form which all law enforcement must use to track their rape kit evidence; and**
- **Create a sexual assault case registry, which would track the process of sexual assault cases from report to final disposition.**

TO ALL HOSPITALS IN ILLINOIS:

- **Work with other hospitals in densely populated regions to ensure at least one hospital has a specialized treatment center for rape victims;**
- **Provide administrative and funding support for nurses who wish to receive Sexual Assault Nurse Examiner Training; and**
- **Allow certified SANE nurses who are not emergency room nurses to practice within the hospital's emergency room, as is standard with national best practices.**

IV. Keeping Track of Sexual Violence in Illinois

> One way to measure what the government cares about is what they choose to collect data on. One of the great hurdles of my work on sexual violence is the lack of comprehensive data available for us concerning criminal justice outcomes for felony sexual assault.
> —Kaethe Morris Hoffer, legal director, Justice Project Against Sexual Harm of the Chicago Alliance Against Sexual Exploitation[22]

Rape is a crime with serious consequences, and it demands serious attention. The traumatic impact of sexual violence is widely accepted by experts, as documented by years of academic and government studies.[23] As far as Human Rights Watch can tell, no agency in Illinois tracks the status, progress, and outcome of rape cases from the moment the rape is reported until the resolution of the case—making it very hard to get accurate data on the true rate of reported rapes that lead to an investigation, arrest, or other criminal justice outcome. In fact, numerous experts on sexual violence that Human Rights Watch spoke with identified the lack of comprehensive case-tracking systems, including the tracking of forensic evidence like rape kits, as a key barrier to understanding what is happening with rape cases in the Illinois criminal justice system and what effect rape kit collection and testing has on case outcomes.

Incidences of Sexual Violence

At least 4,118 individuals reported being raped in Illinois in 2008, the last year for which Human Rights Watch has data for the entire state—an average of more than 11 rape reports made to the police every day.[24] These reported rape cases include sexual crimes committed against both adults and children. Illinois, like much of the United States, is currently experiencing a historic low in reported rapes, although it is important to note that rape is traditionally an underreported crime. Comprehensive academic studies estimate that reported rapes represent 10 to 20 percent of all rapes, and that one in every six women in

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[22] Human Rights Watch telephone interview with Kaethe Morris Hoffer, legal director, Justice Project Against Sexual Harm of the Chicago Alliance Against Sexual Exploitation, Chicago, IL, October 2, 2009.

[23] See for example, John Briere and Marsha Runtz, "Post Sexual Abuse Trauma," *Journal of Interpersonal Violence*, vol. 2, no. 4, 1987, pp. 367-379; Dean G. Kilpatrick, "The Mental Health Impact of Rape," National Violence Against Women Prevention Research Center, http://www.musc.edu/vawprevention/research/mentalimpact.shtml (accessed March 10, 2010).

[24] The reporting data include both adults and juveniles. Reporting and arrest data were obtained through public records requests to the Illinois Criminal Justice Information Authority, which is the state's crime data tracking center, and from the FBI Uniform Crime Reports, 1999-2008, http://www.fbi.gov/ucr/ucr.htm (accessed November 13, 2009).

the US will be the victim of a rape or an attempted rape in her lifetime.[25] Polly Poskin, executive director of the Illinois Coalition Against Sexual Assault, an association of community-based rape crisis center, said, "We know that most rapes go unreported. It is a very hard crime to report, especially given how many cases languish before being closed without an arrest or charges."[26]

While reported rapes have decreased in Illinois in the past decade arrest rates—the number of reported rapes leading to an arrest—have also declined. In 1999 the arrest rate for rape in Illinois was 17 percent, meaning a rape victim who reported her rape had about a one in six chance of seeing an arrest in her case. In 2008 the arrest rate for rape in Illinois had declined to 11 percent, meaning a rape victim who reports her rape has about a one in nine chance of seeing an arrest in her case. Illinois's 2008 arrest rate of 11 percent was well below the national average calculated by the FBI of 22 percent.[27]

While the declining arrest rate for sexual violence in Illinois may involve many factors, studies have shown that testing rape kits has an effect on the arrest rate for rape. For example, when New York City eliminated its rape kit backlog and implemented a policy of testing every future booked rape kit, the city's arrest rate for rape skyrocketed from 40 percent to 70 percent.[28]

Illinois's data management failure is symptomatic of its poor response to rape. We compared Illinois data provided to us for exactly the same years and jurisdictions with that contained in the state's Uniform Crime Reports (UCR). Only four cities provided the same number of reported rapes in data sent to us and to the UCR. Data a jurisdiction provided to Human Rights Watch and the data provided to the UCR differed by as much as 275 percent. This comparison provides evidence of inconsistencies in the reporting of rape statistics and the need for data management systems—and protocols for reporting rape statistics—to be standardized throughout the state's police and sheriff's departments. We believe that the

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[25] See for example, Patricia Tjaden and Nancy Thoennes,
"Extent, Nature, and Consequences of Rape Victimization: Findings From the National Violence Against Women Survey," National Institute of Justice, US Department of Justice Office of Justice Programs, January 2006, http://www.ncjrs.gov/pdffiles1/nij/210346.pdf (accessed February 23, 2009).

[26] Human Rights Watch interview with Polly Poskin, executive director, Illinois Coalition Against Sexual Assault, Springfield, IL, May 12, 2009.

[27] Federal Bureau of Investigation (FBI), US Department of Justice, "Crime in the United States 2008," September 2009, http://www.fbi.gov/ucr/cius2008/index.html (accessed June 23, 2010).

[28] Human Rights Watch interview with Marie Samples, assistant director, New York Office of the Medical Examiner DNA Unit, New York, NY, March 14, 2008; and Human Rights Watch interview with Lisa Friel, assistant district attorney, Special Victims' Unit, Manhattan District Attorney's Office, and Martha Bashford, assistant district attorney, Cold Case Sex Crimes Unit, Manhattan District Attorney's Office, New York, NY, March 18, 2008.

poor data management is indicative of a broader failure to respond to rape in the state of Illinois.

Police alone are not to blame for the poor criminal justice response to rape. In various jurisdictions in Illinois,[29] prosecutors (referred to as state's attorneys) are involved early in an investigation through a process that some jurisdictions refer to as "felony review" (other jurisdictions have similar programs, but do not refer to them as "felony review"). With each practicing jurisdiction creating its own felony review (or felony review-like) procedures, police can charge a person with a felony only after they obtain pre-approval of the charges from a state's attorney. For this reason, police will often wait to proceed with a rape investigation (including making an arrest) until the state's attorney's office has finished the review process and has either accepted or rejected the case for charges. Human Rights Watch spoke with a police official in Illinois who noted, "If the state's attorney is going to reject the case, we don't want to put a lot of work into it until we know for sure the case is going to move forward with them. I often wait to proceed too far in a case until I know what the state's attorney is going to do with it."[30] This can have an adverse effect on ensuring arrests and prosecutions for any case awaiting felony review, including rape cases. As one rape victim advocate told Human Rights Watch,

> When police place a sexual assault investigation on hold until they get word of the felony review outcome … the state's attorneys are getting cases presented to them without much investigative information, which in turn may make it more likely that the state's attorney will reject the case because of weak evidence. And once a state's attorney rejects a case, the police are going to close the case because they know it is not going to go anywhere.[31]

The process of felony review may have a dampening effect on arrest rates. There is no comprehensive, publicly available state data on the charging, prosecution, and conviction rate for the crime of felony sexual assault. However, from interviews, Human Rights Watch heard anecdotal evidence of the difficulty of getting charges of felony sexual assault approved by the prosecutor's office.

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[29] Human Rights Watch was unable to find any data on how many jurisdictions use the felony review process, although a significant number of jurisdictions we spoke with seemed to employ some form of the process.

[30] Human Rights Watch telephone interview with police official, Illinois, June 17, 2009.

[31] Human Rights Watch telephone interview with rape victim advocate, Chicago, Il, July 2, 2009.

Rape advocates' frustration with the felony review process in Illinois was summed up in a letter from 10 sexual assault groups in Illinois to the Cook County (Chicago) State's Attorney's Office. They note that in Illinois, while case law holds that "credible victim testimony" is sufficient to support a felony sexual assault conviction and that "corroborating evidence" is not necessary, state's attorneys seem to require additional evidence from rape cases in order to authorize charges.[32] The letter states:

> We believe that the Cook County State's Attorney's Office is generally not authorizing felony charges for sexual assault reported by victims of non-strangers unless there is "corroborative evidence" such as bodily injury, a third-party witness, or an offender confession … This practice protects most rapists from the threat of criminal prosecution, devastates most victims who seek criminal justice assistance, and leads to the continued silence of most victims of sexual assault.[33]

These advocates included a list of 22 women raped in Cook county whose cases were not approved for felony charges by the Cook County State's Attorney's Office despite the presence of "credible victim testimony."

