

1 I urge the members of this Committee, as well as  
2 appropriators, to help fix that problem going forward.

3 SAFER also required the development of national  
4 protocols, guidance that would be very helpful to the  
5 cities and states now grappling with this issue. The  
6 guidelines were due more than 6 months ago, but it has  
7 not yet been released.

8 The need is urgent. We need a public accounting  
9 jurisdiction by jurisdiction of how many kits are left to  
10 be tested. We also need to identify which ones should  
11 get priority. After all, victims in cases in which the  
12 statute of limitations will soon expire will never get  
13 another chance at justice.

14 We owe it to survivors like Debbie and to the  
15 hundreds of thousands who have not yet gotten a chance at  
16 justice to keep this a national priority and get the job  
17 done. So thank you for your role in that.

18 [The prepared testimony of Mr. Berkowitz appears in  
19 the appendix.]

20 / COMMITTEE INSERT

21 Senator Cornyn. Thank you, Mr. Berkowitz.

22 General Madigan?

23

24

25

1 TESTIMONY OF HON. LISA MADIGAN, ATTORNEY GENERAL, STATE  
2 OF ILLINOIS, CHICAGO, ILLINOIS

3

4 Ms. Madigan. Thank you, Chairman Cornyn, Ranking  
5 Member Durbin and members of the Subcommittee, for the  
6 opportunity to testify on this important topic of timely  
7 testing of sexual assault evidence.

8 We know that sexual assault is occurring at epidemic  
9 levels. In the United States, nearly 1 in 5 women will  
10 be raped during their lifetime. Sexual assault is too  
11 often a reality and a persistent threat in our homes, our  
12 neighborhoods, on college campuses, on military bases,  
13 and on tribal lands.

14 But in contrast to the disturbingly large number of  
15 women sexually assaulted is the distressingly low number  
16 of women who report it.

17 Studies indicate reporting ranges from 10 to, at  
18 most, 35 percent and in Illinois, the latest numbers  
19 reveal that less than 15 percent of reported rapes result  
20 in arrest.

21 We know the main reason that women do not report rape  
22 is that they do not believe their crime will be taken  
23 seriously and these unconscionably low numbers justify  
24 their concerns.

25 But recently survivors and their advocates have

1 demanded that legislators and law enforcement focus on  
2 the horrific failure of our criminal justice system to  
3 prevent and properly respond to sexual assault. The  
4 failure of police to process rape kits is indicative of  
5 the overall problem.

6 Five years ago, Human Rights Watch investigated  
7 unsubmitted rape kits in Illinois. Based on the police  
8 departments that responded, HRW determined that of 7,494  
9 rape kits collected, only 1,474 could be confirmed as  
10 tested.

11 In response to these shocking findings, I drafted and  
12 worked to pass the Sexual Assault Evidence Submission  
13 Act. As you have heard, this was the first state law of  
14 its kind in the country. It required two things; first,  
15 the identification and testing of previously unsubmitted  
16 rape kits and, second, the creation of a statewide  
17 protocol to submit new rape kits to the crime lab within  
18 10 days.

19 This law resulted in the testing of over 4,000  
20 previously unsubmitted kits. The results: 969 matches in  
21 the Federal CODIS database. This massive failure to test  
22 rape kits resulted in the criminal justice system failing  
23 to protect public safety and failing to provide justice  
24 for sexual assault survivors.

25 So how do we ensure that rape kits are properly

1 collected, submitted and tested in a timely manner?

2 Currently, I am co-chairing a sexual assault working  
3 group in Illinois comprised of law enforcement,  
4 prosecutors, forensic scientists and advocates to  
5 identify the barriers that prevent the efficient  
6 reporting, investigation and prosecution of sexual  
7 assault cases.

8 From what we have learned, I propose the following:  
9 first, all states should have a law that requires all  
10 rape kits be submitted for testing.

11 Second, we must institute mechanisms to ensure that  
12 police comply with the law and submit all rape kits for  
13 analysis. We can require tracking systems to ensure  
14 accountability and satisfy chain of custody concerns.

