



Help • Hope • Healing

**Senate Democratic Policy Committee
Public Hearing to discuss: SB 860 & HB 1848**

September 23, 2022

Testimony by Donna Greco, on behalf of the Pennsylvania Coalition Against Rape

My name is Donna Greco. I'm the public policy and legislative affairs director at the Pennsylvania Coalition Against Rape (PCAR). Thank you Chairwoman Muth, Representative Cephas, and members of the Senate Democratic Policy Committee for convening today's hearing on rape kit tracking legislation.

Thank you to prior panelists – first and foremost, to the survivors who spoke earlier and for their courage and generosity in sharing their experiences in service of other survivors and to us as advocates. Thank you to the Pa State Police and the District Attorneys Association, who are critical partners to PCAR as we all work together to continue improving systems for survivors and increasing accountability for sexual offenses. We also extend our respect and gratitude to sexual assault nurse examiners and other healthcare providers who provide trauma-informed, victim-centered care to survivors of sexual violence.

PCAR wishes to thank Chairwoman Muth and Leader McClinton for championing SB 860 and HB 1848, to establish a statewide rape kit tracking system during this legislative session. We are also grateful to Representative Schroeder for her leadership on HB 2032, which was enacted this past July. HB 2032—now Act 70 of 2022—directs the PA State Police to consult with PCAR in identifying the resources needed to establish a statewide tracking system and further clarifies the scope of anonymous evidence submission. PCAR looks forward to this collaboration and to continued bipartisan support in establishing a tracking system in the Commonwealth.

We know this legislation will enable Pennsylvania to continue making important strides in expanding the rights, options, and safety of sexual assault victims. It will also enable Pennsylvania to prevent and address any backlogs in evidence, which can open pathways for justice and accountability while also enhancing the safety of the Commonwealth's communities. For example, we know from recent national headlines in the Eliza Fletcher kidnapping and murder that her assailant's DNA was linked to a 2012 rape. This underscores the importance of evidence collection, testing, and tracking and how justice for one victim could help save the life of another.

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About PCAR:

PCAR represents and partners with the network of rape crisis centers that serve children and adults impacted by sexual violence in all of Pennsylvania's 67 counties. I am grateful to be speaking on behalf of this network today and to be joined by Mary Onama, Director of Montgomery County's Victims Services Center.

In Fiscal Year 2021-2022, the Pennsylvania network of rape crisis centers provided services to approximately 30,000 victims and their significant others. Community-based rape crisis counselors provided medical advocacy, including forensic rape exam medical accompaniments, in over 3,000 of those cases. During COVID the importance of this accompaniment intensified, as we saw victims and survivors waiting longer to be seen—no one should have to wait alone in a hospital after being raped, not knowing what will happen next or what to expect.

Victim Rights:

In Pennsylvania, according to Department of Health Regulations and the Sexual Assault Testing and Evidence Collection Act, victims have the right to consult with a sexual assault counselor/advocate from the rape crisis center when they present at a hospital for a forensic exam. This is a critical point of contact for a victim, and while it often begins when a survivor seeks medical care after an assault, this connection opens doorways to counseling and therapy, and victim support in the many aspects of their lives following an assault. During medical accompaniments, advocates provide trauma-informed support and information to victims as they wait in the hospital—which can take over 5 hours in busy hospitals. Advocates provide support to victims throughout the forensic rape exam, which can take many hours from start-to-finish. After the exam, advocates ensure survivors are aware of their rights and the services available to them in the short- and long-term periods following the assault.

A common concern rape crisis centers hear from survivors is the not knowing—not knowing what will happen after they leave the hospital, or who to contact for that information. Even in the best of circumstances, when our systems of response are working as they should, victims still may leave the hospital overwhelmed and uncertain about what is happening next. This makes total sense, having just survived a traumatic event and gone through a lengthy medical forensic exam. This makes sense—having

to figure out what to do next, while coping with the aftermath of trauma and life's ongoing competing demands like work, school, child care, bills, family, and other responsibilities.

The Sexual Assault Testing and Evidence Collection Act specifies that victims have the right to notification about what is happening with the evidence—when it has been submitted for testing, the status of analysis, and when DNA has been compared or matched in the federal Combined DNA Index System (or CODIS). Victims also have the right to be notified before their kit may be scheduled for destruction.

