

**Testimony of  
The Honorable Anthony D. Weiner  
Before the House Judiciary Subcommittee on Crime, Terrorism and Homeland Security  
On the  
Rape Kit Backlogs: Failing the Test of Providing Justice to Sexual Assault Survivors  
May 20, 2010**

Thank you Chairman Scott and Ranking member Gohmert for the opportunity to testify on the importance of reducing the rape kit backlog and the progress that has been made on this issue. I look forward to hearing from our witnesses including Valerie Neumann, who will share her powerful personal story. I have been a longtime advocate of promptly testing all rape kits for DNA evidence. The significance of testing all rape kits cannot be underscored. Every untested rape kit is a victim waiting for justice, and a sexual predator unpunished and perhaps a crime waiting to happen.

In 1999, as a member of this committee I authored the DNA Backlog Elimination Act that required the Department of Justice to establish a program to assist state and local governments with their DNA backlog. In 2000, I then worked with our former colleague Rep. Bill McCollum to pass the DNA Analysis Backlog Elimination Act of 2000, which provided federal funding to state and local governments to test DNA samples. The first time such an investment was made. Then in 2004, my DNA Sexual Assault Justice Act, was included as part of the Justice for All Act. This legislation did a number of things including increasing grants to state and local governments for DNA testing, requiring state and local government crime labs to undergo accreditation and auditing every 2 years and providing grants for law enforcement and medical personnel to be trained on collection and preservation of DNA. Since then I worked with my colleagues to pass the Debbie Smith Reauthorization Act in 2008, including Carolyn Maloney.

Since 1999, there has been considerable progress across the country in understanding the power of DNA testing. Simply put, DNA evidence breathes new life into cold cases, solving hundreds in New York City alone, and can be a life saver for the wrongly accused. Testing rape kits provides much needed piece of mind to rape victims, brings rapists to justice and frees the wrongly convicted. In addition, requiring all convicted felons to provide DNA samples works. During our consideration of the Debbie Smith Reauthorization bill in 2008, I brought up an article to the committee about a woman being raped in 1998. For seven years that case went unsolved until the State of Pennsylvania passed a law requiring anyone convicted of a felony to submit their DNA to the state database. It turned out that there was a DNA hit from a man who had recently been convicted of forgery. This is just one of a number of cases like that where DNA is bringing criminals to justice for previously unsolved cold cases.

My hometown of New York City has been one of the success stories. New York City had at one time a backlog of 17,000 rape kits. However, through a significant infusion of funding and a commitment to justice by the federal government and local leaders, New York City processed all of these rape kits, tests each rape kit and now does not have a backlog. The result has been at least 2,000 cold hits in rape cases, and the arrest rate for reported cases of rape in New York City rose from 40 percent to 70 percent, according to Human Rights Watch. Additionally, New York

City tests kits quickly. In fact, the average for all DNA cases for New York City's Office of Chief Medical Examiner is 75 days. Even better is the average turn around time for sexual assault cases, which stands at 40 days.

However, there have been longstanding challenges in other parts of the country. A disturbing trend has been the difficulty for labs, the Department of Justice and policy makers to get a true picture of how many untested rape kits are sitting in police storage facilities. In 2003, a National Institute of Justice funded study found that there were over 542,000 criminal cases with possible biological evidence sitting in local police storage or forensic labs. Additionally, this study found that the average turn-around time in the United States is between 24-30 weeks, versus 33 days in England. Even more troubling was that over 50 percent of local law enforcement agencies said that forensic DNA was not considered a tool for criminal investigations.

A similar study published last year found that state and local law enforcement agencies did not submit thousands of unsolved homicide (3,975) and rape cases (27,595) to a crime laboratory. Over 12,000 or 40 percent of these unsolved homicide and rape cases contained DNA evidence. Even more troubling was that despite the greater awareness of the power of DNA, nearly half of the law enforcement officials in the study said that they may not submit evidence if a suspect had not yet been identified. Lastly, approximately 60% of law enforcement agencies reported not having a computerized information system in place capable of tracking forensic evidence.

For these reasons, I have introduced the DNA Expansion and Improvement Act of 2009. This legislation would increase funding to state and local governments for testing rape kits and other DNA samples, establish two new \$50 million grant programs – one for public labs to purchase or upgrade technology and a second for testing of property crimes. Additionally, the bill would require that all States collect DNA from felons in prison and for all felony crimes in the future or lose the opportunity for funding. This is critical for the states that still do not require all felons to submit their DNA – Idaho and New Hampshire.

As the committee moves forward on this important issue, I believe one of the most important aspects we need to focus on is a true picture of the national backlog and I hope that Dr. Hassell with the FBI will be able to shed some light on this subject. The recent studies that I mentioned greatly vary and we need to ensure that no matter what city or state a crime is committed that rape kits are tested in a timely manner and rapists are taken off the street.

In closing, I would like to thank you Chairman Scott and Ranking Member Gohmert for holding this important hearing and inviting me to testify on this important topic.