

PERFORMANCE AUDIT



Office of the
Washington
State Auditor
Pat McCarthy

Sexual Assault Kits: Assessing Washington State Patrol's testing backlog and tracking system

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Executive Summary

State Auditor's Conclusions (page 22)

Washington's backlog of untested sexual assault kits is a long-standing concern for survivors, their families and advocates, law enforcement agencies and lawmakers. In 2019 the Legislature increased funding for testing and set a deadline to test historical kits, requiring the State Patrol to send kits to labs for testing by Dec. 1, 2021. Lawmakers also required our Office to conduct a performance audit of the Washington State Patrol's Crime Laboratory and sexual assault kit tracking system in 2022.

Although the State Patrol has implemented recommended practices for testing kits and the sexual assault kit tracking system, our audit shows that a backlog of untested kits remains. There are valid reasons for this, including disruptions stemming from the global pandemic that began in 2020. Accordingly, we make no new recommendations in this audit. However, we must emphasize the importance of the State Patrol staying the course without further delays. It must prioritize planned improvements to ensure the testing backlog is eliminated. This issue must not fade from public scrutiny; our Office will check on the State Patrol's progress again in a future audit.

Background (page 6)

After a sexual assault occurs, forensic evidence is collected at a medical facility by a nurse or other medical professional and packaged into a sexual assault kit. Testing these kits in a timely manner can help resolve crimes and ensure justice is served. In 2018, an official statewide inventory determined that more than 9,000 sexual assault kits had been collected but not submitted for testing. In addition to these kits, the Washington State Patrol continued to receive about 2,000 new sexual assault kits each year for testing. As of January 2022, there were more than 6,000 kits left to be tested.

The State Patrol is responsible for testing all sexual assault kits statewide, whether at one of its crime labs or by contracting with a private lab. The agency also manages the statewide sexual assault kit tracking system, which was established in 2018 to provide more transparency around the testing process, particularly for survivors. The audit examined both the State Patrol Crime Laboratory's processing of sexual assault kits and the statewide sexual assault kit tracking system.

State Patrol has taken important steps to eliminate the sexual assault kit backlogs, but thousands of kits remain untested (page 11)

In response to new legal requirements, State Patrol took important steps to reduce its backlogs of untested kits. The agency made changes designed to make testing more efficient, but the audit could not quantify their effect because not enough time has passed since their implementation. The changes included acquiring new equipment to automate the testing process, adopting a more efficient testing method, and hiring and training forensic scientists who specialize in testing DNA. It also outsourced some testing to private labs. The COVID-19 pandemic contributed to delays in eliminating the backlogs. Other states started addressing their backlogs of untested kits earlier than Washington and have eliminated them.

As of January 2022, State Patrol had tested 74 percent of all kits received since 2015. While law enforcement agencies and State Patrol submitted thousands of kits for testing before the deadlines, the agencies later found additional kits and there may be others.

Washington's sexual assault kit tracking system follows legal requirements and recommended practices (page 18)

Before the introduction of tracking systems for sexual assault kits, many survivors had no way of tracking their kit as it moved throughout the criminal justice process. States around the country, including Washington, have responded to these concerns by adopting kit tracking systems.

Washington's system has functionality to allow survivors to track their sexual assault kit at key steps in the criminal justice process, from collection to destruction. The system allows professional users – including medical facilities, police and labs – to update the kit's information as it moves throughout the process. This information then flows into a separate survivor portal, which is designed to allow survivors to track their kit at key steps. The kit tracking system follows other required and recommended practices, such as having essential data fields and including historical kits in the system.

Recommendations (page 23)

State Patrol had already taken steps to incorporate requirements and best practices into its sexual assault kit testing process and tracking system before the audit could be conducted within the legislatively mandated timeframe. We make no formal recommendations, but strongly encourage State Patrol to continue its efforts to test all sexual assault kits in a timely manner and keep the system operational to provide survivors with the ability to track their kits.

Next steps

Our performance audits of state programs and services are reviewed by the Joint Legislative Audit and Review Committee (JLARC) and/or by other legislative committees whose members wish to consider findings and recommendations on specific topics. Representatives of the Office of the State Auditor will review this audit with JLARC's Initiative 900 Subcommittee in Olympia. The public will have the opportunity to comment at this hearing. Please check the JLARC website for the exact date, time, and location (www.leg.wa.gov/JLARC). The Office conducts periodic follow-up evaluations to assess the status of recommendations and may conduct follow-up audits at its discretion. See **Appendix A**, which addresses the I-900 areas covered in the audit. **Appendix B** contains information about our methodology.

Background

Untested sexual assault kits have been a topic of national public concern in recent years

After a sexual assault occurs, forensic evidence is collected at a medical facility by a nurse or other medical professional and packaged into a sexual assault kit. Sexual assault kits typically contain swabs, envelopes and documentation of the evidence collected. This evidence has the power to identify the assailant, exonerate the innocent, and link cases together. It is important for law enforcement officials to process the kit in a timely manner to resolve the crime and ensure justice is served.

Backlogs in testing these kits have been documented in most states across the country over the last two decades. Determining the size of the backlog nationally has been challenging, but various studies have estimated that the number of kits that were not tested range from 200,000 to 400,000 since the 1980s. The national Sexual Assault Kit Initiative program has provided federal grant funding to more than 70 jurisdictions and states since 2015; grants are intended to help clear backlogged testing and to develop comprehensive responses to sexual assault.

When kits remain untested, investigators cannot connect DNA results to other cases, and offenders may commit more crimes after the sexual assault evidence is collected. Research suggests that about half of those who commit sexual assault have done so more than once.

Research also suggests that testing kits in a timely manner can provide cost savings in investigations, prosecutions and averted crimes. Survivors of sexual assault who consent to having evidence collected undergo a forensic examination, which is highly invasive and time-consuming, so it is reasonable for them to expect the evidence in the kit will be tested promptly so their cases can be resolved.