15 Third, forensic labs need sufficient funding and  
16 resources to test all the evidence they receive.

17 Fourth, labs should undertake efficiency reviews.

18 But those measures are not enough. We must also  
19 recognize and rectify the other significant barriers that  
20 prevent sexual assaults from being investigated and  
21 prosecuted. The most important change necessary for  
22 successful sexual assault investigations and prosecutions  
23 <sup>is</sup> ~~is~~ proper training for law enforcement and prosecutors.

24 The fact is that often rape kits are unsubmitted for  
25 testing because of a blame-the-victim mentality or

1 because investigators mistrust the survivor's story. I  
2 have learned that too often police avoid testing rape  
3 kits by unilaterally deciding not to pursue an  
4 investigation.

5 In fact, at a recent summit I held on campus sexual  
6 assault, a police officer stated that he learned at the  
7 police academy that 80 percent of sexual assault  
8 allegations are false.

9 It is also critical that trained sexual assault nurse  
10 examiners are available to all victims of sexual assault  
11 24 hours a day, 7 days a week. SANES <sup>are</sup> <sup>-ed</sup> need to  
12 dramatically improve the collection of evidence and  
13 provide a compassionate response to the victim. In  
14 Illinois, my office has trained over 1,200 SANEs, but  
15 there are only three hospitals that I know of that have  
16 24/7 SANE programs.

17 It is clear that our country's culture surrounding  
18 sexual assault and law enforcement's response to it must  
19 change. We must support survivors from the moment they  
20 report their crime or offenders will never be held  
21 accountable.

22 The United States is still a long way from assuring  
23 the safety of women and girls, boys and men from sexual  
24 assault and its traumatic aftermath.

25 I thank the Committee for this opportunity to testify

1 and I welcome your questions.

2 [The prepared testimony of Ms. Madigan appears in the  
3 appendix.]

4 / COMMITTEE INSERT

5 Senator Cornyn. Thank you very much.

6 Ms. Byrd?

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 have access to a forensic lab that has the sort of  
2 trained personnel, the sort of state-of-the-art equipment  
3 or the like.

4 I would just like to get the reaction from some of  
5 you. Are the things that we ought to be looking at in  
6 terms of forensic laboratories -- I know that Congress  
7 can help in terms of standards. We probably cannot help  
8 create a forensic laboratory for every jurisdiction that  
9 would like one. That is very expensive. I would be  
10 interested in Senator Tillis' view from North Carolina,  
11 formerly Speaker of the House, how he regards this issue.

12 But is there some way that we can bring down the cost  
13 of testing rape kits and try to improve the uniformity of  
14 the labs and the expertise that they have to offer?

15 General Madigan, do you have any views on that?

16 Ms. Madigan. I think you can certainly make sure  
17 that the labs that are out there are running efficiently,  
18 which would reduce both the time and hopefully the cost  
19 that is incurred. But as you point out, I think the  
20 number one plea that we hear from our state police, crime  
21 labs and the forensic scientists is that they are  
22 overwhelmed and while it is an important step forward  
23 that states are passing laws requiring the testing of all  
24 kits and requiring the submission of previously  
25 unsubmitted kits, I do know that they find that

1       overwhelming.

2

3               So in Illinois, the commentary is that they will  
4 anticipate 70 more kits per month coming in, so hundreds  
5 during the year, and that they would need to have at  
6 least five more forensic scientists hired.

7               So the financial resources are absolutely imperative  
8 to make sure that we do not continue to have a  
9 significant backlog.

10              Senator Cornyn.    I know chain of custody of the  
11 evidence is very important in any criminal investigation.  
12 So local law enforcement is probably loathe to outsource  
13 some of this testing and every community has a certain  
14 amount of pride at having their own forensic lab.

15              But my own experience, when I was Attorney General,  
16 not just in this area, but, for example, in paternity  
17 testing in connection with our child support enforcement  
18 program, we found that the cheapest and most efficient  
19 way to do this would be to contract on a competitive  
20 bidding basis with a national laboratory, not necessarily  
21 to try to recreate another lab in every community or in  
22 every state.

23              I would just be interested if you have any light you  
24 can help us shed on that.   Mr. Berkowitz, do you have any  
25 opinion in that regard?

1           Mr. Berkowitz.   Yes.  I think you are absolutely  
2 right that there is a lot of private lab capacity out  
3 there and I think many states have found that that is the  
4 most cost-efficient way to go, because dealing with the  
5 backlog is a sudden rush of thousands of cases, if it is  
6 a big city, and then it is hopefully done.

