

In 2015, before the law passed, 5,626 untested Sexual Assault Forensic Exam kits (SAFE kits) sat on the shelves of police departments throughout Oregon. Backlogged, unprocessed kits had been building up since 1983. No reform that addressed the volumes of shelved, untested and destroyed rape kits came until the new 2016 law.

Oregon State Police Public Information Officer Bill Fugate says police departments throughout the state reported the number of kits in their possession to OSP in 2015. Kits that were destroyed, due to the statute of limitations running out or a victim's decision not to move forward with a case, were not reported to the Oregon State Police.

Rachael is part of a chilling statistic.

More than one in four women in Oregon "will experience rape, and more than half of women (55.7 percent) and nearly one in five men (18.6 percent) will experience other forms of sexual violence in their lifetime," according to the state Attorney General's Sexual Assault Task Force.

Despite clearly defined rape and sexual assault laws, minimum mandatory sentencing guidelines and the passing of the Sexual Assault Survivors Rights Act signed by President Obama — which establishes rights for sexual assault victims pertaining to rape kits — several states are sitting idly by while the backlog of untested kits grows.

According to End the Backlog, 16 states have made no effort to address the backlog of rape kits and 13 states have proposed reform.

Oregon is one of 16 states that have enacted limited reform. Some states have undergone an audit of rape kits, yet no states have enacted comprehensive statewide reform.

## Melissa's Law and Tracking the Backlog

Under the new law, the Oregon State Police are required to present an annual legislative report detailing the collection and processing of SAFE Kits in Oregon.

The department's Report on Sexual Assault Kits was published on Jan. 3. The total number of SAFE Kits received was 1,281; total SAFE Kits completed, 757; total

The task force is in charge of looking at the state's testing process, how law enforcement is trained to handle sexual assault investigations, the rights of victims and to "identify and pursue grants and other funding sources in order to eliminate the backlog of untested sexual assault forensic evidence kits, reduce testing wait times, provide victim notification and improve efficiencies in the kit testing process," according to Melissa's Law.

Brenda Tracy, a rape survivor and advocate, is also a member of the task force.

Tracy's kit was destroyed three years before the statute of limitations on her assault expired. She says she knows other survivors who have had the same experience. Melissa's Law now requires that kits be kept no less than 60 years after being collected.

A provision within Melissa's Law requires that law enforcement agencies communicate with a sexual assault victim about the status of their kit, the testing results, and whether a DNA result was obtained. It also requires that the victim be provided with a contact within the agency.

Another Oregon woman, who doesn't live in Lane County but who otherwise didn't want to be identified because her case is still pending, has been calling the prosecutor assigned to her case for several months.

After having a rape kit collected seven months ago, she says she doesn't know the status of her kit or her case, and the prosecutor who called her in for an initial interview will not return her phone calls and messages, the woman says.

After the assault, police asked the woman to contact her attacker several times in an attempt to get him to confess. She says she received some coaching from the detective assigned to her case, but ultimately, all she could do was hope he would slip up and say something incriminating.

"That's the most fucked up thing you could ever ask anyone to do," she says.

The woman also downloaded a phone-recording application that cost \$10 to record the calls to the perpetrator.

"If that happened here, I would be furious," Lane County District Attorney Patty Perlow says. "We are supposed to be providing services to victims of crime out

## The SAFE Kit Process

Victims of sexual assault who report attacks face a battery of procedures, which include multiple interviews with police, undergoing an extensive medical exam, and waiting for the results of a Sexual Assault Forensic Examination kit and answers from state agencies.

EPD's Meisel says investigating a rape case all depends on the situation. If the survivor calls 911, the police will first speak to the survivor and make sure to offer medical attention. "If they decide they want to have a SAFE kit, the kit is given to the patrol officer who takes it to the evidence patrol unit, and then it gets sent to the lab."

If the victim does not know the suspect, the rape kit results can provide DNA evidence that can be used to obtain a warrant.

"If you have a known suspect that you think is going to continue to commit violent crimes, of course you don't want to wait for a long amount of time," Meisel says.

After the assault, Rachael and her children moved to a shelter. "It was another three weeks before I reported to police because this individual was living across the street from me, and I didn't feel safe with my children ... even going back to the apartment to feed the cat and pack," she says.

Exactly seven months after the assault, an indictment was issued for the man who raped her. It would be another month before he was arrested.

Rachael was not informed about the status of her kit. And from the moment she decided to report the rape and have an invasive physical exam, she was reminded that the outcome couldn't prove that a sexual assault had occurred. She was told that a rape kit just "proves that sex happened."

Patti Kenyon is an adult and pediatric Oregon sexual assault nurse examiner in Albany. The registered nurse began training as a SANE in the late '70s — at the time, she says, it wasn't common for RNs to obtain that certification.

"I've always been drawn to helping people who are victims of injury, victims of crimes," she says.

A SANE exam can take anywhere from three to eight hours. Kenyon says the procedure can be completed in about three hours, but people experiencing trauma often

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BRENDA TRACY

PHOTO BY TODD COOPER

number of pending SAFE requests, 742. The explanation OSP gave *EW* for the discrepancy in numbers was that some of the complete kits could have been received before 2016, and the same applies to pending kits.

The law also requires the formation of a Task Force on the Testing of Sexual Assault Forensic Evidence Kits. The 16-member task force designated four members, and the remaining 12 members were appointed by Gov. Brown.

of that's the right thing to do, not just because it's mandated by constitutional rights."

The law does not set a time limit pertaining to the processing of rape kits.

Eugene Police Capt. Sherri Meisel says EPD no longer has a backlog of rape kits in its possession, and that all of the rape kits collected are sent directly to the Oregon State Police forensic labs.

have to stop and take breaks. First the victim has to be assessed for injuries such as broken bones or cuts. If X-rays or stitches are needed, those injuries are treated first.

Next Kenyon begins to get a medical history of the patient and an account of whatever the person can recall from the assault. Based on that information, Kenyon conducts a gynecological exam with a victim's advocate in the room.