

Statement of  
**The Honorable Patrick Leahy**

United States Senator  
Vermont  
December 15, 2009

Statement Of Senator Patrick Leahy (D-Vt.),  
Chairman, Senate Judiciary Committee,  
"Ensuring The Effective Use Of DNA Evidence To Solve Rape Cases Nationwide"  
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Today the Judiciary Committee holds its second hearing on the reauthorization of the groundbreaking Justice for All Act. The Justice for All Act included the Debbie Smith Rape Kit Backlog Reduction Act, which authorized significant funding to reduce the backlog of untested rape kits, so that victims need not live in fear while kits languish in storage.

Today we will examine disturbing reports that, despite the important progress we have made to ensure justice for rape victims, in too many jurisdictions, large numbers of rape kits continue to sit untested. When DNA evidence taken from rape victims that could be used to find and convict criminals instead sits on a shelf, rape victims are victimized once again, and our communities become more dangerous rather than safer. That is unacceptable, and we must fix the problem.

Since we passed this important law in 2004, the Debbie Smith Act has resulted in hundreds of millions of dollars going to states for the testing of DNA samples to reduce backlogs. I have worked with Senators of both parties to ensure full funding for the Debbie Smith Act each year.

I welcome Debbie Smith to the Committee once again. She lived in fear for years after being attacked before her rape kit was tested and the perpetrator was caught. Debbie and her husband Rob have worked tirelessly to ensure that others need not experience her ordeal. Debbie is always willing to do whatever is asked of her to advance this cause, even when it means reliving a terrible ordeal. I commend her for her courage.

As I have researched this problem of untested rape kits, there is one thing that I have heard again and again which should be of great comfort to Debbie and Rob and to all of us here: the Debbie Smith program has been working and making a major difference. I have heard from the Justice Department, the states, law enforcement, and victims' advocates that Debbie Smith grants have led to significant and meaningful backlog reduction, and to justice for victims, in jurisdictions across the country.

Eric Buel, Director of the Vermont Forensic Laboratory, described to me how federal funding for testing and a case manager position has resulted in the elimination of all backlogs in Vermont and in the efficient use of DNA evidence to solve cases. I hope Vermont will be an example for other jurisdictions, but I also note that Eric was very clear in saying that Vermont's success would not be possible without federal funding through the Debbie Smith program.

Of course we would not be here today if there were not still a problem. Despite the good strides we have made and the significant Federal funding for backlog reduction, we have seen alarming reports of continuing backlogs. A study last year found 12,500 untested rape kits in the Los Angeles area alone, and while Los Angeles has since made progress in addressing the problem, other cities have now reported backlogs almost as severe. The Justice Department released a report last month finding that in 18 percent of open, unsolved rape cases, evidence had not even been submitted to a crime lab.

That Justice Department study gets to one key component of this problem. No matter how much money we send to crime labs for testing, if samples that could help make cases instead sit on the shelf in police evidence rooms and never make it to the lab, that money will do no good. Police officers must understand the importance of testing this vital evidence and must learn when testing is appropriate and necessary. In too many jurisdictions rape kits taken from victims who put themselves through further hardship to take these samples - rape kits that could help law enforcement to get criminals off the street - are sitting untested. That is unacceptable.

In another way, the backlog problem in some jurisdictions shows that we are the victims of our own success. The effectiveness of DNA testing and the availability of substantial funding for testing have led to more and more samples in more and more cases being sent to forensic labs. Labs and law enforcement also face difficult questions of prioritization when there are limited resources.

We are beginning to learn of possible solutions to these different dynamics that contribute to the continuing problem. There must be national standards, protocols, and best practices giving clear guidance to police officers about when kits and other relevant DNA samples must go to labs. Every jurisdiction must have real incentives to provide comprehensive training and put into place these standards for the officers who handle DNA evidence. We must ensure good communication and compatible technology among labs, prosecutors, and law enforcement. We also should reexamine regulations now requiring that samples sent out to good private laboratories then be retested in government laboratories, costing time and money and slowing our ability to reduce backlogs. I look to our witnesses today to help us identify the best ways to tackle this urgent problem.

I thank Senator Klobuchar for her help in putting this hearing together and her leadership on this issue, as well as the many other Committee members on both sides of the aisle who are committed to fixing this problem. It was Senator Kyl who worked closely with me to get the Debbie Smith Act passed. We must now work together to get to the bottom of this problem. The time to solve this problem is now.

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