7           So staffing up and bringing in all the new equipment  
8 you need to expand your state lab or your local lab is  
9 not always as efficient as using the private capacity  
10 that is out there.

11          Senator Cornyn.  I will close with this.  People  
12 might wonder why is the Federal Government concerned with  
13 something that frequently is viewed as a local crime or a  
14 state-based crime.  But given the interstate nature of  
15 this crime, as many of you have mentioned, the transient  
16 nature of the assailant going from community to community  
17 maybe state to state, the importance of having the CODIS  
18 or the FBI's DNA database and making sure that the  
19 quality of the evidence that that matches against, I  
20 think there is, at least to my mind, clearly a strong  
21 Federal interest in this matter, as well.

22          But we need to figure a way to work efficiently at  
23 the local, state and the Federal level.

24          Senator Durbin?

25          Senator Durbin.  Thanks, Mr. Chairman.

1 I want to try to trace, from your personal  
2 experience, Ms. Byrd and Attorney General Madigan and  
3 others who might know, who pays for what as we talk about  
4 this.

5 We have a situation that I referred to earlier with  
6 our Cook County Sheriff Tom Dart. He goes to Robbins,  
7 Illinois. It is a very small, very poor town, with not a  
8 very professional police department. And he discovers in  
9 a locker this accumulation of rape kits that have been  
10 sitting there for years.

11 We have talked about Detroit and finding 11,000  
12 untested rape kits there.

13 Under the ordinary course of events -- let me start  
14 with you, Attorney General Madigan -- under the ordinary  
15 course of events, who starts paying when the  
16 investigation is underway, the collection of the rape  
17 kit, the forwarding of it to a laboratory, the forwarding  
18 of that to prosecutors and such?

19 Ms. Madigan. You ask a very interesting question  
20 because we have a bill pending right now in the State of  
21 Illinois Legislature to ensure that after a rape kit has  
22 been collected, that ~~that~~<sup>the</sup> victim is actually not being  
23 billed for the medical collection of it.

24 Senator Durbin. That happens?

25 Ms. Madigan. Unfortunately, that does happen and it

1 Ms. Byrd. That is correct. So in Detroit, they  
2 have raised local funds. State funds have been dedicated  
3 to help them clear their backlog, and private funds, as  
4 well. And they are outsourcing, in some cases, their  
5 kits to a private lab to help them with the capacity.

6 Through the District Attorney's fund in New York,  
7 jurisdictions across the country will also have the  
8 opportunity to do that if their state or local labs do  
9 not have the capacity.

10 There is a resource and a personnel issue in crime  
11 labs, and so it is one of the big challenges in some  
12 states. You are seeing a wait in a crime lab over a year  
13 for a kit to be tested. It is too long for an  
14 opportunity for justice to be served sooner.

15 Senator Durbin. I mention this, we had a  
16 conversation earlier, the Attorney General and I did, and  
17 said what about the statute of limitations running while  
18 we are waiting and you might tell the panel what is  
19 happening in our State or at least being considered.

20 Ms. Madigan. So I think, in part, in response to  
21 the situation in Robbins, Illinois, that you brought up  
22 earlier during the hearing, the State Legislature is  
23 currently moving a bill that I anticipate will pass  
24 during the spring session that would toll the statute of  
25 limitations until the test is actually completed.

1           So God forbid it is <sup>the</sup> 6 years or it is 2 years or 1  
2 year, whatever that is, the statute of limitations will  
3 not start running until the kit has actually been tested  
4 and those results returned.

5           Senator Durbin. It might be interesting to see how  
6 many states have responded that way.

7           Thank you very much. Thanks for your testimony.

8           Senator Cornyn. Senator Tillis?

9           Senator Tillis. Thank you, Mr. Chairman. Thank you  
10 for having a hearing on this important subject.

11          Ms. Byrd, I think I am going to direct my first  
12 question to you. I know that the Joyful Heart Foundation  
13 issued a press release, I think it was called the  
14 Accountability Project, and in that press release, my  
15 home county, Mecklenburg County, had some 1,000 untested  
16 kits. Those are untested, not part of the backlog.