Impacts of Gaps on Victims

While certain victim rights are specified in law, gaps remain. For example, while victims have the right to be notified about what is happening with their evidence, we do not yet have a consistent mechanism or protocol in place throughout the Commonwealth to ensure this victim notification happens.

Delays and a lack of a consistent system of notification can be agonizing for a victim, who has survived a traumatic violation and sought out medical care and evidence collection despite many barriers—despite wanting nothing more than to go to bed or take a shower. Waiting for information and updates while regular daily life forges on can be a heavy weight for survivors to carry.

Evidence collection is a part of many victims' pathways toward healing and justice. Getting the medical care they need and having evidence collected can begin to restore a victim's sense of control and provide them with options—options to collect evidence while figuring out what to do next, options to consent to have that evidence tested, options to consult with a sexual assault counselor/advocate who can support them long after they leave the hospital and begin to heal.

Evidence collection is also a part of public safety. When evidence is collected and tested, we have the opportunity to identify and hold accountable perpetrators of sexual violence and other crimes in our communities and throughout the country.

In Pennsylvania, we have made many strides in addressing and preventing backlogged sexual assault evidence. However, we have seen an increase in backlogged kits over the past two years. According to the most recent Department of Health report, *Untested Sexual Assault Kits and Backlogged Evidence* (April

2022), 1,150 police departments reported 186 backlogged sexual assault evidence kits¹ awaiting testing at the end of 2021, marking a 22% increase from 2020 (when there were 153 kits) and a 97% increase from 2019 (when there were 94 kits).

Best Practices in Sexual Assault Evidence Collection and Testing

PCAR was asked to testify about policy solutions today. According to the National Institute of Justice, best practices in sexual assault evidence collection span the following policy priorities²:

- Multidisciplinary collaborations involving victim advocates early and in trauma-informed, victim-centered processes
- Minimum standards for timely evidence collection, or standardized kits
- Trained, trauma-informed medical providers, such as trained and/or certified Sexual Assault Nurse Examiners
- Testing of all kits with victim consent
- Testing protocols to prevent backlogged evidence
- Timely evidence retrieval by law enforcement and evidence retention protocols
- Timely and trauma-informed notification to victims
- Transparency and accountability, such as statewide tracking systems

Since passing the Sexual Assault Testing and Evidence Collection Act in 2006, the Pennsylvania General Assembly has continued to prioritize many of these best practices. Continued bipartisan and bicameral support has enabled us to strengthen the Sexual Assault Testing and Evidence Collection Act over the years and expand survivors' options. For example, recent changes have included:

- requiring county-level protocols that are collaborative and multidisciplinary;
- ensuring victim notification is trauma-informed by requiring collaborations across law enforcement and rape crisis centers;
- establishing a Department of Health helpline for hospitals, if evidence is not retrieved in a timely manner;
- providing for the retrieval of kits with unknown jurisdiction; and

¹ The following 27 counties reported backlogs in 2021: Allegheny, Beaver, Bucks, Cambria, Carbon, Centre, Chester, Clarion, Clearfield, Clinton, Crawford, Cumberland, Dauphin, Delaware, Erie, Lebanon, Luzerne, Lycoming, McKean, Mercer, Montgomery, Northampton, Somerset, Warren, Washington, Westmoreland, York.

² Spivak, H., Director, National Institute of Justice, *National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach* (Washington, DC: U.S. Department of Justice, 2017)

- codifying victim rights to report anonymously, consult with a sexual assault counselor, never be billed for the medical forensic rape exam, and have evidence preserved for the full duration of the statute of limitations—to name a few.

However, there is more work to do. This law is robust and complex and requires ongoing support for its full and successful implementation. As best practices emerge and the diverse needs of survivors continue to evolve, as we see turn-over in agencies and ongoing impacts of COVID on survivors and systems, we must work together to keep advancing our laws and practices as a Commonwealth.

A statewide tracking system is a national best practice and the next step for Pennsylvania. A rape kit tracking system would provide a statewide portal for all sexual assault evidence. Victims will be able to log in and obtain real-time updates about the status of their evidence, using a unique barcode number that does not include any personally identifying information. They would simultaneously be reminded of their rights as victims of crime, their ability to file for assistance through the crime victims assistance program, as well as local and statewide services available to them as they heal and explore their options—including referrals to rape crisis center services. This portal would track the progression of evidence, from the time it is collected to when it is retrieved by law enforcement, to when it is submitted to the lab, to when testing and analysis occurs, to when it is within the offices of local district attorneys.

