

TESTIMONY
Congressman Adam B. Schiff
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House Judiciary Subcommittee on Crime

Mr. Chairman, Ranking Member, thank you for calling this important hearing and inviting me to participate.

There is no reliable accounting for what the sexual assault kit backlog stands at around the country, or even a consensus as to what constitutes a backlogged kit. However, we know that sexual assault kits are sitting ~~on the shelves for months and years and that crime labs around the~~ nation are struggling to do more with less. And we know that, as a result, rapists are walking the streets and justice for their victims is being denied.

I'm sorry to say Los Angeles knows all too well about the rape kit backlog. In 2008, a full accounting of the rape kits sitting in storage for more than 30 days revealed that the backlog stood at over 13,000 kits between the City and County labs. A breakdown of the backlog revealed that over 200 kits in the County alone were older than 10 years, and therefore beyond the statute of limitations for a rape case, even if a positive hit was discovered. Los Angeles is far from alone. Many other cities have these backlogs, whether their citizens know it or not.

When I started working to address the Los Angeles backlog, I found that it is not as simple as putting more money into the crime lab. New forensic scientists have to be hired, trained, and then they have to have the lab space and resources to do their jobs. The process from hiring to training a scientist to the point he or she can process a rape kit start to finish takes years. To make an immediate dent in the backlog, the City and County both employed the capacity of private labs that had the manpower and expertise to process these kits immediately. Both the City and County have outsourced thousands of kits. Were it not for that option, closing the backlog would have taken years longer, if it happened at all.

There is a simple step that we could take immediately to speed the processing of sexual assault evidence and to improve the efficiency of public labs. The National DNA Index System rules govern what can be uploaded into the national database. The rules require that any crime scene evidence outsourced by a private lab must undergo a technical review by the public lab, which is a manual rechecking of the private labs work. The technical review of each kit is a time intensive process. In fact, I obtained \$500,000 for the City of Los Angeles this year that will go entirely towards paying the overtime for forensic scientists who are conducting the technical review. For several years now, I have been

calling on the FBI to evaluate this rule in light of the evidence that it is unnecessary and burdensome on overstretched public labs.

There have been some suggestions that the calls to look at the technical review standards are being driven by the private labs. It's simply not the case. If you don't believe me, go to Los Angeles and talk to Mayor Villaraigosa or Chief Charlie Beck or Sheriff Lee Baca, and ask them about the impact of technical review on their budgets and the turnaround time for backlogged rape kits.

Let me be clear – this is not about private labs versus public labs. I come from a law enforcement background as a federal prosecutor, and I have no desire to remove law enforcement functions from public crime labs. I strongly support building the capacity and efficiency of public labs so that they can quickly process DNA. I am opposed to opening CODIS to any private entity.

I was very pleased when, in March of this year, the announced that they FBI are taking a look at the technical review rules and studying possible changes. There are a range of options on the table short of the 100 percent manual review that preserve the integrity of CODIS. Among them are expert systems that can automate technical review process. We can also require a higher degree of accreditation for private labs, and

require them to undergo regular audits. We could also require a review after a hit in CODIS. What we should not do is continue to hamstring public labs that need immediate capacity.

As eager as I am to hear more about the intention of the FBI and the NDIS board to modify the existing rules, I am concerned that the timing will do little to relieve the immediate problem faced by LA. The LAPD has over 2000 evidence kits that have returned from a private lab, but are still awaiting upload into CODIS because of the several hours it takes a lab technician to perform the technical review. This despite the fact that in the thousands of kits they have already done the technical review for, they haven't located a single error that impacted the integrity of the database or would have resulted in a false match.

For that reason, last week I sent a letter to FBI Director Robert Mueller and Attorney General Holder asking them to consider immediate steps to ease the technical review burden for the LAPD. The FBI is considering options for pilot programs to test the efficacy of alternatives to manual technical review, and I believe that LA is a perfect venue for that project. Nine other members of the Los Angeles area delegation joined me in writing. We believe that LA can prove the concept of a new technical review regime, while speeding the day that the LA backlog is truly closed.

In closing, Mr. Chairman, I hope this hearing is just the beginning of this Committee's work on DNA and the rape kit backlog in the time we have remaining this Congress. It is time we take the lessons learned in the years since the passage of the Debbie Smith Act and turn them into new policies to speed the processing of rape kits. DNA is the most powerful law enforcement innovation, but only if we use it to its fullest potential. I thank you for calling this hearing, and I look forward to working with you on these issues.