17          I had my office reach out to the Criminal  
18 Investigation Bureau for Charlotte, the Charlotte-  
19 Mecklenburg Police Department, and wanted to get a little  
20 bit more information on it. They have indicated to us  
21 that a number of those were cases not tested because the  
22 victim chose not to testify or the case was closed for  
23 some other reason.

24          I am just trying to get to a point to where we are  
25 measuring the right numbers here. So my question to you

1 the case of a backlog, of bringing survivors back in and  
2 engaging them with the criminal justice process.

3 And we are seeing that model be replicated in  
4 Cleveland and in Memphis and other cities and I would say  
5 that the strongest best practice is to bring everybody in  
6 the community together to tackle the issue.

7 Senator Tillis. If any other panelist that has  
8 anything to weigh in in terms of other best practices,  
9 that will be the balance of my time.

10 [No response.]

11 Senator Tillis. Thank you. Thank you, Mr. Chair.

12 Senator Cornyn. Senator Franken?

13 Senator Franken. Thank you, Mr. Chairman and  
14 Ranking Member, for holding this hearing. And thank you  
15 all for being here and for your tireless efforts to  
16 combat sexual violence and ensure that survivors have  
17 access to the resources necessary to begin their healing  
18 process.

19 The rape kit backlog was one of the first issues I  
20 worked on when I first became a Senator almost 6 years  
21 ago. I was proud in 2013 when I was part of the Violence  
22 Against Women Reauthorization Act. We included a  
23 provision that I authored which guaranteed that the  
24 survivors of sexual violence do not have to pay for the  
25 rape kit; that, again, the entity doing the test gets any

1 Federal funding at all.

2 Unfortunately, we are still here discussing how to  
3 handle the backlog and I am hopeful that we are going to  
4 see some changes as a result of this hearing.

5 Attorney General, the prevalence of sexual violence  
6 in communities across the Nation has received a lot of  
7 attention, a lot of media attention lately, and that is  
8 valuable.

9 Also, we need to focus on the ways that survivors of  
10 sexual violence often face significant challenges in  
11 pursuing and achieving justice, which often only adds to  
12 the trauma they already experienced.

13 In your testimony, you note the need to increase  
14 access to sexual assault nurse examiners, or SANEs. Can  
15 you explain why these nurses are so critical to making  
16 sure that survivors have access to the care that they  
17 need and better access to the justice they deserve?

18 Ms. Madigan. So a sexual assault nurse examiner is  
19 somebody who has received 80 hours of training, 40 hours  
20 of classroom training, 40 hours of clinical training in  
21 how to appropriately collect the evidence off an  
22 individual, in addition to understanding the  
23 psychological impacts of being a victim of a sexual  
24 assault. And so they can collect that evidence in a  
25 compassionate way that does not further victimize or

1 traumatize that survivor.

2       Additionally, you then have somebody who ~~can~~ be a  
3 very good expert witness if a prosecution is brought in  
4 one of those cases. And so when you talk to survivors,  
5 those individuals who actually went to a hospital ER or  
6 went somewhere where there was a SANE practicing report  
7 a much greater level of satisfaction with that very  
8 difficult, humiliating process.

9       And so it is absolutely imperative, we have found, to  
10 make sure that we have appropriately trained individuals  
11 to collect the evidence, to ensure both the healing  
12 process of the victim, as well as a prosecution of one of  
13 these criminals.

14       Senator Franken. Thank you.

15       Mr. Berkowitz, Ms. Byrd, as a follow-up to my  
16 question of the Attorney General, Can you describe just  
17 generally what kind of access Americans currently have to  
18 adequately trained sexual assault nurse examiners,  
19 especially in rural areas and in communities most  
20 vulnerable to sexual violence?

21       Mr. Berkowitz. Sure. It is very inconsistent. The  
22 bigger the area, the better the likelihood of finding a  
23 trained SANE and one who is available particularly  
24 overnight. But there definitely needs to be more  
25 resources into making sure that there are more SANE

1 nurses that have this training nationally.

2       There is a lot of -- particularly in rural areas and  
3 if you go into parts of Alaska, it could it could be  
4 hundreds of miles and a plane ride away to find a SANE.  
5 So I think that is a problem.