The terms “survivor” and “victim” are both used in discussing sexual assault cases. In this report, we have chosen to use the term “survivor.”

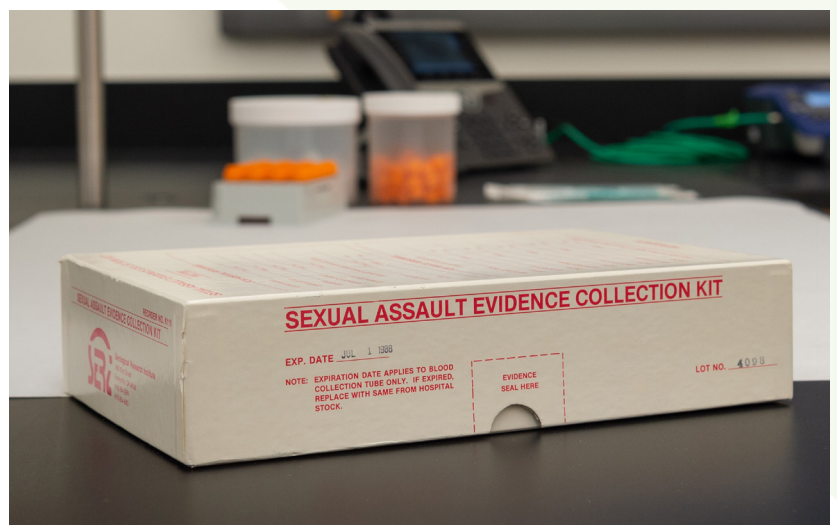


Photo: Washington State Patrol.

Medical professionals use a standardized sexual assault kit to collect forensic evidence.

Since 2015, several agencies in Washington have acted to identify untested sexual assault kits

Washington has also experienced the problem of untested sexual assault kits. The state made two targeted, statewide efforts to identify all sexual assault kits that had not been submitted for testing. First, in 2015, the Washington Association of Sheriffs and Police Chiefs surveyed law enforcement agencies at all jurisdictional levels. At that time, these agencies estimated that they had about 6,000 kits to submit, but not all agencies responded to the survey. Then, in 2018, the Attorney General's Office conducted an official inventory as part of the national Sexual Assault Kit Initiative program. They determined that more than 9,000 sexual assault kits had not been submitted for testing. The oldest untested kit reported by police dates back to 1982.

In addition to the kits identified as part of the official inventory in 2018, State Patrol continued to receive about 2,000 new sexual assault kits each year for testing. The growing number of both old and new kits resulted in two backlogs at the agency: historical (collected before July 24, 2015, as noted in state law) and newer (collected on or after July 24, 2015). The Patrol manages these backlogs separately. According to the Patrol's operational definition, every kit that had been waiting for testing for one or more days is a part of the backlog. For the purposes of this report, we adopt this definition of the term "backlog." As of January 2022, there were more than 6,000 kits left to be tested: about 3,600 historical kits and 2,600 newer kits.

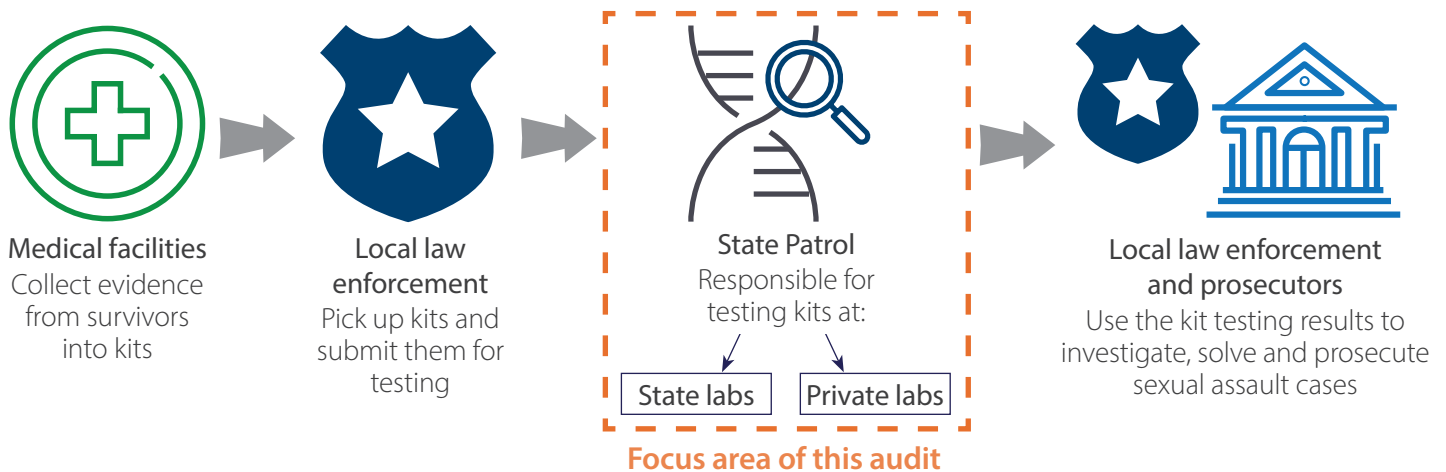
Local law enforcement agencies that receive and process sexual assault kits and investigate these crimes include police departments and sheriff's offices at community and county levels. For this report, we sometimes use the more general term "police."