The state's attorney's review process seems to influence what happens to a victim's rape kit. Human Rights Watch heard from seven rape victims who were told by police that they were not going to submit the rape kit in their cases for testing until the state's attorney's office in their case had authorized felony charges.[34] The Illinois State Police crime lab revealed that they sometimes returned untested rape kit evidence sent to them for testing once they were told (either by the state's attorney's office directly, or from the police department that sent the kit for testing) that the case had been rejected by the state's attorney's office for felony charges.[35]

In some cases, police departments were unaware that the rape kits they sent to the crime lab had been returned untested because of a failure by the state's attorney's office to authorize charges. For example, the Chicago Police Department, which told Human Rights Watch that it sends every booked rape kit to crime lab for testing, recently discovered that

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[32] *People v. Schott*, 145 Ill. 2d 188, 02, 582 N.E.2d 690, 696-97 (1991).

[33] Letter from Chicago Alliance Against Sexual Exploitation to Anita Alvarez, Cook county state's attorney, November 19, 2009, on file with Human Rights Watch.

[34] Human Rights Watch interview with rape survivors in a group session, Chicago, IL, November 12, 2009.

[35] Human Rights Watch telephone interview with Jan Girten, Illinois State Police, Chicago, IL, January 13, 2009.

some were being returned untested.[36] In February 2010, at the request of Human Rights Watch, the Chicago Police Department conducted a storage facility audit of rape kits collected between 2007 and 2009, and found that 88 rape kits sent to the crime lab were returned untested; an unspecified number of those were returned because the state's attorney had closed the case.[37]

National studies have shown that cases in which a rape kit was collected and contained DNA evidence of an offender were significantly more likely to move forward in the criminal justice system than cases in which there was no rape kit collected, or in which none was tested.[38] Studies have also found that the existence of forensic or physical evidence, such as the type of evidence stored in a rape kit, is an important predictor of prosecutors' decisions to bring charges in a case.[39] There is also emerging evidence that juries have come to expect DNA evidence in order to convict a defendant.[40] These findings point to the importance of rape kit collection—and testing—for prosecuting cases of sexual assault.[41]

Data on Illinois's Rape Kit Backlog

During the course of its research into the rape kit backlog in Illinois, Human Rights Watch encountered numerous obstacles which made it difficult to get an accurate account of the status of rape kits collected in the state, obstacles that also affect treatment of sexual assault in the state's criminal justice system for tracking rape kits by police and sheriff's departments once booked into their evidence storage facilities lack uniformity across jurisdictions. While the 2010 Sexual Assault Evidence Submission Act will enhance how rape kits are tracked in the state,[42] at the time of this report's printing, there are no state guidelines regarding how jurisdictions should track rape kits, record the status of rape kits, or format chain of custody and incident reports. Until Human Rights Watch requested the

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[36] Human Rights Watch interview with Tom Byrne, chief of detectives, Chicago Police Department, Chicago, IL, December 10, 2009.

[37] Ibid.

[38] See for example, Dawn Beichner and Cassia Spohn, "Prosecutorial Charging Decisions in Sexual Assault Cases: Examining the Impact of a Specialized Prosecution Unit," *Criminal Justice Policy Review*, vol. 16, no. 4, 2005, pp. 61-98

[39] Ibid.; Cassia Spohn and David Holleran, "Prosecuting Sexual Assault: A comparison of charging decisions in sexual assault cases involving strangers, acquaintances, and intimate partners," *Justice Quarterly*, vol. 18, 2004, pp. 651-688; Kristen M. Williams, "Few convictions in rape case: Empirical evidence concerning some alternative explanations," *Journal of Criminal Justice*, vol. 9, 1981, pp. 29-39.

[40] Richard Willing, "CSI Effect Has Juries Wanting More Evidence," *USA Today*, August 5, 2004, http://www.usatoday.com/news/nation/2004-08-05-csi-effect_x.htm (accessed May 18, 2010), p. 1A.

[41] Ibid.

[42] Illinois General Assembly, 96th General Assembly, Sexual Assault Evidence Submission Act of 2010, SB3269, introduced February 9, 2010, http://www.ilga.gov/legislation/96/SB/PDF/09600SB3269lv.pdf (accessed June 22, 2010).

rape kit data, many police departments had never counted their untested rape kits or set up a system to track such kits.

In total, from rape kit information provided by 127 agencies to Human Rights Watch, at least 7,494 rape kits were entered into law enforcement evidence in Illinois in recent years falling within the requested dates of 1995 to 2009. Law enforcement agencies reported that 3,568 (47.6 percent) of these kits were sent to crime labs, and knew that only 1,474 (19.7 percent) of the kits were tested. Police and sheriff's departments also reported that a total of 4,173 kits were presently stored in local facilities, 38 rape kits were stored with the Illinois State Police, and 1,890 kits were known to be destroyed.

Human Rights Watch found that in Illinois, most (69 percent) reported rapes do not result in the administration of a rape kit. Police and sheriff's departments could only confirm that 6 percent of reported rapes resulted in the testing of a kit by a crime lab. Departments confirmed that more kits were known to be untested than tested. Less than 20 percent of rape kits entered into law enforcement evidence could be confirmed as tested, compared with over 25 percent that were confirmed as destroyed.

Human Rights Watch is deeply troubled by the difficulty encountered gaining access to rape kit data in Illinois, and believes it indicates systemic failure to prioritize and process rape kits in the state. Many law enforcement entities do not have electronic data tracking systems, meaning they had to go through their paper files to try to determine the number of rape kits booked into their storage facilities and the testing status of the kit. Our requests for these simple records were often rejected because of the burdensome nature of the paper search. Other jurisdictions simply resorted to photocopying their incident and chain of custody reports, which presented information in many different formulas and formats. Follow-up phone calls would sometimes clarify the information we sought, but not always. For some jurisdictions, we were unable to establish information on rape kits because of a lack of clarity in the records provided to us. The response from a public records official from Park Ridge Police Department to our question about what certain records meant is typical: "We simply don't know. Your guess is as good as mine."[43]

The manner in which different law enforcement agencies responded to the identical public records request highlights the chaotic nature of law enforcement data management in Illinois, and the need for the data tracking requirements contained in the 2010 Sexual

[43] Human Rights Watch telephone interview with a public records officer, Park Ridge Police Department, Park Ridge, IL, September 18, 2009.

Assault Evidence Submission Act and other standardized data management protocols. The majority of agencies provided their data electronically; however, at least 35 agencies mailed Human Rights Watch boxes or envelopes of paper documents, and several agencies mailed us nearly 1,000 separate documents. While 51 percent of agencies who provided us with information did so in a single document containing data, the other 49 percent sent multiple types of documents requiring Human Rights Watch to piece together whether reported rapes resulted in rape kits being taken and whether rape arrests occurred.[44] Several agencies simply submitted police narrative reports of all reported rape cases, which required Human Rights Watch to determine through reading the narratives whether rape kits were taken in each case.

There were also instances of agencies providing, or failing to properly redact, sensitive identifying information in their public records responses. More than 25 agencies supplied victims' names and 22 agencies also gave suspects' names. In total, more than 1,000 victims' names—nearly 100 of them child victims—were handed over to Human Rights Watch from public records requests. Victim and suspect addresses, telephone numbers, and social security numbers were also given by a number of law enforcement agencies. Several agencies submitted the private information of juvenile victims. In an egregious error, DNA test results were also mailed to Human Rights Watch in response to the public records request, which did not—and could not legally—have sought such information. These errors in public record data management occurred despite the fact that the Illinois Office of the Attorney General offers comprehensive data training to law enforcement offices in Illinois. It is troubling that, despite receiving adequate public records training, law enforcement departments continue to make these serious mistakes.

Illinois is not alone in its struggle to maintain rape kit data. According to a 2009 report prepared for the National Institute of Justice, researchers surveyed over 2,500 police departments across the country and found that "larger police agencies reported significant difficulty answering questions about unsolved rape and property cases because this information was not maintained in a centralized system."[45] In fact, 60 percent of law

[44] Sixty-eight departments provided a single aggregated report containing some or all of the requested data. Other agencies sent a variety of reports for each reported rape case: 47 departments sent chain of custody reports, 33 sent incident or offense reports, 11 sent lab evidence receipts, 30 sent evidence logs, and others submitted data via phone calls or other methods.

[45] Kevin J. Strom et al., "The 2007 Survey of Law Enforcement Forensic Evidence Processing," no. 228415, prepared for Katherine Browning, National Institute of Justice, October 2009, http://www.ncjrs.gov/pdffiles1/nij/grants/228415.pdf (accessed May 13, 2010), pp. 4-5.

enforcement agencies who responded to the national survey did not have computerized tracking systems for their evidence.[46]

Determining what Illinois does with the rape kits collected by the police is important to addressing sexual violence in Illinois, and providing justice to the thousands of victims who report their rape to the police every year.