6       Just to add, I agree with everything General Madigan  
7 said about SANEs. I would add just one point, which is  
8 that it has been found that the likelihood of finding --  
9 of getting useable DNA out of the rape kit goes up  
10 significantly if it has been collected by a SANE who has  
11 had the training. So that is another public safety value  
12 to having SANEs out there.

13       Senator Franken. Ms. Byrd, do you have anything to  
14 add to that?

15       Ms. Byrd. I think that for survivors who go to the  
16 hospital, being treated with the compassion and the care  
17 that this training provides is incredibly important. For  
18 women to make the journey to go into the hospital, as we  
19 have talked about, many women do not report the crime,  
20 but those who do go and move forward and get the testing  
21 of a rape kit, it is reassuring. It will mitigate some  
22 fo the trauma of the exposure to the rape kit, which is 4  
23 to 6 hours. It is invasive, it is extensive. And we  
24 would like to see more across the country.

25       Senator Franken. Thank you. Thank you, Mr.

1 Chairman. And thank you, to all of you. Ms. Smith,  
2 thank you for your testimony.

3 Senator Cornyn. Senator Blumenthal?

4 Senator Blumenthal. Thanks, Mr. Chairman, and thank  
5 you for holding this very important hearing. And to all  
6 of our panel, thank you for being here today.

7 At the beginning of your testimony, Attorney General  
8 Madigan, you mentioned sexual assault on campuses as one  
9 of the locations where very frequently this crime -- we  
10 should never forget that it is a crime no matter where it  
11 occurs -- perhaps most frequently happens.

12 I appreciate your reference to campus sexual assault  
13 because it is one of the crimes that is most commonly  
14 unreported and one of the places where female survivors  
15 may be discouraged from reporting by the lack of  
16 services, such as rape kits and nursing help.

17 I have a measure that I proposed, the Campus  
18 Accountability and Safety Act, with a number of my  
19 colleagues, that would require colleges to post  
20 information on their Website regarding the name and  
21 location of the nearest medical facility where an  
22 individual may have a rape kit administered, as well as  
23 transportation options to visit those kinds of  
24 facilities.

25 I also understand you hosted a summit on campus

1 sexual assault. I have held roundtables, 13 of them or  
2 more now, around my State in Connecticut.

3

4 I wonder if you could tell us, and then maybe others  
5 on the panel have views, whether that kind of access is  
6 important to campus sexual assault survivors? Campus  
7 sexual assault survivors may have special needs and there  
8 may be special problems with reporting and seeking these  
9 kinds of services, and perhaps you can talk about that  
10 issue.

11 Ms. Madigan. Senator Blumenthal, I appreciate your  
12 work and we certainly are supportive of what you are  
13 doing in the State of Illinois.

14 As you mentioned, we recently held three summits  
15 around the State of Illinois on campus sexual assault and  
16 we found that there was an overwhelming response from  
17 university, college ~~professionals~~<sup>f</sup>, as well as advocates  
18 and students and survivors, and local law enforcement  
19 even, to talk about these issues.

20 It is absolutely imperative that campuses are  
21 following Federal law and do, in fact, have policies in  
22 place, are training individuals, and are absolutely  
23 providing information and resources to students. So when  
24 and if they become victims of sexual assault, they know  
25 where they can go, they know who they can turn to, and

1 they know the relief that could be available to them on  
2 their campus.

3 As you point out, many of these people on college  
4 campuses who are victims of sexual violence do not end up  
5 reporting to local law enforcement. Nonetheless, the  
6 accommodations that they need should be available through  
7 their college administration.

8 And so more and more we want to assure that those  
9 colleges and universities are aware of their legal  
10 requirements and are making those accommodations  
11 available so students can move forward with their  
12 education and not be permanently traumatized by sexual  
13 assault.

14 Senator Blumenthal. One of the other provisions  
15 that we suggested is that there be memoranda of  
16 understanding, in effect, protocols between campus and  
17 college administration and local law enforcement, whether  
18 it is police or prosecutors, and I wonder to what extent  
19 any of the members of the panel think that would be a  
20 good thing to do so that there are informed, better  
21 informed survivors who know to go to provide this  
22 evidence. It really is evidence that is necessary in a  
23 prosecution.