State Patrol is responsible for testing all sexual assault kits and managing the state's kit tracking system

Multiple organizations handle sexual assault kits and delays can happen throughout the process

In Washington, multiple organizations are involved in processing sexual assault kits. First, a nurse or other medical professional at a hospital or medical facility uses the kit to collect forensic evidence from the assault survivor. The hospital then notifies the police that the kit is ready to be collected. An officer then takes custody of the kit and completes paperwork on case details that will be used to inform testing decisions, such as which samples to test for DNA evidence. The police agency then submits the kit and paperwork to the Washington State Patrol Crime Laboratory for testing (see **Exhibit 1** on the following page).

Exhibit 1 – While multiple organizations handle sexual assault kits in Washington, this audit focused on the Washington State Patrol Crime Laboratory



Source: Auditor created based on legal requirements.

Between the time kits are collected and when they are tested, the process is at risk of delays. National research suggests that kits can be delayed between organizations or go untested for three common reasons:

- Police may not believe testing kits is necessary to solve cases, sometimes because the suspect has already been identified
- Many policing agencies lack clear policies outlining when kits should be tested
- Limited resources at police agencies and crime labs mean not all tests can be submitted or tested in a timely manner

In Washington, all kits must be submitted for testing, regardless of when they were collected or the status of the investigation, as long as the survivor has consented to testing. Delays can nonetheless arise between any points in the process outlined in Exhibit 1.

State Patrol is responsible for testing all sexual assault kits

State Patrol is responsible for testing all sexual assault kits statewide, whether at one of its crime labs or by contracting with a private lab. The Patrol's Crime Laboratory division tests kits at five of its eight labs statewide, which also test for DNA evidence from other crime scenes. As of March 2022, the Patrol was fully staffed with 63 forensic scientists who are trained to perform DNA testing of evidence.

Forensic scientists first screen the evidence provided in the kit for the presence of anyone's DNA other than the survivor's. If enough DNA is present in the sample, it will be used to generate a DNA profile. This profile is then uploaded into a national DNA database maintained by the FBI where it can be compared to DNA from known offenders and other crime scene samples if it meets federal requirements. These results, along with the sexual assault kit's contents, are then returned to the police agency that provided the kit. The test results are used to inform the next steps of the investigation.

Since 2015, the Legislature has appropriated more than \$30 million to State Patrol for testing sexual assault kits. This included funding for new laboratory space in Vancouver. In addition, the Attorney General's Office has received \$4.5 million as part of the national Sexual Assault Kit Initiative program to inventory and test sexual assault kits. The Attorney General's Office used about half of this funding to pay the Patrol for testing some of the historical kits, which was the maximum amount it could use under the program's rules.

State Patrol also manages the statewide sexual assault kit tracking system

In 2018, Washington instituted a computer-based system to track the status of sexual assault kits, with the goal of providing more transparency around the testing process. While various organizations already had other systems in place to track the chain of custody of evidence used in court, the new system was created with survivors' needs in mind. State Patrol contracted with a private company to provide Washington's kit tracking system, called Track-Kit, which many other states also use. All organizations involved in processing kits, including medical facilities and police, must update the status and location of kits throughout the criminal justice process in this system, even if they use other systems to track custody for court purposes. And by design, the system must allow survivors to track the status of their kits anonymously.

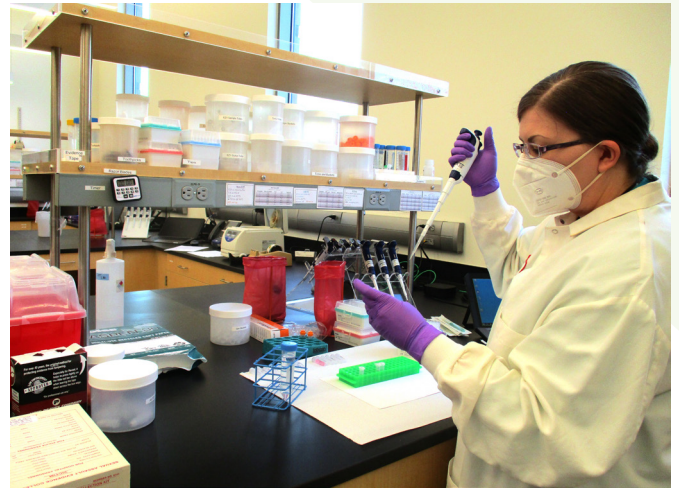


Photo: Washington State Auditor's Office.

Testing sexual assault kits involves complex and precise scientific processes.

This audit examined State Patrol's testing and tracking of sexual assault kits

The Legislature passed House Bill 1166 in 2019. It required the State Auditor's Office to conduct a performance audit in 2022, examining the State Patrol Crime Lab's processing of sexual assault kits and the statewide sexual assault kit tracking system. Required audit considerations included whether the agency took required and recommended actions according to best practices to improve the efficiency and efficacy of testing.

This audit was designed to answer the following questions:

1. What progress has the State Patrol made toward eliminating the backlog of untested sexual assault kits?
2. Does Washington's statewide sexual assault kit tracking system follow legal requirements and best practices?

Audit Results

State Patrol has taken important steps to eliminate the sexual assault kit backlogs, but thousands of kits remain untested

Results in brief

In response to new legal requirements, State Patrol took important steps to reduce its backlogs of untested kits. The agency made changes designed to make testing more efficient, but this audit could not quantify their effect because not enough time has passed since their implementation. The changes included acquiring new equipment to automate the testing process, adopting a more efficient testing method, and hiring and training forensic scientists who specialize in testing DNA. It also outsourced some testing to private labs. The COVID-19 pandemic contributed to delays in eliminating the backlogs. Other states started addressing their backlogs of untested kits earlier than Washington and have eliminated them.

As of January 2022, State Patrol had tested 74 percent of all kits received since 2015. While law enforcement agencies and State Patrol submitted thousands of kits for testing before the deadlines, the agencies later found additional kits and there may be others.