One Case Raises Questions on Rape Kit Record-Keeping in Chicago

On April 20, 2007, after a night out dancing in Chicago, Stephanie H. (pseudonym) returned to a friend's house with her friend's boyfriend. After her friend went to sleep, the boyfriend came into the living room where Stephanie was sleeping, pushed her to the ground and raped her.[47] Within 48 hours of her assault, Stephanie went to the hospital where a rape kit was administered.[48] According to Stephanie's medical records, which Stephanie shared with Human Rights Watch, a rape kit was taken and the nurse's examination found evidence of forced penetration,[49] in direct opposition to the perpetrator's claims that "nothing happened that night."[50]

For two years Stephanie repeatedly called the Chicago Police Department—at times as frequently as every week—to inquire about her case: "I was going through panic attacks in the middle of the day. I couldn't breathe. Even in New York I was terrified I would run into him…. I couldn't sleep or eat. Why is it that I had to work so hard and still nothing got done…? For two years I forgot what it was like to be happy."[51]

"I thought that if I kept on calling and hounding, they would get things done faster…. I was polite and well-spoken. I begged. I got a second detective to talk [to me about the case] … and relived the experience all over again."[52] But eventually, Stephanie was informed that no charges would be brought against her rapist.

The Chicago Police Department's report of Stephanie's case tells a very different story, and illustrates a fundamental problem with their record keeping.

When Human Rights Watch first inquired on Stephanie's behalf for her police report, we were told that we could only receive a redacted copy of her report because, "this case is still open."[53] When

[46] Ibid.

[47] Human Rights Watch interview with Stephanie H. (pseudonym), New York, NY, January 12, 2010.

[48] Stephanie H. rape kit examination and hospital records, on file with Human Rights Watch.

[49] Ibid.

[50] Human Rights Watch interview with Stephanie H., January 12, 2010.

[51] Ibid.

[52] Ibid.

[53] Letter from Michael Kelly, assistant freedom of information officer, Chicago Police Department, to Human Rights Watch, October 1, 2009, on file with Human Rights Watch.

we asked why the case was open even though Stephanie was informed of the contrary, the officer responded, "I don't have the authority to answer…. They could be waiting on more evidence."[54]

When Human Rights Watch received the police report, its contents were inconsistent with Stephanie's hospital records. In the police report the responding officer on the case concluded, "Vict[im] went to [redacted] hospital for medical evaluation. Per Dr. [redacted], vict[im] in good condition. Will be treated and released. **No rape kit will be administered**."[55]

We asked a representative from the Chicago Police Department to clarify, and were informed that the existence of rape kits are included in the initial police report, and in Stephanie's case, "it looks like there was no rape kit."[56] When we inquired why a hospital report indicated a rape kit while the police report did not, the department told us they did not know.[57]

When Stephanie learned that the police report indicated that no rape kit was taken, she told us, "I am astounded. I thought that my experience with the police could not get more demoralizing. To learn that they don't even have a record of my rape kit, when I can't stop thinking about the experience of having the kit taken, adds on to my disbelief about this whole process."[58]

As of this writing, despite more than nine requests to the Chicago Police Department for records on their rape kit data, Stephanie's case report is the only complete response to our public records request for rape kit information that we have received. In an interview with the Chicago Police Department, representatives told Human Rights Watch that it is official Chicago Police Department policy to send every rape kit to the crime lab for testing.[59] While we do not know if other survivors—like Stephanie—handed over their rape kits to the Chicago Police only to wait for years without justice, we do know that the effect of the experience on Stephanie has been profound:

> After this experience, I don't feel safe anymore. I used to think that if something happened to me, the law would protect me. I don't think it will anymore. I am a tough girl, but it made me feel like if something happened, the law isn't there for me. It doesn't really work.[60]

[54] Human Rights Watch telephone interview with Rory O'Brian, assistant freedom of information officer, Chicago Police Department, Chicago, IL, October 16, 2009.

[55] General Offense Police Report for Stephanie H., Chicago Police Department, April 22, 2007, on file with Human Rights Watch. Bold added.

[56] Human Rights Watch telephone interview with Rory O'Brian, October 16, 2009.

[57] Ibid.

[58] Human Rights Watch interview with Stephanie H., January 12, 2010.

[59] Human Rights Watch interview with Chief of Detectives Tom Byrne, January 21, 2010.

[60] Ibid.

V. Rape Kit Evidence Collection in Illinois

Special care is required in the collection of rape kit evidence.[61] Sexual Assault Nurse Examiners (SANEs) are nurses who receive special training in how to provide appropriate medical, forensic, and emotional care to rape victims, and can provide 24-hour, first-response care to sexual assault patients in a medical setting.[62] In contrast, emergency room physicians and nurses often have little or no training on the medical treatment of rape victims, or on how to conduct a forensic rape kit exam.[63] The importance of SANEs is reflected in the creation of a SANEs' training program out of the Illinois Office of the Attorney General, which has classroom-trained more than 530 nurses through its free training program.[64]

While no system exists to track SANE resources in Illinois, experts Human Rights Watch spoke with during the course of our research agree that, despite a robust training program, there is still a shortage of SANEs in the state, in part because of hospitals' unwillingness to support the hiring and training of such nurses full-time. Shannon Liew, SANE Coordinator for the state of Illinois, estimates that of the over 530 nurses participating in the attorney general's SANE training in the past five years, only approximately 100 nurses have become

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[61] Human Rights Watch telephone interview with Jennifer Pierce-Week, president, International Association of Forensic Nurses, Arnold, MD, March 23, 2008. For more information on the collection of rape kits, see for example, The Sexual Assault Nurse Examiner-Sexual Assault Response Team web-site at http://www.sane-sart.com (accessed January 20, 2009). Human Rights Watch observed the simulated rape kit collection process in Illinois during a visit to the Cook County Child Advocacy Center on January 11, 2009. A model process would look like this: After intake and counseling, which includes assessing and treating any critical care needs, the patient is interviewed to obtain a history of the assault. Then, a nurse practitioner conducts the medical and forensic examination. The victim undresses while standing over a large sheet of paper, and anything that falls from the clothing or body that may provide links to a perpetrator or a crime scene (for example, hairs, debris, and carpet or clothing fibers) is collected and placed in the rape kit. A sexual assault nurse examines the victim on a gynecological table with stirrups. The nurse scans the body with an ultraviolet light to find what may be otherwise undetectable semen or saliva that might contain the assailant's DNA. The nurse then swabs every part of the victim's body that the ultraviolet light fluoresces. The victim is examined from "head to toe" to identify any physical injuries sustained during the assault, which can include scratches, bruises, bite marks, ligature marks, and burst blood vessels caused by strangulation. Every visible physical injury is photographed. A magnifying digital camera called a colposcope—which is noninvasive and can photograph inside body cavities without requiring insertion—is placed near the anal, vaginal, and oral cavities to record any lacerations or other injuries inside those areas. The nurse then collects other samples, such as fingernail scrapings, pubic hair combings, and urine and blood, placing each in separate envelopes and or tubes. The swabs are labeled and sealed in containers with evidence tape. All of the evidence is then placed in a large white envelope—the rape kit.

[62] WK Taylor, "Collecting evidence for sexual assault: The role of the sexual assault nurse examiner (SANE)," *International Journal of Gynecology and Obstetrics*, vol. 78 , September 2002, pp. S91-S94.

[63] Annette Amey and David Bishai, "Measuring the quality of medical care for women who experience sexual assault with data from the National Hospital Ambulatory Medical Care Survey," *Annals of Emergency Medicine*, vol. 39, June 2002, https://secure.muhealth.org/~ed/students/articles/AnnEM_39_p0631.pdf (accessed May 13, 2010), pp. 631-638; WK Taylor, "Collecting evidence for sexual assault: The role of the sexual assault nurse examiner (SANE)," *International Journal of Gynecology and Obstetrics*, vol. 78 , September 2002, pp. S91-S94.

[64] Illinois Attorney General, Sexual Assault Nurse Examiner webpage, http://www.illinoisattorneygeneral.gov/victims/sane.html (accessed June 24, 2010).

fully SANE certified (that is, have received both classroom and clinical training), and of these, not all are necessarily practicing and most are not full-time SANEs.[65] National experts estimate that to adequately meet the needs of a community, there should be an average of 15 full-time SANEs per 1 million people, although many jurisdictions around the country do not meet this recommendation.[66] This means Illinois, with a population of nearly 13 million, would require 195 full-time SANEs, or about twice the estimated number fully trained and certified in the past six years.[67] However, the 15 nurses to 1 million residents recommended ratio assumes that nurses are accessible to victims; considering the large rural population in Illinois, the required number of SANEs is probably higher. A significant obstacle for nurses who wish to obtain SANE certification in Illinois is that they are not reimbursed for the cost of clinical training nor paid for their time away from work.[68] Numerous sexual assault experts and nurse examiners told Human Rights Watch that the lack of hospitals support for sexual assault nurse examiners is the primary cause of the shortage of SANEs in the state.