24 Ms. Madigan. I will respond. We have seen that the  
25 reviews of that are mixed. And so when we had campus

1 lawyers and local law enforcement who had a good personal  
2 relationship, ~~that~~<sup>o</sup> they felt that they did not need a  
3 memorandum of understanding in place. In other places,  
4 there was clearly a disconnect and the idea of having  
5 that memorandum of understanding seemed to force people  
6 to be put together in a way that may not result in actual  
7 cooperation.

8 So while I think it is a good idea, what we heard was  
9 most effective was the universities and local law  
10 enforcement who had on their own developed a relationship  
11 to address these situations.

12 Senator Blumenthal. My time has expired. I want to  
13 thank all of you for your great work in this area and  
14 thanks for being here today. Thank you.

15 Senator Cornyn. Senator Whitehouse?

16 Senator Whitehouse. Thank you very much, Attorney  
17 General Cornyn -- I mean, Senator Cornyn.

18 We are delighted to have this entire panel, which has  
19 been very helpful, but I particularly want to welcome my  
20 fellow Attorney General.

21 We have, I think, passed two laws already to try to  
22 deal with the rape kit problem. We have spent probably  
23 north of \$1 billion, which, being from Rhode Island, I  
24 still think is real money and we still have this very  
25 significant backlog problem.

1 I am interested in two questions, I guess. One is if  
2 we were to try to solve this problem just with Federal  
3 carrots, how big do you think the expenditure would need  
4 to be considering that we have already spent \$1 billion?  
5 And would it be wise to pair something of a stick with  
6 the carrot so that burn grant or other types of funding  
7 were contingent upon having made progress against rape  
8 kit backlogs in order to try to drive progress in this  
9 area?

10 Let me lead with you, Attorney General Madigan.

11 Ms. Madigan. I think the carrot-and-stick approach  
12 is a good idea. So, for instance, a number of us  
13 discussed the idea of ensuring that there are audits  
14 done <sup>and</sup> tracking systems in place so that there can be a  
15 measure of public accountability.

16 And so to the extent that you are making funds  
17 available, I think you also want to make sure that they  
18 are being used appropriately and efficiently. And so  
19 there is a series of things that can be done to make that  
20 a reality.

21 Senator Whitehouse. Ms. Byrd?

22 Ms. Byrd. I agree with the Attorney General.  
23 Tracking, auditing, greater transparency and  
24 accountability built into the system will help ensure  
25 that the backlog does not continue, that we continue to

1 address the investigation and prosecutorial resource  
2 needs, and I absolutely agree with that.

3 Senator Whitehouse. Most of these cases are not  
4 done by state prosecutors. Most of them are done by  
5 county prosecutors, district attorneys. I do not know  
6 how many Illinois has, but I bet you have a lot.

7 Is there a wide array, in the experience of anyone on  
8 the panel, between the local best performers, people who  
9 are really diligent about clearing their backlogs, trying  
10 to preserve the DNA evidence, get cases made, and others  
11 for whom it is just not that big a priority for them?

12 Do you think it is a pretty even march forward, in  
13 your experience, across the country and jurisdiction by  
14 jurisdiction, are there some real stars who are working  
15 really hard and producing great results and some real  
16 laggards who just have not picked up the stick at all?

17 Ms. Madigan. Let me respond to part of your  
18 question and then give somebody else on the panel an  
19 opportunity to talk, as well.

20 The State of Illinois has 102 counties. Each county  
21 has a State's attorney, who is your front line criminal  
22 prosecutor.

23 We have found that when they submit their DNA to the  
24 state crime lab, completely different time<sup>S</sup>. So Cook  
25 County, they say it takes them over a year to get results

1 of DNA testing. Madison County says 60 to 90 days. Lake  
2 County has started to outsource, I think, in large part,  
3 for some of the reasons that were addressed earlier, ~~and~~ that  
4 it is more efficient and faster to get their testing done  
5 by somebody other than the state police crime lab.

6 Yes, there are some places doing much better in terms  
7 of prosecutions than others.

8 Senator Whitehouse. Mr. Hearn?

9 Mr. Hearn. Senator, I think part of the issue,  
10 though, is the changing mind set of this issue. People  
11 are diligent about addressing the individual case and  
12 that may be a quick plea. Again, if identity, for  
13 instance, is not a question in the case, moving on to the  
14 next case has maybe been part of the issue.