In response to new legal requirements, State Patrol took important steps to reduce its backlogs of untested kits

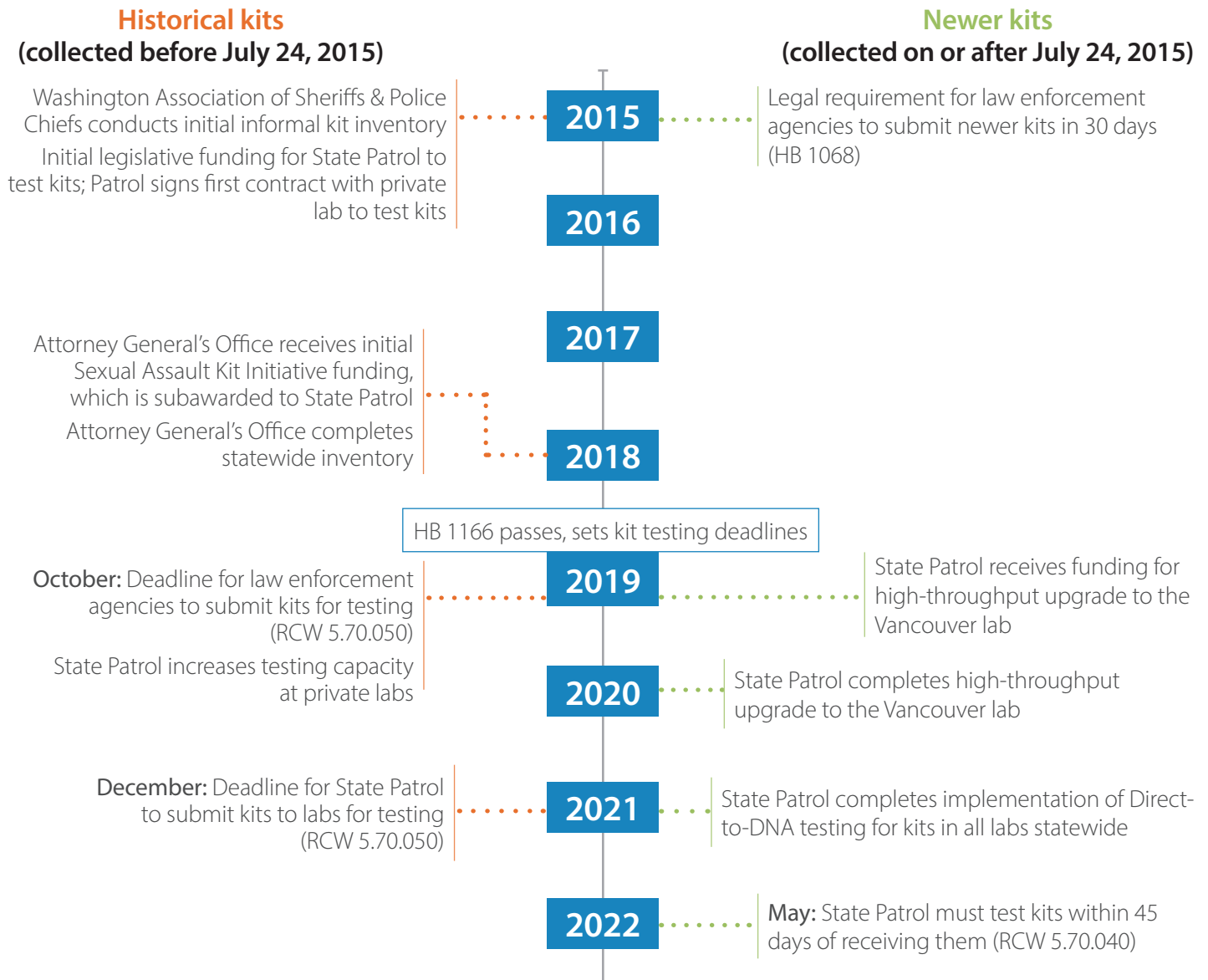
In 2015, after the Washington Association of Sheriffs and Police Chiefs conducted an informal inventory of sexual assault kits and estimated the existence of about 6,000 untested kits statewide, the Legislature took action. A new state law outlined priorities for testing kits and required that newer kits must be submitted for testing by law enforcement agencies within 30 days of when they were collected. However, this law did not set deadlines for either law enforcement agencies or State Patrol to voluntarily submit historical kits for testing. In 2018, the Washington Attorney General's Office completed an official statewide inventory of untested historical kits; this inventory revised the estimated number upward to 9,000.

Historical kits are those containing evidence collected before July 24, 2015.

Newer kits are those collected on or after July 24, 2015.

When the extent of these kits was better known, momentum to address the problem increased. And so, in 2019, new legislation set two deadlines to submit historical kits for testing: one for law enforcement agencies to send kits to the Patrol in 2019, and one for the Patrol to send the kits to labs for testing by December 2021. At the time the Legislature set the deadline for submitting historical kits in 2019, the Patrol had already received about half of the 9,000 historical kits identified statewide for testing. **Exhibit 2** sets out a timeline of these events and deadlines.

Exhibit 2 – Timeline of key events for sexual assault kit testing



Source: Auditor created based on legal requirements, interviews, and document reviews.

To help manage the increase in historical kits and the newer kits State Patrol continued to receive, the agency started contracting with a private lab in 2015 to test historical kits. Between 2015 and 2018, about 2,000 historical kits were tested by the private lab.

State Patrol made changes designed to make testing more efficient, but the audit could not quantify their effect because not enough time has passed since their implementation

After the 2019 legislative deadline to submit historical kits for testing was set, and State Patrol received the funding that enabled it to test at private labs and to increase its own capacity at state crime labs, the agency adopted important process improvements consistent with best practices. These practices were recommended in “National Best Practices for Sexual Assault Kits: A multidisciplinary approach,” published in 2017 by the U.S. Department of Justice’s National Institute of Justice, and by the national Sexual Assault Kit Initiative. The practices address three areas:

- Increasing throughput with automated technology
- Streamlining evidence screening with Direct-to-DNA processes
- Gaining capacity by outsourcing testing to others

During the audit, we also interviewed officials in three states with backlogs of historical kits similar in size to Washington’s, to learn more about their efforts to clear untested kits. These states used the same practices to eliminate their backlogs.