SANE programs were established, in part, to address the logistical and emotional difficulties victims face when reporting their rape to a hospital emergency room.[69] The lack of SANEs can have a negative impact on a victim's experience at the hospital. An Illinois rape victim told Human Rights Watch of arriving at a hospital in the hours after her rape. The emergency room doctor came into the room and began questioning the rape victim about the details of her rape. When she told him the rape occurred while on a date, the doctor questioned whether there was any need for him to collect a rape kit: "I don't want to waste my time if people can't agree whether or a not a rape even occurred here."[70]

Untrained ER personnel's inexperience with collecting a rape kit can be just as traumatizing to rape victims as their judgmental attitudes. A rape victim advocate told Human Right Watch about emergency room doctors who have never seen a rape kit before, nor

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[65] Human Rights Watch telephone interview with Shannon Liew, RN-BSN, SANE coordinator, Office of the Illinois Attorney General, Chicago, Il, January 6, 2010.

[66] Human Rights Watch telephone interview with Joanne Archambault, president and training director, SATI, inc., Addy, WA, November 7, 2009.

[67] US Census Bureau, "State and County Quick Facts: Illinois," http://quickfacts.census.gov/qfd/states/17000.html (accessed February 16, 2010).

[68] Ibid.

[69] Linda Ledray, "Counseling victims of rape: Their needs and a new treatment approach," in HJ Scheider, ed., *The victim in international perspective* (Berlin: Walter de Gruyter, 1982); Diane DiNitto et al., "After rape: Who should examine rape survivors?" *American Journal of Nursing*, vol. 86, no. 5, May 1986, pp. 538-540; Linda E. Ledray, "SANE Development and Operation Guide, Office for Victims of Crime," Office of Justice Programs, US Department of Justice, Washington, DC, 1999.

[70] Human Rights Watch telephone interview with rape victim, northern Illinois, August 21, 2009.

administered one.[71] One doctor read out loud the instructions on the rape kit package as he performed each step.[72] National research has shown that rape victims who are treated by emergency room doctors and nurses are more likely to characterize their experience as "upsetting" and "distressing," and report feeling "re-victimized" during the rape kit examination.[73]

The shortage of sexual assault nurse examiners can have an impact on the successful collection and testing of rape kit evidence. In Illinois, crime lab personnel, prosecutors, and police told Human Rights Watch of instances in which the way the rape kit evidence was collected negatively impacted progress of the case. A prosecutor told Human Rights Watch of a case where an emergency room doctor failed to collect DNA swabs from every place where the victim indicated the perpetrator had ejaculated, and instead only swabbed her vaginal area. The prosecutor told us,

> The victim claimed that the suspect had ejaculated in her belly button. The suspect … denied ejaculating in the victim's belly button. I had hoped to test a swab taken from the victim's belly button in order to back up the victim's version of events and discredit the suspect at trial.… [T]he lab informed me that the doctor had not swabbed the victim's belly button … it was incredibly frustrating to move forward without crucial evidence.[74]

In a letter to Human Rights Watch, the DNA criminalists in charge of sex crimes at the DuPage County Crime Laboratory noted,

> All of our policies [on sexual assault kit testing] assure that sexual assault evidence submitted to [the lab] will be analyzed with the utmost of care. What cannot be assured, however, is that all sexual assault evidence will be collected in the best manner possible, or even that it will be collected at all.… Many hospitals in DuPage County are not adequately staffed with SANEs. Some hospitals have SANEs but not on all shifts.… If the emergency room personnel are not adequately trained to recover and preserve this evidence,

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[71] Human Rights Watch telephone interview with rape victim, Springfield, IL, October 9, 2009.

[72] Ibid.

[73] Rebecca Campbell et al., "Preventing the 'Second Rape': Rape Survivors' Experiences with Community Service Providers," *Journal of Interpersonal Violence*, vol. 16, no. 12, 2001, pp. 1239-1259.

[74] Human Rights Watch telephone interview with prosecutor, central Illinois, October 22, 2009.

> analysis of that evidence and later arrest and prosecution of a sexual predator may be compromised.[75]

A shortage of SANEs in Illinois may be one reason why only 31 percent of reported rapes lead to the collection of a rape kit in Illinois. National studies have shown that the availability of SANEs impacts the criminal justice process. For example, a 2009 National Institute of Justice study found that rape cases in which a sexual assault nurse examiner collected the evidence had a greater chance of leading to successful prosecution.[76]

Once a rape kit is collected from a victim who reports the crime to the police, the rape kit will be taken into police custody (booked into police evidence) for storage before testing. Many rape victims assume their rape kit will be tested, but Human Rights Watch research in Illinois indicates thousands of rape kits in police storage were never sent to the crime lab for testing.

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[75] Letter to Human Rights Watch from Tamara A. Camp, forensic scientist, DuPage County Criminal Laboratory, June 30, 2009.

[76] Rebecca Campbell et al., "Systems Change Analysis of SANE Programs: Identifying the Mediating Mechanisms of Criminal Justice System Impact," no. 226497, prepared for the United States Department of Justice, January 2009, http://www.ncjrs.gov/pdffiles1/nij/grants/226497.pdf (accessed February 16, 2010).

VI. Untested Rape Kits in Illinois Police Storage Facilities

> I would guess that the vast majority of kits I have collected have never been sent for testing. Or, at least, the results were never used, because if they were, I would have been called upon to testify about how I collected the kit. In my 10 years doing this work, I have collected at least 500 kits and only heard back from the police about one of the rape kits.
> —sexual assault nurse examiner in Illinois[77]

> The day after my rape kit was collected I went to the police for my interview. The police officer spent the whole interview asking me about my character, my actions that night. He didn't seem interested in hearing about my rapist's behavior. At the end of the interview, he told me he didn't think I had a very strong case. I called for months afterwards to see if they were going to test the rape kit, but I never heard back.
> —rape survivor in Illinois[78]

> We want every one of our rape kits tested. Every kit is evidence, and has so much potential to help a case—potential that you don't even realize until you get the test results back.
> —Tom Byrne, chief of detectives, Chicago Police[79]

As of May 2010 there were at least 3,926 rape kits in Illinois storage facilities that law enforcement confirmed were not tested, based on public records data sent to Human Rights Watch from 149 agencies. This number may be higher, as it only represents those rape kits where law enforcement could confirm their status. There are an additional 2,094 kits in storage that law enforcement could not confirm whether they were tested or untested. The vast majority of these untested rape kits were never requested for testing. But in some instances, the rape kits in police storage were sent for testing, but returned from the crime lab untested because the case was closed by the state's attorney's office.

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[77] Human Rights Watch telephone interview with sexual assault nurse examiner, Peoria, IL, August 11, 2009.

[78] Human Rights Watch telephone interview with rape survivor, Aurora, IL, April 2, 2010.

[79] Human Rights Watch telephone interview with Chief of Detectives Tom Byrne, January 15, 2010.

Most individual police department policies that Human Rights Watch reviewed in the course of its research for this report still allowed detective or department discretion in deciding which rape kits to send to the crime lab, a practice which will be remedied by the 2010 Sexual Assault Evidence Submission Act's requirement that all rape kits collected by police be sent to the crime lab for testing within 10 days of collection.[80]

Law enforcement gave Human Rights Watch various reasons for not sending rape kits to the lab for testing. By far the most common reason was the belief that testing was not necessary in an "acquaintance rape"—when the identity of the alleged perpetrator was known to the victim no matter the history, or lack thereof, in their relationship. Law enforcement held this view despite the possibility that the collected evidence could connect a suspect to multiple rape kits and establish a serial rapist, discredit the suspect's version of events and affirm the victim's version of events, or exonerate innocent suspects. As one police official told Human Rights Watch, "We don't need the DNA test when we know who the suspect is already without it. It would be a waste of everyone's time and money."[81]

Police also told Human Rights Watch they would not submit a rape kit unless they thought they had a "winnable" case on their hands. For example, one police official told Human Rights Watch in explaining why his department did not send every rape kit for testing, "I don't know if you know about our community but we are a university community—98 percent to 99 percent of criminal assaults involve acquaintances and end up without prosecution. That may be where the issue is—a consent issue. A lot of our sexual assault reports [involve sexual assaults that] start out as consensual sex but then turn non-consensual."[82]

Other officers have pointed out to Human Rights Watch that victim credibility is often the key issue in deciding how to move a case forward, including whether to submit the rape kit for testing. As one officer told Human Rights Watch "In my experience, many rape victims are lying. They come forward to hide from their parents that they had sex with their boyfriend, or they want attention. In other cases, the victim's story doesn't make sense, or maybe it does but there is no way a jury is going to believe her over the suspect."[83]

Backlogs at the state crime laboratory may also influence officers not to send in rape kits. Some officers told Human Rights Watch that they don't submit the rape kit for testing

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[80] Sexual Assault Evidence Submission Act of 2010, http://www.ilga.gov/legislation/96/SB/PDF/09600SB3269lv.pdf, sec. 10.

[81] Human Rights Watch telephone interview with police official, Galesburg, IL, November 4, 2009.

[82] Human Rights Watch telephone interview with police officer, southern Illinois, January 26, 2010.