15 By changing the philosophy and the nature of these  
16 types of investigations due to the predatory nature and  
17 the moving around, it will change some of that thinking  
18 so that all kits will be tested regardless of that  
19 individual case perspective and viewed more conceptually.

20 Senator Whitehouse. And do you agree with Attorney  
21 General Madigan, in your experience, that there is a wide  
22 array of performance at the local, county sheriff level  
23 or are people pulling forward pretty evenly?

24 Mr. Hearn. I guess it varies. There are,  
25 obviously, resource issues at the rural side that are not

1     faced at the urban side, but the urban side has volume  
2     issues that the rural side does not have. So it varies  
3     between both.

4     Senator Whitehouse. But just to conclude, do you  
5     think if you had to, you could come up with a handful of  
6     benchmarks that every prosecutor's office, every police  
7     department or sheriff's department ought to be attaining  
8     and make something contingent on their reaching that  
9     standard?

10    Mr. Hearn. At least speaking for Texas, with our  
11    current legislation that is in place that requires the  
12    submission within 30 days of receipt by law enforcement,  
13    I think that issue has been addressed.

14    It is the second half of the issue that falls on  
15    those that oversee a crime lab that getting the testing  
16    done in a timely manner, the resources needed to do that,  
17    and understanding that while we are here talking about  
18    sexual assault kits, sexual assault investigation  
19    includes other aspects of forensic science, toxicology,  
20    latent prints.

21    A kit may not be taken in every sexual assault  
22    investigation due to latency or some other issue. So the  
23    broad investigation of sexual assault includes a whole  
24    host of forensic issues.

25    Senator Whitehouse. Understood. I have gone over

1           What more do you think can be done in this area?

2           Anyone can take it.

3           Ms. Madigan.    I am happy to.    Do you want to talk?

4           One of the things that could be most helpful is to ensure

5           that hospitals are supportive of SANE programs.    So I

6           have tried to work with the Illinois Hospital Association

7           to ~~ensure~~ <sup>ensure</sup> that we have 24/7 SANE programs in at least

8           each trauma region of our State, of which there are 11.

9           We are still at a point that I am only aware of three

10          known 24/7 SANE programs in hospitals in the State of

11          Illinois.

12          It is insufficient.    Our office has trained over

13          1,200 SANES and when I talk to the SANES, they tell me

14          that they are not supported in terms of the clinical

15          training that they need and that hospitals do not give

16          them an opportunity to practice, which, as we have talked

17          about, for a variety of reasons, traumatizes victims,

18          does not allow us to collect DNA as well, <sup>and</sup> does not

19          provide us with as good a professional witness during a

20          prosecution.

21          And so you can do more or we can all find ways to do

22          more to support SANE programs across the country.

23          Senator Klobuchar.    Anyone else want to chime in on

24          that?

25          Ms. Byrd.    I would just like to say that in a lot of

1 -- in some of the rural areas, they have gone to like  
2 mobile units, because whereas one area could not afford  
3 to have a SANE program, then they have equipped this van  
4 and they actually go to the victim. It still takes some  
5 time sometimes, but at least they are making themselves  
6 available to a victim, which, in my opinion, SANEs are  
7 also one of the best kept secrets in the sexual assault  
8 world because a lot of victims do not even know what they  
9 are or that they are available. And I believe it is also  
10 the key to getting victims to report.

11 Senator Klobuchar. Very good. Thank you. The last  
12 question I was going to ask was about record-keeping and  
13 I think we have known that one of the key things as we  
14 talk about what these states -- to see what kits are  
15 sitting there untested is maintaining accurate records.

16 Some states have new auditing programs. I know the  
17 number of, as I mentioned untested kits in our State is  
18 really quite low. We are also considering legislation at  
19 the State level to do an audit.

20 How can we ensure that the audits are effective? How  
21 is the backlog issue do you think going to be impacted by  
22 continuing transitions to electronic and digital systems  
23 which would allow us to check those audits? Do you have  
24 any examples of best practices on that?

25 Mr. Hearn?