Below, we describe State Patrol’s efforts and the results observed so far.

- **State Patrol acquired new equipment designed to automate processes and increase the number of samples tested at a time, but as of May 2022, the equipment was not yet fully operational.** The National Institute of Justice report recommended that state crime labs seeking to reduce their backlogs or turnaround times use automated technologies and equipment. Other states we interviewed said that using automated equipment was a contributing factor in eliminating their backlogs. Since 2019, the Patrol’s Vancouver Crime Laboratory has acquired three new pieces of equipment designed to increase the number of samples that can be tested for DNA at once. However, as of May 2022, the equipment was not fully operational, and only two of the three new machines were used for testing samples. This was in part because engineers did not have access to the machines during the COVID-19 pandemic, as described on the following page.



Photo: Washington State Patrol.

New equipment helps to automate the sexual assault kit testing process, increasing the number of samples that can be tested at a time.

- **Although State Patrol adopted Direct-to-DNA processes to make testing more efficient, it did so several years after it became aware of the best practice.** Both leading-practice resources recommend using the targeted testing strategy known as Direct-to-DNA to increase testing efficiency. This strategy has forensic scientists first screen for the presence of male DNA before developing full DNA profiles for the survivor and suspect(s); developing full DNA profiles for both people takes significantly more time. All states we interviewed adopted this strategy. The Patrol officials said they first considered adopting Direct-to-DNA in 2015, but it took until spring of 2021 to implement in crime labs across the state. They said this was because of the time needed to acquire the new testing materials and to ensure that they worked as intended. At the same time, the Patrol was also pursuing several other process improvements and implementing new federal requirements that had an impact on the testing process.
- **State Patrol expanded its outsourcing capacity in anticipation of receiving more historical kits from police.** The National Institute of Justice report recommended outsourcing testing to private labs as a strategy for clearing a backlog of kits. Two states we interviewed took this approach. The Patrol has outsourced all historical kits and some newer kits to three private labs for testing. One of these contracts started in July 2015, with two more added in October 2019 to meet the approaching December 2021 deadline. The Patrol attributed the delay in contracting additional labs to state procurement rules that prohibited it from spending more of the funding it had received for private lab contracts.

State Patrol has also made other, smaller, process improvements to test kits more efficiently. For example, the Patrol made changes to the physical layout of the upgraded lab space in Vancouver, locating the test equipment closer together and storing kits closer to the equipment. This reduced the time staff spent moving around the lab to collect and test kits. These changes also eliminated the need to send notifications to the forensic scientists as each kit was ready to be tested. The Patrol also developed standard forms to help streamline its analysis and review of test results, as recommended in the National Institute of Justice report. Finally, the Patrol adopted a phased training approach, to have new employees start on casework while they complete their two-year training program. The Patrol adopted this practice in all its labs statewide in 2019, when the agency hired 16 additional forensic scientists. This practice is also used by other states we interviewed.

State Patrol delayed implementing many of these practices either because they had no clear deadline by which to do them or because they lacked sufficient funding to make the change until 2019. Therefore, not enough time has passed for the changes to have a significant impact on reducing the backlogs yet and it is unclear what impact they will have going forward. This is particularly the case for the new testing machines needed to increase capacity for newer kits, since the equipment was not fully operational during this audit. In addition, the COVID-19 pandemic affected the Patrol's ability to implement some improvements more quickly.

The COVID-19 pandemic contributed to delays in eliminating the backlogs

The pandemic contributed to delays in testing sexual assault kits at State Patrol's crime labs by affecting staffing levels or expertise at both the Patrol and at its contractors. For example, the engineers who were to program the Vancouver lab's new equipment to automate the testing process were diverted to efforts related to COVID-19. In another example, training for new forensic scientists hired at the end of 2019, after the Patrol received its legislative funding, slowed as employees adapted to training remotely.

COVID-19 also affected operations at the three private labs testing sexual assault kits, where State Patrol said they similarly experienced challenges. Even though the Patrol's contracts with these labs include an expected output of tests per month, all three found it difficult to meet these expectations due to limits on the number of employees in labs during lockdowns and difficulty getting personal protective equipment. As a result, COVID-related delays at private labs significantly affected the number of historical kits tested in 2020, despite State Patrol increasing the number of private firms it contracts with from one laboratory to three.

Other states started addressing their backlogs of untested kits earlier than Washington and have eliminated them

The three states that we interviewed about practices used to clear untested kits said they eliminated their backlogs within a few years of completing their inventories or enacting state reform to test kits. All three states identified and eliminated their backlogs between 2016 and 2019, before Washington's legislative requirements to submit all untested kits took effect. This also means they had completed their testing of historical kits before the pandemic. For example, within two years of Ohio's legislative deadline to submit historical kits, the state completed testing of around 14,000 sexual assault kits (a number affected by the fact that some kits were voluntarily submitted before the deadline). In about two years, Oregon officials said they completed testing about 6,000 kits. In three years, Florida completed testing about 8,000 kits.