[83] Human Rights Watch telephone interview with police officer, central Illinois, January 25, 2010.

because they know it could be months, if not years, before it gets tested. An investigative detective told Human Rights Watch, "If the evidence is absolutely crucial to making the case, I will beg the crime lab to test the kit, and put it closer to the top of the pile. But if I am not sure the rape kit test will add anything to the case, I will save up my favors with the crime lab for another case."[84]

Not sending a rape kit to the crime lab for testing can have a significant impact on a victim's experience with the criminal justice system. One victim told Human Rights Watch, "I feel so stupid for going to the police. What made me think they would take my case seriously? I would feel better if I had just kept my rape to myself."[85] Even if law enforcement decides not to test a rape kit, communicating that decision to the victim in a timely and informative way may ease the victim's experience. As one rape victim told Human Rights Watch, "They may have had a reason not to test my kit, but I wouldn't know because I didn't get any information about my case, much less information about why certain investigative decisions were made. Just knowing the reasoning behind the police's decision not to move my case forward may have helped me a little."[86]

Even in instances where the police do move an investigation forward, not sending the rape kit for testing to the crime lab in a timely way can have negative consequences for the victim. Human Rights Watch spoke with a family member of a 7-year-old child who was repeatedly raped by her stepfather over a period of two years.[87] When she reported what was happening to her mother, she took the girl to the hospital and the nurse noted the presence of semen. If the police had tested the rape kit and found the stepfather's semen, the state could immediately move forward with rape charges, as there is no defense for statutory rape. Although the police were moving the investigation forward, and charges were eventually filed against the stepfather, the rape kit sat untested in police storage for more than a year. During that time, the victim's family had gone to family court to obtain an order of protection against the stepfather. In the absence of the rape kit evidence as proof of the stepfather's crime, the victim had to testify at the hearing, "which was a very difficult experience for her," a family member told Human Rights Watch.[88] The daughter also seemed to feel that the rape kit evidence was important. "Although we believed her story, I think she was looking for some outside evidence that what she was saying was true. The stepfather was denying

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[84] Human Rights Watch telephone interview with police detective, Joliet, IL, October 12, 2009.

[85] Human Rights Watch telephone interview with rape victim, Evanston, IL, November 6, 2009.

[86] Human Rights Watch telephone interview with rape victim, Chicago, IL, April 4, 2010.

[87] Human Rights Watch telephone interview with rape victim family member, Bloomington, IL, June 16, 2009.

[88] Ibid.

anything had happened, and the daughter seemed to grow increasingly anxious to have proof in her case that what she knew happened had really happened."[89] After a year, the police finally sent the rape kit to the lab for testing, and the test results showed that the stepfather had raped the child.

The large number of untested rape kits in Illinois storage facilities, and the lack of knowledge on the part of most law enforcement agencies of their true number, make it especially important that Illinois's response to its rape kit backlog is part of a comprehensive, specific, state-wide plan that is made known to the public and subject to significant monitoring and oversight. The 2010 Sexual Assault Evidence Submission Act, if effectively enforced, will provide such a plan and result in each of these untested rape kits, as well as every future rape kit booked into police evidence, being sent to Illinois state crime lab system (or other designated laboratory) for testing.[90] But as Human Rights Watch's research demonstrates, the crime lab already has its own backlog. The arrival of backlogged kits from police departments will exacerbate the problem. The crime lab simply does not currently have the capacity or resources to test every booked rape kit in Illinois in a timely manner.

[89] Ibid.

[90] Sexual Assault Evidence Submission Act of 2010, http://www.ilga.gov/legislation/96/SB/PDF/09600SB3269lv.pdf.

VII. Untested Rape Kits in Illinois Crime Labs

> In my experience, I have seen the fact of delays at the crime lab deter police even more from sending in a rape kit for testing. They want the case resolved, and if they know the rape kit evidence won't come back for a year, they would rather not wait to close a case for that long. I have also seen police use the fact of delays as an excuse to my clients who want their rape kit tested. They tell them: "Even if we send in the kit, you won't get a result back for a year, so why not just try putting the rape behind you instead?"
> —Rape treatment provider, southwest Illinois[91]

Once a police officer has requested that a rape case be sent for testing, it will be sent to one of the eight Forensic Biology/DNA casework laboratories operated by the Illinois State Police and placed in a queue for testing.[92]

While the vast majority of untested rape kits in Illinois currently reside in police storage facilities, a second backlog exists in police crime lab facilities where rape kits are submitted for DNA analysis, but wait, often for a very long time, to be tested. These delays have significant impacts on the criminal case, and delay justice for rape victims. As one law enforcement official put it, "I have seen rape cases delayed by over a year while we waited for a test result. This means we lose momentum in the case—witnesses move and can't be tracked down, the trial start date has to be continually pushed back, and sometimes witnesses grow weary of the toll the case is taking on them and start to wonder if they want to be part of it anymore."[93]

Rape kit testing delays appear to be caused primarily by a lack of capacity at the state crime labs to handle each DNA request they receive, and secondarily by the state's ineffectiveness in addressing the needs of the laboratory system. The 2009 Management and Program Audit of the Illinois State Police's Division of Forensic Services ("Auditor General Report"), found that the number of total backlogged cases (including all types of cases and forensic analyses) at the state's crime labs increased more than 200 percent from 2002 to 2007,

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[91] Human Rights Watch telephone interview with rape victim advocate, southwestern Illinois, May 12, 2009.

[92] Human Rights Watch telephone interview with principals at the Illinois State Police, Springfield, IL, June, 19, 2009.

[93] Human Rights Watch telephone interview with law enforcement official, Naperville, IL, January 11, 2010.

from 3,426 to 10,387 cases.[94] During that same time period, the number of forensic scientists at the lab actually declined by 3 percent.[95]

Illinois is not alone in its struggle with crime lab backlogs. Crime labs across the country are inundated with DNA testing requests. The most recent federal census of publicly funded crime laboratories—released in 2008 using data collected in 2005—shows that during 2005, public crime labs saw their DNA backlog double from the beginning to the end of the year, and that public crime labs across the country would need to increase their DNA staff by 73 percent to keep up with DNA testing needs and requests.[96]

While crime labs in Illinois have backlogs in nearly every kind of criminal case, the backlog of evidence in rape cases is particularly pronounced with data showing that the crime lab cannot keep up with current rape kit testing demand, much less the increase in demand that will be caused by the 2010 Sexual Assault Evidence Submission Act. Once the Illinois State Police submit their rape kit reduction plan as required by the 2010 law,[97] it is imperative that legislators approve the funding necessary to address the lab's increased capacity needs.

According to data the Illinois State Police provided to Human Rights Watch, as of February 2009 there were approximately 622 Forensic Biology cases (that is, all offenses including sexual assault) waiting for testing in the state crime labs.[98] In each year from 2001 through 2008, the ISP crime labs received anywhere from 2800 to 4400 rape cases, or an average of 230 to 360 rape cases per month.[99] According to the ISP, they have the capacity to analyze about 277 cases per month, which means every month up to 83 cases may be added to the testing backlog.[100] This struggle to keep up with testing is occurring even though the Illinois State Police crime labs may not be receiving the vast majority of kits in law enforcement custody.

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[94] Illinois Auditor General, "Management and Program Audit of the Illinois State Police's Division of Forensic Services" ("Illinois Auditor General report"), March 2009, http://www.auditor.illinois.gov/Audit-Reports/Performance-Special-Multi/Performance-Audits/09-ISP-Labs-Mgmt-Pgm-Full.pdf (accessed May 14, 2010), p. i.

[95] Ibid.

[96] Matthew R. Durose, "Census of Publicly Funded Crime Laboratories, 2005," Office of Justice Programs, Department of Justice, July 2008, http://bjs.ojp.usdoj.gov/content/pub/pdf/cpffcl05.pdf (accessed June 23, 2010), pp. 1-2.

[97] Sexual Assault Evidence Submission Act of 2010, http://www.ilga.gov/legislation/96/SB/PDF/09600SB3269lv.pdf.

[98] Illinois State Police FOIA response to Human Rights Watch, April 1, 2009.

[99] Ibid.

[100] Ibid.

The good news is that the Illinois State Police have made progress in reducing the overall backlog of cases at their crime laboratories. As of April 30, 2010, the ISP laboratory system reported a total statewide case backlog of 6,197 cases, down significantly from the 10,387 cases cited in the 2009 Illinois Auditor General Report. These backlogs include all types of cases, not just sexual assault cases. The average age of DNA cases worked in April 2010 was 71.2 days. These backlogs are being reduced despite increased case submissions of 5,800 Forensic Biology cases and 4,900 total DNA cases per year. The elimination of the backlog has happened in part because of increased staffing at the labs, increased use of overtime for employees, and the implementation of efficiency measures.[101]

Nonetheless, as far as Human Rights Watch can tell, the state does not track the average amount of time it takes for a rape kit to be tested, from the moment a kit is sent to the lab to when the law enforcement receive the test results. Law enforcement officials often describe waiting a year for test results, and some reported delays of up to two years.

