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ASCLD Statement on Volume of Untested Sexual Assault Evidence Kits

In response to the July 18, 2018 Senate Judiciary Committee Hearing on Promoting Justice for Victims of Crime: Examining the Federal Investment in DNA Analysis, the American Society of Crime Laboratory Directors (ASCLD) launched a nation-wide sexual assault kit survey of all DNA laboratories in the United States submitting data into the Federal Bureau of Investigation (FBI) Combined DNA Index System (CODIS). The intent of the survey was to identify all the unprocessed sexual assault evidence kits (SAEKs) in the nation's DNA laboratories' possession and the resources needed to process them. Further, whether by official audit or conversation with their law enforcement agencies, ASCLD's goal was to determine what the laboratories knew about their jurisdiction's unsubmitted sexual assault evidence kits. SAEKs in many jurisdictions are still in the possession of law enforcement or other entities and have never been submitted to a forensic science lab for processing, nor are the numbers of these unsubmitted kits readily obtained or estimated. For the purpose of this discussion, these kits with delayed submissions will be termed "latent" kits to differentiate them from SAEKs submitted to the lab in a timelier manner but considered "backlogged" as they await analysis.

The ASCLD Sexual Assault Kit Task Group and ASCLD Advocacy Committee distributed the survey and collaborated with ASCLD member laboratories to increase the response rate. Overall, 79% of DNA CODIS Laboratories from the United States and Puerto Rico responded to the survey. While the data is reported in aggregate, not all laboratories chose to report data to ASCLD. Data from some states are not complete, but responses do include laboratories from every state in the country with one exception. Traditionally, estimates of latent kits by law enforcement agencies are historically very low, with much higher numbers of SAEKs reported once legislation mandates hand counts. The data below was reported to ASCLD as of July 2019:

• Number of "latent" SAEKs <u>now in a laboratory</u> awaiting analysis	6,133
• Number of "regular/current/backlogged" SAEKs in a laboratory awaiting analysis	29,345
• Estimated ⁱ number of "latent" SAEKs still awaiting submission to a laboratory for analysis	62,544
Grand total of sexual assault evidence kits needing analysis (estimate included)	98,022

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It is important to remember that these numbers will constantly change as SAEKs are analyzed and newly collected kits are submitted to laboratories. Data suggests that laboratories are working diligently to process and receive the latent sexual assault kits that have never been submitted to a laboratory for testing. Simultaneously, in an effort to prevent the recurrence of a latent kit backlog, many states have adopted legislation mandating the testing of all sexual assault kits. As a direct result, laboratories have seen their kit submissions double which adds significantly to their workload.

Laboratories are implementing methods that are faster and maximize productivity, but there is no substitute for the critical examinations accomplished by trained forensic scientists: additional staff are required. Consideration must be given to adequate staffing models, laboratory space, instrumentation and equipment, and training of new analysts in our national strategy. Data also suggests that a large number of latent kits have still not been submitted to a laboratory for testing. Lawmakers should understand that increased resources are still needed at state, county, and local laboratories to test this eventual influx of cases from law enforcement agencies still struggling to identify, investigate, and submit these latent kits. Authorization of funding mechanisms such as the Debbie Smith Bill must be approved with an increasing appropriation amount. While forensic science service providers are doing an excellent job to address this crisis, ASCLD encourages Congress to address the operational needs of laboratories as we work to resolve this national issue.

Sexual assault evidence collection kits are incredibly valuable when providing justice to survivors, identifying unknown assailants, and preventing future crimes. The national initiative to have all latent kits submitted to crime labs with unfunded testing mandates has flooded an already strained system. DNA submissions in all case types have exploded as more and more cases are solved using this technology. Crime laboratories are seeking the resources to improve and increase future capacity to properly handle the increased flow of SAEKs, not simply look at past backlogs. Building capacity to address the old cases will also provide capability to timely analyze new cases to prevent backlogs from reoccurring. ASCLD members are committed to resolving the issue of untested sexual assault evidence kits in the United States and working with all stakeholders to improve the process moving forward.

ⁱ Accurate numbers of kits in the possession of law enforcement that have not been submitted for analysis cannot be determined without a comprehensive audit by jurisdiction.