States interviewed about backlogged testing

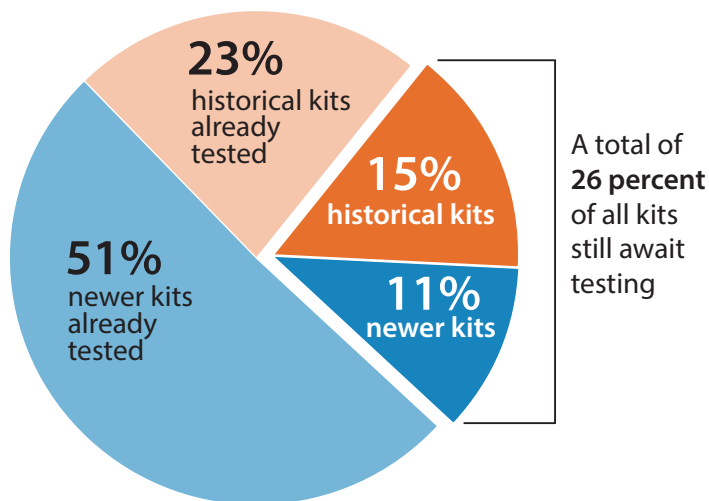
- Florida
- Ohio
- Oregon

State Patrol has tested 74 percent of all kits received since 2015

Of the 24,000 total kits State Patrol received since 2015, more than 9,000 are historical kits (those collected before July 24, 2015) and about 15,000 are newer kits. As of January 1, 2022, testing had not been completed for more than 6,000 kits, about 26 percent of all kits received (see Exhibit 3). Of the more than 6,000 kits, about 3,600 are historical kits and 2,600 are newer kits.

Exhibit 3 – As of January 2022, 26 percent of all kits still awaited testing by State Patrol or its contracted labs

Percent of about 24,000 total kits tested or untested



Source: Auditor created using data provided by Washington State Patrol.

State Patrol sends all historical kits and about half of newer kits to private labs for testing. However, the Patrol said only a few labs nationally are qualified to test sexual assault kits for all states, and these labs are accordingly busy with work they receive from other states. This limits the number of kits they can test each month for Washington.

State Patrol estimates that it will finish testing historical kits, which includes reviewing results from the private labs, by the end of 2022. It expects to eliminate the backlog of newer kits by the end of 2023. However, both testing capacity at private labs and any unexpected changes in staffing at the Patrol labs could affect the agency’s ability to achieve these timelines.

For data on kits in this section of the report, the unit of measurement includes both kits and other items of evidence (such as bedding or clothing), due to limitations in State Patrol’s evidence tracking system.

While law enforcement agencies and State Patrol submitted thousands of kits for testing before the deadlines, the agencies later found additional kits and there may be others

Law enforcement agencies and State Patrol submitted thousands of kits before their deadlines. (Historical kits were due to the Patrol by October 1, 2019, and the Patrol had to send these kits to labs for testing by December 1, 2021.) However, the Patrol continued to receive historical kits from law enforcement agencies after the 2019 deadline had passed. In some cases, police misunderstood the legal requirements; the Patrol worked with them to clarify the legal requirements and ensure all kits were submitted, even if after the deadline. In fact, the Patrol continued to receive kits up until its own 2021 deadline. However, after that deadline passed State Patrol officials said they became aware of several hundred additional historical kits that the agencies later discovered had not been submitted to the Patrol.

Furthermore, the state does not know the actual number of untested kits statewide because no agency is responsible for ensuring law enforcement agencies submit all kits for testing within the required deadlines. State Patrol said it was aware of some police agencies that have not submitted historical kits in compliance with their 2019 legislative deadline, but Patrol officials went on to say the agency lacks control or authority to compel them to submit outstanding kits. In addition, the Attorney General's Office said it lacks the authority to audit the number of kits in police custody. Both the Patrol and the Attorney General's Office said they are currently working with police to identify and submit any outstanding historical kits for testing.

Washington's sexual assault kit tracking system follows legal requirements and recommended practices

Results in brief

Before the introduction of tracking systems for sexual assault kits, many survivors had no way of tracking their kit as it moved throughout the criminal justice process. States around the country, including Washington, have responded to these concerns by adopting kit tracking systems.

Washington's system has functionality to allow survivors to track their sexual assault kit at key steps in the criminal justice process, from collection to destruction. The system allows professional users – including medical facilities, police and labs – to update the kit's information as it moves throughout the process. This information then flows into a separate survivor portal, which is designed to allow survivors to track their kit at key steps. The kit tracking system follows other required and recommended practices, such as having essential data fields and including historical kits in the system.

Before the introduction of tracking systems for sexual assault kits, many survivors had no way of tracking their kit

In the past, many survivors never knew what happened to their kit after it was collected at a medical facility. Even if police referred to it during an investigation, many survivors had no way of tracking the kit – and therefore their case – as it moved through the criminal justice process. End the Backlog, a survivor advocacy initiative of the Joyful Heart Foundation that is recognized by other organizations in the field, notes that being unable to access this information can impede a survivor's recovery. Conversely, being able to proactively track their kit can help survivors counter the loss of self-determination and control that can be at the core of a sexual assault experience.

States around the country have responded to these concerns by adopting sexual assault kit tracking systems in recent years. (See Appendix C for information on kit tracking systems in a selection of other states.) In 2016, Washington passed legislation mandating the creation of a kit tracking system, with the goal of creating transparency and further empowering survivors with information about their kit.

While other systems were already in place to track the chain of custody of kits, their role was to ensure evidence was admissible in court. The new kit tracking system, implemented in 2018, placed survivors at the center of its purpose.