These delays can take a toll on all stages of a criminal sexual assault case. In a survey of local police departments conducted in 2007, 46 percent thought that the Illinois State Police crime lab's lack of timeliness "negatively impacted a case in the past five years."[102] In the worst instances, the results were so delayed that the case could not be pursued. For example, one law enforcement official recounted, "I have received lab reports in which a suspect DNA profile was identified after the statute of limitations passed. It does little good to identify a suspect after the period which prosecution might begin."[103] In other interviews conducted by Human Rights Watch, law enforcement praised the Illinois State Police crime laboratories. As one officer told us, "They do their best to meet the testing deadlines I request of them, and if they can't, they do an excellent job of communicating the situation and helping me understand the reasons for any delays. But for the most part, there are not delays of the kind that jeopardize my investigations."[104]

Some law enforcement officials do not want to send—and some state's attorneys do not want to assess—a sexual assault case for felony charges review until they have the crime lab results back. Law enforcement agencies are also reluctant to make an arrest or charging decision until the DNA results are back. This can delay movement in the case by months,

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[101] Human Rights Watch e-mail from Illinois State Police, June 8, 2010.

[102] Illinois Auditor General Report, http://www.auditor.illinois.gov/Audit-Reports/Performance-Special-Multi/Performance-Audits/09-ISP-Labs-Mgmt-Pgm-Full.pdf, p. viii. (bold in original).

[103] Ibid., p. 61.

[104] Human Rights Watch telephone interview with law enforcement officer, June 10, 2009.

and even years. As one sheriff noted in the Auditor General Report, "By the time almost any analysis has been completed and we received the report the criminal case has turned into a cold case. Our average [wait time for crime lab test] results from the past year is at 8 to 12 months."[105]

Testing delays can impact the start of trial, and perhaps jeopardize legal proceedings. According to a state's attorney, "We have already delayed the start of [a] trial four times, as we are waiting on the [rape] kit results from the lab. The judge has threatened to declare a mistrial if there is one more delay, and I am worried that the testing delay is going to derail our case."[106]

While the lack of crime lab capacity is a significant cause of rape kit testing delays, the ISP's ability to manage its crime laboratories also contributes to the rape kit backlog. For example, the 2009 Illinois Auditor General Report found, among other things, that the ISP let $19.3 million in state funds for forensic testing and $1.3 million in 21 federal grants lapse between fiscal year 2002 through fiscal year 2007; specifically, of $1.5 million in grants received through 2008 for the explicit purpose of testing sexual assault evidence, the Auditor General concluded that the ISP failed to use more than $246,000, while the Illinois State Police disagreed and stated that they only failed to use $48,800.[107] The audit also found that the ISP transferred $6 million of those funds to other non-forensic related purposes. In the same time period, the number of backlogged cases at the ISP increased over 200 percent. Additionally, the Auditor General Report found that the "ISP has **underreported backlogged DNA cases** … providing inaccurate and misleading information."[108]

While the Auditor General Report suggests that the Illinois State Police has struggled to manage its crime labs effectively, principals with the ISP told Human Rights Watch the department disagreed with many of the points raised in the report. They have taken steps to improve tracking of grant money and have increased transparency regarding the nature and scope of their DNA backlogs.[109]

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[105] Illinois Auditor General Report, http://www.auditor.illinois.gov/Audit-Reports/Performance-Special-Multi/Performance-Audits/09-ISP-Labs-Mgmt-Pgm-Full.pdf, p. 62.

[106] Human Rights Watch telephone interview with prosecutor, central Illinois, February 13, 2010.

[107] Illinois Auditor General Report, http://www.auditor.illinois.gov/Audit-Reports/Performance-Special-Multi/Performance-Audits/09-ISP-Labs-Mgmt-Pgm-Full.pdf, p. xix.

[108] Ibid., p. i. (bold in original).

[109] Human Rights Watch telephone interview with principals of the Illinois State Police, Springfield, IL, June 19, 2009.

Enhancing the ISP crime lab capacity for more timely and expansive rape kit testing will require more state and federal funding. The 2010 Sexual Assault Evidence Submission Act requires that the ISP submit a plan to document how it will eliminate the rape kit backlog and handle the influx of rape kits sent to them.[110] Once the plan is submitted, the ISP should advocate for these resources, and the legislature should approve the funding necessary to eliminate the rape kit backlog and delays in testing new kits. Illinois is experiencing a significant financial crisis, but public safety policies that will help apprehend violent offenders and prevent future rapes are a necessary investment and a core government responsibility.

Achieving this goal will require not just political will to appropriate the necessary funding, but oversight to ensure that all funds available are used effectively and efficiently toward the testing of rape kits. In order to make sure that all money appropriated to the ISP crime labs for rape kit testing is spent correctly, the legislature should require the ISP crime labs to submit a detailed plan for how they will eliminate their rape kit backlog and increase testing capabilities, and a legislative task force should exercise oversight over their progress.

If the legislature does not provide the Illinois State Police with the resources necessary to test every booked rape kit, then the state must establish uniform, objective, statutory procedures by which rape kit testing should proceed in the state. The law should make clear that a rape case cannot be closed by the police or rejected by the state's attorney unless any rape kit evidence connected to the case is tested. The procedures should allow law enforcement discretion not to test a rape kit if the case will proceed regardless of the kit test result. This would ensure that law enforcement take into account a certain amount of investigative information before making a final decision on a rape case.

[110] Sexual Assault Evidence Submission Act of 2010, http://www.ilga.gov/legislation/96/SB/PDF/09600SB3269lv.pdf.

VIII. Conclusion

The number of untested rape kits in Illinois points to larger concerns with the way Illinois handles rape kits and rape investigations. For rape victims to access justice, policymakers and law enforcement officials in Illinois should ensure that all booked rape kits are sent for testing as required by the 2010 Sexual Assault Evidence Submission Act. But their responsibility does not end there. Law enforcement personnel, in collaboration with rape treatment providers and with the support of elected officials, need to create systems to ensure that every reported rape case is thoroughly investigated and all leads are followed so that it is possible to identify and arrest those responsible. As one rape treatment provider told Human Rights Watch, "It's time to show rape victims that we value what they went through to have a rape kit collected. It's an invasive process that we ask nearly every rape victim to have done in the immediate aftermath of perhaps the most traumatic event of their life. The least we can do is test it."[111]

The 2010 Sexual Assault Evidence Submission Act should ensure that every booked rape kit is sent to the Illinois State Police crime laboratory—or other designated laboratory—for testing. When it goes into effect, Illinois will be the first state in the country to attempt to comprehensively address its rape kit backlog. The new law provides Illinois with the possibility of eliminating its rape kit backlog entirely. To ensure justice for rape victims, Illinois must appropriate the funds and provide the stringent oversight necessary to realize its goal of testing all rape kits in a timely, effective manner.

[111] Human Rights Watch interview with Sharmili Majmudar, rape treatment provider, Chicago, IL, May 5, 2009.

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Our dedicated interns, who worked long hours out of the goodness of their hearts, are responsible for helping organize our rape kit data: Shani Adess, Nadia Ahmad, Megan Briskman, Julia Brown-Bernstein, Lendon Ebbels, Milli Hansen, Max Lockie, Rosann Mariappuram, Cate Miller, and Demyia Pridgen. We could not have written this report without their help.

External reviews of this report were conducted by the Illinois State Police, in particular Arlene Hall and Scott Giles; the Illinois Office of the Attorney General, in particular Cara Smith, Mary Anderson, and Wendy Cohen; and the Illinois Coalition Against Sexual Assault, in particular Polly Poskin and Lyn Schollet. Special thanks to Polly and Lyn for helping us navigate the sexual assault community in Illinois, and Shannon Liew, coordinator of the Crime Victim Services Division at the Illinois Attorney General, who gave us facility access to document the process of collecting a rape kit. Also thanks to the Illinois State Police for giving us access to their Springfield and Chicago facilities.

Two incredible teams of pro bono attorneys and their staff in Chicago helped us obtain rape kit data from certain jurisdictions. From DLA Piper: Gina Gamal, Annie Geraghty Helms, Adam

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Finally, and most importantly, we are thankful for the countless survivors of sexual assault who shared their stories with us.