To these ends, in July 2022, this legislature passed and Governor Wolf signed into law, HB 2032, now Act 70 of 2022. Act 70 brings us as a Commonwealth an important step closer to a statewide tracking system for sexual assault evidence. Act 70 directs the Pennsylvania State Police to identify the specific resources that are needed to establish a statewide tracking system and to produce a report of their findings to the legislature within 12 months. PCAR looks forward to providing consultation and partnership to PSP throughout this process.

We commend Senator Muth and Leader McClinton for their leadership on this issue. When Pennsylvania establishes its system, we will join approximately 30 other states—including other large states like Texas and California as well as our neighbors in Ohio, Virginia, and West Virginia.

Please allow me to share feedback from forensic lab directors other states with tracking systems:

“Tracking systems allow for the discovery of previously unknown rape kit handling issues: We have discovered issues that we did not even know were happening. By asking lots of questions about anomalies in the system, we are discovering when people do not understand state law, when kits are not being treated properly, or when we have other issues. We are able to address those issues in a timely manner. It was not necessarily associated with the kit tracking system, but more with the need to process more kits...but we implemented an improved, efficient, workflow.”

“Tracking systems increased overall accountability and led to fiscal savings: Accountability for all stakeholders and the state lab, transparency to victims and their families, fiscal savings because all kits are tracked. It is amazing to know where all the kits are and be able to account for them. Our system is easy to use, cheap to maintain, and well worth every penny we spend on it.”

Benefits of a Tracking System

In concluding, I would like to summarize the many benefits of a statewide tracking system:

- **Tracking systems provide victims with information that is crucial to their healing**
Tracking systems provide victims a way to know the status of their rape kit. Too many survivors leave the medical facility and never hear again about their kit. This is unacceptable. A national 2016 survey on victim notification found that, for survivors who want to know about their case, not having access to such information can severely hamper recovery. Access to information about the status and location of their rape kits can help survivors counter the loss of self-determination and control that is often at the core of a sexual assault experience. If the system has a victim portal, it allows the survivor to have clarity on the status and location of their kit.
- **Tracking increases accountability, and are good for the criminal justice system as a whole**
Tracking rape kits is crucial to accountability. Tracking systems provide for a comprehensive analysis of total rape kits in a state, showing where, in the chain of custody, kits are currently located. A tracking system shows us clearly how many rape kits are awaiting testing and which ones have already been tested.
With this system in place, we can monitor if rape kits are moving through the system as they should by law and in the interest of victim and public safety. The system can be set up to notify various stakeholders if a kit gets stuck at one point in the process, thereby alerting everyone involved in rape kit handling to the error. Tracking systems are good for criminal justice as a whole and make law enforcement's job easier by following crucial evidence from place to place.
- **Tracking systems help communities save money**

Keeping track of and testing rape kits saves money. This is money well spent as making sure that kits are tested in a timely manner keeps dangerous offenders off the streets and prevents costly crime to communities and individuals. Cuyahoga County Ohio saved \$38.7 million by testing 4,437 backlogged kits, investigating every case, prosecuting offenders, and preventing them from committing future crimes.

- **Establishing a Tracking System is a Federal Best Practice**

Establishing a tracking system is a federal best practice for rape kit reform and aligns with the [National Best Practices for Sexual Assault Kits](#): A Multidisciplinary Approach by the U.S. Department of Justice National Institute of Justice.

- **A tracking system is designed to be responsive to the uniqueness of Pennsylvania’s laws and victim service infrastructure**

A tracking system can be tailored to meet the specific needs of Pennsylvania, to reflect current law and requirements (for example, evidence preservation timelines and victim notification), and to be responsive to the uniqueness of the state’s victim service structures and roles.

- **A tracking system can prevent future backlogs**

It prevents future rape kit backlogs, ensuring that the Commonwealth continues to work efficiently and effectively together to collect and test evidence, from the hospital through final disposition as outlined in SATEC. This system will help the Commonwealth address and prevent a rape kit backlog by establishing more transparency and efficiency in evidence tracking.

As we continue our work to establish a statewide tracking system in Pennsylvania, it will be important to ensure such a system protects the privacy of victims and survivors; that an achievable plan for launching and maintaining the system is developed; and that subject matter experts from healthcare, law enforcement, prosecution, and victim advocacy are consulted in its development and implementation.

Thank you for this opportunity to participate in today’s discussion.

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