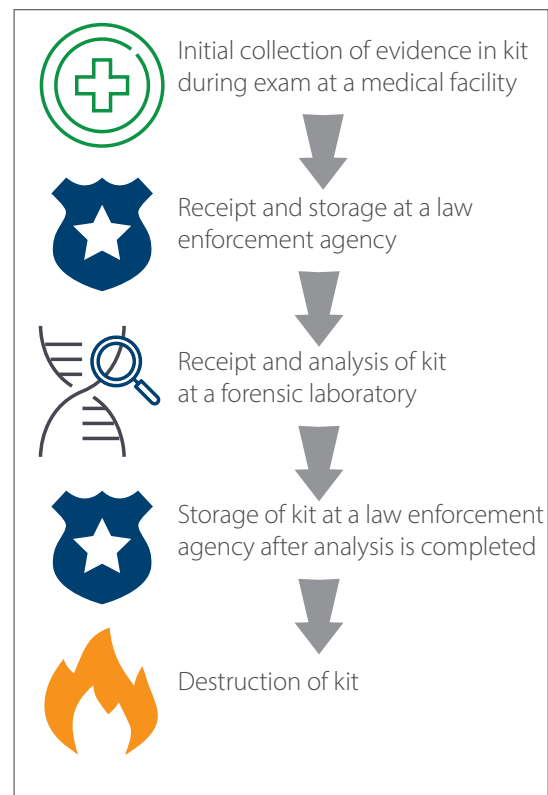
Washington’s system has functionality to allow survivors to track their kit at key steps in the criminal justice process

Legal requirements and recommended practices specify that a sexual assault kit tracking system should allow survivors to track their kit throughout the criminal justice process. Given this purpose, our review focused on requirements and practices around offering survivors the ability to track their kit.

Washington law states that the system must track the location and status of kits at key steps in the criminal justice process (as shown in Exhibit 4), and that survivors should be able to use the system to track their kit. This is consistent with practices recommended by End the Backlog. The National Institute of Justice’s report “National Best Practices for Sexual Assault Kits: A multidisciplinary approach,” also discusses the importance of offering survivors information on the status of their kit at similar key steps, including by providing an online tracking system.

We observed Washington’s sexual assault kit tracking system to understand whether it has these and other required and recommended functionalities. State Patrol employees demonstrated the system remotely using a screen-share technology, and walked us through the process for tracking a kit. We were able to see a kit’s information the same way as survivors theoretically could using their own login to the system’s portal. We could not confirm that survivors’ experience was as they expected, nor could we confirm that professional users completed data entry as the law requires, but we could observe the system’s functionality.

Exhibit 4 – Washington’s sexual assault kit tracking system is required to allow survivors to track their kit at key steps



Source: Auditor created using legal requirements and recommended practices.

The system allows professional users to update the kit's information as it moves throughout the process

State Patrol demonstrated how the system allows professional users, who hold custody of sexual assault kits at various times in the process, to update a kit's information, as required by state law. These users include the medical facility that initially opens the kit to collect evidence from the survivor, the police investigators assigned to the case, and the laboratory that tests the kit. Patrol officials demonstrated how professional users can access the tracking system through their own website portal. The system allows professional users to log into the system, pull up the record they wish to, and then update the kit's information. Importantly, the system does not include any personal information that could identify a survivor, only using the number assigned to the kit. The system is designed such that the kit's status and location, as entered by users with custody of the kits, then flows into a separate portal for survivors.

The system's survivor portal is designed to allow survivors to track their kit at key steps in the criminal justice process

According to State Patrol, survivors have access to their kit's information through a separate portal. Patrol employees explained that survivors receive their kit's login information on a card given to them by staff at the medical facility where forensic evidence was collected. The card does not contain any of the survivor's personal information: Survivors log into the system using the kit number and a temporary password (see Exhibit 5). Once logged in, the survivor can change the password and begin to track their kit anonymously.

State Patrol demonstrated that the survivor portal allows a survivor to track their kit at key steps as shown in Exhibit 4. These include the kit's collection, its testing, and finally its storage and eventual destruction. The kit's status and location is based on the last time a professional user updated this information in the system.

State Patrol officials said that the survivor portal also includes other information to support survivors. It includes the contact information for the relevant medical and police offices so they know who to contact if they have any questions or need help. The website also provides a list of resources and FAQs for survivors, such as the websites of survivor advocacy organizations.

Exhibit 5 – Kit tracking system login page

Source: <https://wa.track-kit.us/>

According to data provided by State Patrol, since its launch in 2018, survivors have logged into the system almost 10,000 times to track almost 2,000 sexual assault kits (as of April 2022).

The kit tracking system follows other required and recommended practices

We found that the system allows for practices required by state law and administrative rules, as well as practices recommended by End the Backlog. See **Appendix D** for a detailed list of these required and recommended practices.

In addition to offering survivors the ability to follow their kit throughout the criminal justice process, the kit tracking system applies other required and recommended practices:

- **Essential and useful data fields.** The system is designed to distinguish anonymous or unreported kits from those associated with a reported crime. It also has a field to indicate whether there is additional evidence associated with the case, beyond the standard kit contents. This feature helps ensure that users such as police are aware of this additional evidence, which they may be able to use in their investigations.
- **Historical kits are included, although with certain limitations.** Washington is one of the few states to include historical kits in its tracking system, according to End the Backlog. However, because these kits were collected before the tracking system was in place, survivors may not know about the system or how to access it. The survivor would have to be in contact with the police agency handling their case for login information to access the system. State Patrol officials could not say definitively whether and how survivors with historical kits gained access to the system, because this is left up to the local police who have direct contact with survivors. Some historical information that predates the tracking system, such as the name of the medical facility where the kit was collected, may also be missing for these kits.
- **Other key technical features.** The online interface allows users to access the system at any time. The system also offers ways to enter bar codes that prevent errors, such as by using a scanner or manually entering the number twice. It also provides troubleshooting support and resources for users.

State Auditor's Conclusions

Washington's backlog of untested sexual assault kits is a long-standing concern for survivors, their families and advocates, law enforcement agencies and lawmakers. In 2019 the Legislature increased funding for testing and set a deadline to test historical kits, requiring the State Patrol to send kits to labs for testing by Dec. 1, 2021. Lawmakers also required our Office to conduct a performance audit of the Washington State Patrol's crime laboratory and sexual assault kit tracking system in 2022.