Appendix: Complete Response Listings

Jurisdiction	Type	FOIA Response	Data Provided
Albion	City Police Department	No Response	No Data Provided
Aledo	City Police Department	No Response	No Data Provided
Alton	City Police Department	Responded	Partial Data Provided
Anna	City Police Department	No Response	No Data Provided
Aurora	City Police Department	Responded	Partial Data Provided
Batavia	City Police Department	Responded	No Data Provided
Beardstown	City Police Department	No Response	No Data Provided
Belleville	City Police Department	Responded	Complete Data Provided
Belvidere	City Police Department	Responded	No Data Provided
Berwyn	City Police Department	Responded	Complete Data Provided
Bloomington	City Police Department	Responded	Partial Data Provided
Blue Island	City Police Department	Responded	No Data Provided
Bolingbrook	City Police Department	Responded	Complete Data Provided
Burbank	City Police Department	Responded	Complete Data Provided
Cairo	City Police Department	Responded	Partial Data Provided
Calumet	City Police Department	No Response	No Data Provided
Canton	City Police Department	Responded	Complete Data Provided
Carbondale	City Police Department	Responded	Partial Data Provided
Carlinville	City Police Department	Responded	Complete Data Provided
Carmi	City Police Department	Responded	Complete Data Provided
Centralia	City Police Department	Responded	Complete Data Provided
Centralia—Clinton	City Police Department	No Response	No Data Provided
Centralia—Macon	City Police Department	No Response	No Data Provided
Champaign	City Police Department	Responded	Partial Data Provided
Charleston	City Police Department	Responded	Complete Data Provided
Chester	City Police Department	Responded	Partial Data Provided
Chicago	City Police Department	Responded	No Data Provided
Chicago Heights	City Police Department	Responded	Complete Data Provided
Cicero	City Police Department	No Response	No Data Provided
Clinton	City Police Department	Responded	Complete Data Provided
Collinsville	City Police Department	Responded	Partial Data Provided

Jurisdiction	Type	FOIA Response	Data Provided
Columbia	City Police Department	No Response	No Data Provided
Country Club Hills	City Police Department	No Response	No Data Provided
Crest Hill	City Police Department	Responded	Partial Data Provided
Crystal Lake	City Police Department	Responded	Complete Data Provided
Danville	City Police Department	Responded	No Data Provided
Darien	City Police Department	Responded	Complete Data Provided
Decatur	City Police Department	No Response	No Data Provided
DeKalb	City Police Department	Responded	Complete Data Provided
Des Plaines	City Police Department	Responded	Partial Data Provided
Dixon	City Police Department	Responded	Complete Data Provided
Downers Grove	City Police Department	Responded	Partial Data Provided
Du Quoin	City Police Department	Responded	Complete Data Provided
East Moline	City Police Department	Responded	No Data Provided
East Peoria	City Police Department	Responded	Complete Data Provided
East St. Louis	City Police Department	No Response	No Data Provided
Edwardsville	City Police Department	No Response	No Data Provided
Effingham	City Police Department	Responded	Complete Data Provided
Elgin	City Police Department	Responded	Partial Data Provided
Elmhurst	City Police Department	Responded	Partial Data Provided
Evanston	City Police Department	Responded	Complete Data Provided
Fairfield	City Police Department	Responded	Partial Data Provided
Fairview Heights	City Police Department	Responded	Complete Data Provided
Flora	City Police Department	Responded	Complete Data Provided
Freeport	City Police Department	Responded	Complete Data Provided
Freeport	City Police Department	Responded	Complete Data Provided
Galena	City Police Department	Responded	Complete Data Provided
Galesburg	City Police Department	Responded	Complete Data Provided
Geneva	City Police Department	Responded	Complete Data Provided
Golconda	City Police Department	No Response	No Data Provided
Granite	City Police Department	No Response	No Data Provided
Granville	City Police Department	Responded	Complete Data Provided
Greenville	City Police Department	Responded	Complete Data Provided
Hamilton	City Police Department	Responded	Partial Data Provided
Hardin	City Police Department	Responded	Complete Data Provided

Jurisdiction	Type	FOIA Response	Data Provided
Harrisburg	City Police Department	Responded	No Data Provided
Harvard	City Police Department	Responded	Partial Data Provided
Harvey	City Police Department	No Response	No Data Provided
Havana	City Police Department	Responded	Partial Data Provided
Henry	City Police Department	Responded	Partial Data Provided
Herrin	City Police Department	Responded	Complete Data Provided
Hickory Hills	City Police Department	No Response	No Data Provided
Highland Park	City Police Department	Responded	Complete Data Provided
Jacksonville	City Police Department	Responded	No Data Provided
Jerseyville	City Police Department	Responded	Partial Data Provided
Joliet	City Police Department	Responded	Complete Data Provided
Kankakee	City Police Department	Responded	No Data Provided
Kewanee	City Police Department	Responded	No Data Provided
Lake Forest	City Police Department	No Response	No Data Provided
Lawrenceville	City Police Department	Responded	Complete Data Provided
Lincoln	City Police Department	Responded	Partial Data Provided
Litchfield	City Police Department	Responded	Partial Data Provided
Lockport	City Police Department	Responded	Complete Data Provided
Loves Park	City Police Department	Responded	Complete Data Provided
Macomb	City Police Department	Responded	Complete Data Provided
Marion	City Police Department	Responded	Partial Data Provided
Markham	City Police Department	Responded	Partial Data Provided
Marshall	City Police Department	Responded	Partial Data Provided
Matteson	City Police Department	Responded	Partial Data Provided
Mattoon	City Police Department	Responded	Complete Data Provided
McHenry	City Police Department	Responded	Complete Data Provided
McLeansboro	City Police Department	No Response	No Data Provided
Metropolis	City Police Department	Responded	Partial Data Provided
Moline	City Police Department	Responded	Partial Data Provided
Monmouth	City Police Department	Responded	Partial Data Provided
Monticello	City Police Department	Responded	Partial Data Provided
Morris	City Police Department	No Response	No Data Provided
Mounds	City Police Department	No Response	No Data Provided
Mount Carmel	City Police Department	Responded	Complete Data Provided

Jurisdiction	Type	FOIA Response	Data Provided
Mount Sterling	City Police Department	Responded	Partial Data Provided
Mount Vernon	City Police Department	Responded	Partial Data Provided
Naperville	City Police Department	Responded	Partial Data Provided
Nashville	City Police Department	No Response	No Data Provided
Neoga	City Police Department	Responded	Complete Data Provided
Newton	City Police Department	Responded	Partial Data Provided
North Chicago	City Police Department	Responded	Complete Data Provided
Northlake	City Police Department	Responded	No Data Provided
Oak Forest	City Police Department	Responded	Partial Data Provided
Oak Park	City Police Department	Responded	Partial Data Provided
O'Fallon	City Police Department	Responded	Partial Data Provided
Olney	City Police Department	Responded	Partial Data Provided
Oquawka—Henderson	City Police Department	No Response	No Data Provided
Ottawa	City Police Department	No Response	No Data Provided
Palos Heights	City Police Department	Responded	Partial Data Provided
Palos Hills	City Police Department	Responded	No Data Provided
Paris	City Police Department	Responded	Complete Data Provided
Park Ridge	City Police Department	Responded	Complete Data Provided
Paxton	City Police Department	Responded	Partial Data Provided
Pekin	City Police Department	Responded	Partial Data Provided
Peoria	City Police Department	Responded	Partial Data Provided
Peru	City Police Department	Responded	Partial Data Provided
Petersburg	City Police Department	Responded	Partial Data Provided
Pittsfield	City Police Department	No Response	No Data Provided
Plano	City Police Department	Responded	Partial Data Provided
Pontiac	City Police Department	Responded	Partial Data Provided
Princeton	City Police Department	Responded	Partial Data Provided
Prospect Heights	City Police Department	Responded	Complete Data Provided
Quincy	City Police Department	Responded	Partial Data Provided
Robinson	City Police Department	Responded	Complete Data Provided
Rochelle	City Police Department	Responded	Partial Data Provided
Rock Island	City Police Department	Responded	Partial Data Provided
Rockford	City Police Department	Responded	Partial Data Provided
Rolling Meadows	City Police Department	Responded	Complete Data Provided

Jurisdiction	Type	FOIA Response	Data Provided
Rosiclare	City Police Department	No Response	No Data Provided
Rushville	City Police Department	Responded	Complete Data Provided
Savanna	City Police Department	No Response	No Data Provided
Shawneetown	City Police Department	No Response	No Data Provided
Shelbyville	City Police Department	No Response	No Data Provided
Springfield	City Police Department	Responded	Partial Data Provided
St. Charles	City Police Department	Responded	No Data Provided
Sterling	City Police Department	Responded	Partial Data Provided
Streator	City Police Department	Responded	No Data Provided
Sullivan	City Police Department	No Response	No Data Provided
Sycamore	City Police Department	Responded	Complete Data Provided
Taylorville	City Police Department	No Response	No Data Provided
Troy	City Police Department	No Response	No Data Provided
Tuscola	City Police Department	Responded	Complete Data Provided
Urbana	City Police Department	Responded	No Data Provided
Vandalia	City Police Department	Responded	No Data Provided
Vienna	City Police Department	Responded	No Data Provided
Warrenville	City Police Department	Responded	Partial Data Provided
Washington	City Police Department	No Response	No Data Provided
Watseka	City Police Department	Responded	Complete Data Provided
Waukegan	City Police Department	Responded	Partial Data Provided
West Chicago	City Police Department	No Response	No Data Provided
West Frankfort	City Police Department	No Response	No Data Provided
Wheaton	City Police Department	No Response	No Data Provided
White Hall	City Police Department	No Response	No Data Provided
Winchester	City Police Department	No Response	No Data Provided
Wood Dale	City Police Department	No Response	No Data Provided
Wood River	City Police Department	No Response	No Data Provided
Woodstock	City Police Department	Responded	No Data Provided
Wyoming	City Police Department	No Response	No Data Provided
Yorkville	City Police Department	Responded	Partial Data Provided
Zion	City Police Department	No Response	No Data Provided
Adams	County Sheriff's Department	No Response	No Data Provided
Alexander	County Sheriff's Department	No Response	No Data Provided

Jurisdiction	Type	FOIA Response	Data Provided
Bond	County Sheriff's Department	Responded	Partial Data Provided
Boone	County Sheriff's Department	Responded	Partial Data Provided
Brown	County Sheriff's Department	No Response	No Data Provided
Bureau	County Sheriff's Department	Responded	Partial Data Provided
Calhoun	County Sheriff's Department	No Response	No Data Provided
Carroll	County Sheriff's Department	Responded	Complete Data Provided
Cass	County Sheriff's Department	Responded	Complete Data Provided
Champaign	County Sheriff's Department	Responded	Complete Data Provided
Christian	County Sheriff's Department	Responded	Partial Data Provided
Clark	County Sheriff's Department	Responded	Complete Data Provided
Clay	County Sheriff's Department	Responded	Complete Data Provided
Clinton	County Sheriff's Department	Responded	Partial Data Provided
Coles	County Sheriff's Department	Responded	Partial Data Provided
Cook	County Sheriff's Department	No Response	No Data Provided
Crawford	County Sheriff's Department	Responded	No Data Provided
Cumberland	County Sheriff's Department	No Response	No Data Provided
De Witt	County Sheriff's Department	No Response	No Data Provided
DeKalb	County Sheriff's Department	Responded	No Data Provided
Douglas	County Sheriff's Department	Responded	Complete Data Provided
DuPage	County Sheriff's Department	Responded	Complete Data Provided
Edgar	County Sheriff's Department	No Response	No Data Provided
Edwards	County Sheriff's Department	No Response	No Data Provided
Effingham	County Sheriff's Department	No Response	No Data Provided
Fayette	County Sheriff's Department	No Response	No Data Provided
Ford	County Sheriff's Department	Responded	Complete Data Provided
Franklin	County Sheriff's Department	No Response	No Data Provided
Fulton	County Sheriff's Department	Responded	Complete Data Provided
Gallatin	County Sheriff's Department	No Response	No Data Provided
Greene	County Sheriff's Department	Responded	Complete Data Provided
Grundy	County Sheriff's Department	Responded	Complete Data Provided
Hamilton	County Sheriff's Department	No Response	No Data Provided
Hancock	County Sheriff's Department	No Response	No Data Provided
Hardin	County Sheriff's Department	No Response	No Data Provided
Henderson	County Sheriff's Department	Responded	No Data Provided

Jurisdiction	Type	FOIA Response	Data Provided
Henry	County Sheriff's Department	Responded	No Data Provided
Iroquois	County Sheriff's Department	Responded	Complete Data Provided
Jackson	County Sheriff's Department	Responded	No Data Provided
Jasper	County Sheriff's Department	No Response	No Data Provided
Jefferson	County Sheriff's Department	Responded	Partial Data Provided
Jersey	County Sheriff's Department	No Response	No Data Provided
Jo Daviess	County Sheriff's Department	Responded	Partial Data Provided
Johnson	County Sheriff's Department	No Response	No Data Provided
Kane	County Sheriff's Department	Responded	Partial Data Provided
Kankakee	County Sheriff's Department	Responded	No Data Provided
Kendall	County Sheriff's Department	Responded	No Data Provided
Knox	County Sheriff's Department	Responded	No Data Provided
Lake	County Sheriff's Department	Responded	No Data Provided
LaSalle	County Sheriff's Department	Responded	Partial Data Provided
Lawrence	County Sheriff's Department	No Response	No Data Provided
Lee	County Sheriff's Department	Responded	No Data Provided
Livingston	County Sheriff's Department	Responded	No Data Provided
Logan	County Sheriff's Department	No Response	No Data Provided
Macon	County Sheriff's Department	No Response	No Data Provided
Macoupin	County Sheriff's Department	Responded	Complete Data Provided
Madison	County Sheriff's Department	Responded	No Data Provided
Marion	County Sheriff's Department	No Response	No Data Provided
Marshall	County Sheriff's Department	Responded	No Data Provided
Mason	County Sheriff's Department	Responded	No Data Provided
Massac	County Sheriff's Department	Responded	No Data Provided
McDonough	County Sheriff's Department	No Response	No Data Provided
McHenry	County Sheriff's Department	Responded	Partial Data Provided
McLean	County Sheriff's Department	Responded	No Data Provided
Menard	County Sheriff's Department	No Response	No Data Provided
Mercer	County Sheriff's Department	Responded	No Data Provided
Monroe	County Sheriff's Department	No Response	No Data Provided
Montgomery	County Sheriff's Department	No Response	No Data Provided
Morgan	County Sheriff's Department	Responded	Complete Data Provided
Moultrie	County Sheriff's Department	Responded	Complete Data Provided

Jurisdiction	Type	FOIA Response	Data Provided
Ogle	County Sheriff's Department	Responded	Complete Data Provided
Peoria	County Sheriff's Department	Responded	Partial Data Provided
Perry	County Sheriff's Department	No Response	No Data Provided
Piatt	County Sheriff's Department	Responded	Partial Data Provided
Pike	County Sheriff's Department	Responded	Partial Data Provided
Pope	County Sheriff's Department	No Response	No Data Provided
Pulaski	County Sheriff's Department	No Response	No Data Provided
Putnam	County Sheriff's Department	Responded	Partial Data Provided
Randolph	County Sheriff's Department	No Response	No Data Provided
Richland	County Sheriff's Department	No Response	No Data Provided
Rock Island	County Sheriff's Department	Responded	Partial Data Provided
Saline	County Sheriff's Department	No Response	No Data Provided
Sangamon	County Sheriff's Department	Responded	Partial Data Provided
Schuyler	County Sheriff's Department	No Response	No Data Provided
Scott	County Sheriff's Department	Responded	Complete Data Provided
Shelby	County Sheriff's Department	Responded	Complete Data Provided
St Clair	County Sheriff's Department	No Response	No Data Provided
Stark	County Sheriff's Department	Responded	Complete Data Provided
Stephenson	County Sheriff's Department	Responded	Partial Data Provided
Tazewell	County Sheriff's Department	No Response	No Data Provided
Union	County Sheriff's Department	Responded	Partial Data Provided
Vermilion	County Sheriff's Department	Responded	Complete Data Provided
Wabash	County Sheriff's Department	Responded	No Data Provided
Warren	County Sheriff's Department	No Response	No Data Provided
Washington	County Sheriff's Department	Responded	Partial Data Provided
Wayne	County Sheriff's Department	Responded	Complete Data Provided
White	County Sheriff's Department	No Response	No Data Provided
Whiteside	County Sheriff's Department	No Response	No Data Provided
Will	County Sheriff's Department	Responded	Partial Data Provided
Williamson	County Sheriff's Department	No Response	No Data Provided
Winnebago	County Sheriff's Department	Responded	Partial Data Provided
Woodford	County Sheriff's Department	Responded	Partial Data Provided

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"I Used to Think the Law Would Protect Me"

Illinois's Failure to Test Rape Kits

The DNA evidence in a sexual assault kit ("rape kit"), collected from a victim's body after a rape, can provide critical investigative information. Yet new data collected by Human Rights Watch suggests that in Illinois, years after the crime, only one in five rape kits collected by police is tested. This gap represents lost justice for rape victims

I Used to Think the Law Would Protect Me examines the reasons for the gap. In our year-long investigation, we sought data from 267 state and local law enforcement agencies in Illinois. While not all responded, we received rape kit data from 127 agencies on the status of 7,494 rape kits booked into police storage in Illinois over the past 15 years. Of that total, only 1,474, or 19.7 percent, were confirmed as tested.

In addition to untested rape kits in police storage facilities, we found an inadequate law enforcement response to reported sexual assaults; a shortage of sexual assault nurse examiners to collect evidence for rape kits; insufficient hospital treatment facilities for rape victims; and testing delays at the state crime laboratory.

There is new reason to hope that this will soon change: a recent Illinois law, if signed by the governor, will begin to correct the state's abysmal record of response to rape. In 2010, when it passed the Sexual Assault Evidence Submission Act, the Illinois legislature became the first in the country to require that every rape kit collected by law enforcement be sent to the state crime lab for testing. Nevertheless, our research raises questions regarding the crime lab's capacity to handle the enormous influx of untested rape kits it will receive under the law's provisions.

The United States is party to a number of treaties that acknowledge rape as a human rights abuse and require the US to ensure the protection of individuals from sexual assault and rape and to prosecute the perpetrators. If Illinois public officials wish to implement good public safety policy standards and human rights law they should move decisively to provide the resources necessary to implement the 2010 Sexual Assault Evidence Submission Act and test all rape kit evidence in Illinois.

All photographs
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An Illinois State Police sexual assault evidence collection kit photographed at the Illinois Attorney General Sexual Assault Nurse Examiner (SANE) coordinator's office.