Although the State Patrol has implemented recommended practices for testing kits and the sexual assault kit tracking system, our audit shows that a backlog of untested kits remains. There are valid reasons for this, including disruptions stemming from the global pandemic that began in 2020. Accordingly, we make no new recommendations in this audit. However, we must emphasize the importance of the State Patrol staying the course without further delays. It must prioritize planned improvements to ensure the testing backlog is eliminated. This issue must not fade from public scrutiny; our Office will check on the State Patrol's progress again in a future audit.

Recommendations

State Patrol had already taken steps to incorporate requirements and best practices into its sexual assault kit testing process and tracking system before the audit could be conducted within the legislatively mandated timeframe. We make no formal recommendations, but strongly encourage State Patrol to continue its efforts to test all sexual assault kits in a timely manner and keep the system operational to provide survivors with the ability to track their kits.

Agency Response



STATE OF WASHINGTON

October 5, 2022

Honorable Pat McCarthy
Washington State Auditor
P.O. Box 40021
Olympia, WA 98504-0021

Dear Auditor McCarthy:

Thank you for the opportunity to review and respond to the State Auditor's Office (SAO) performance audit on Sexual Assault Kits: Assessing Washington State Patrol's testing backlog and tracking system. The Washington State Patrol (WSP) and the Office of Financial Management worked together to provide this response.

We appreciate Washington public policymakers' emphasis on the importance of processing and tracking sexual assault kits (SAKs). WSP agrees with the State Auditor's Office that the testing backlog for sexual assault kits must not fade from the public consciousness. Each SAK represents a person and WSP is committed to ensuring they are not forgotten. That is why one of the missions of the WSP Crime Laboratory Division (CLD) is to ensure all kits are tested and the forensic data is provided timely to the criminal justice system.

We are grateful the report recognizes how the COVID-19 pandemic contributed to delays in eliminating the backlog. Despite the challenges presented to all organizations during the pandemic, WSP found ways to prioritize this work among its other CLD forensic responsibilities and customer needs, including testing in homicides, assaults and other types of public safety risks. WSP appreciates the work performed by the SAO and its commitment to working collaboratively with our personnel to fully grasp all the information related to testing and eliminating the backlog. We agree that the overall presentation of the report accurately and fairly portrays the facts of this audit.

WSP also appreciates SAO's scrutiny of the SAK tracking system and the acknowledgment that it meets statutory requirements, including the mechanisms for survivors of sexual assault to track the processing of their SAK. WSP offers the following update to the public and SAO on the status of the backlog, as well as greater context regarding WSP's implementation of "Direct-to-DNA" technology.

SAK Backlog Update

As of August 31, 2022, the WSP had received over 25,000 kits since 2015. About 9,400 were historical kits and almost 16,000 were newer kits. The WSP has tested 82% of all kits received and 4,649 are waiting to be tested. In the eight months since January 1, 2022, the WSP has further reduced the backlog by 28% and decreased the number of kits waiting for testing by over 1,800 kits while receiving 1,715 more kits in this same timeframe. It estimates that the remaining kits will be fully tested by December 2023.

In addition to backlog reduction efforts, the WSP crime laboratories strive to provide timely DNA results for newer kit submissions. RCW 5.70.040 specifies that for sexual assault kit submissions received starting May 1, 2022, WSP shall conduct the laboratory examination of a sexual assault kit within 45 days of receipt of the request. As of August 2022, 99.7% of the kits received starting May 1, 2022,

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have been tested within 45 days, resulting in a testing turnaround time of less than 30 days on average for these cases.

Also, with additional legislative funding provided in 2019, WSP crime laboratories increased staffing in the DNA casework program by almost 30%, adding 16 forensic scientist and three laboratory technician positions statewide, in addition to backfilling new vacancies on an ongoing basis due to promotions, retirements, or resignations. This has resulted in hiring and training 32 forensic DNA scientists since 2019. Since 2019, 23 new DNA scientists successfully completed the internal training program (lasting 6-18 months on average, depending on prior experience) and remained working for WSP. Currently, WSP has 13 DNA forensic scientists in various stages of training and one vacancy.

The full DNA training program is time-intensive for both the trainee and trainer (who is also a case-working DNA scientist). It takes up to 18 months before a scientist can independently perform full casework. WSP leveraged efficiencies by phasing the training program, allowing qualified trainees to conduct Phase 1 type casework to independently screen SAKs after about 6-8 months of training, and utilizing other training efficiencies (virtual training, group/cohorts, and external training resources). WSP evaluated new robotic equipment that was purchased for the Vancouver DNA Section to automate the processing of DNA samples and a total of three instruments were purchased in 2019–2020. Two of the three instruments were programmed and are currently operational for “Direct-to-DNA” (Y-screening) SAK samples, allowing for up to 86 samples to be screened at a time.

In August 2022, additional robotic methods were validated, which will allow for the automation of about 75% of the laboratory processing of SAK samples once scientist training is complete. The third instrument is currently reserved for the ongoing validation activities necessary to automate the remaining method, with the ultimate goal of automating the full DNA testing process. It is important to note that WSP must follow the Federal Bureau of Investigation’s quality assurance standards to validate and train staff, in addition to following state procurement requirements when acquiring new technology and instrumentation. As a result, this extends the timeline for any project undertaken by the WSP CLD.

Implementation of Direct-to-DNA Technology and Laboratory Best Practices

WSP first became aware of the “Direct-to-DNA” (also known as Y-screening) technology in 2015. The agency obtained a sample of the technology to perform the extensive evaluation procedures that ensure the technology meets accreditation standards for WSP’s crime laboratories. Once the technology had been evaluated and validated, WSP procured the technology and trained its forensic scientists on how to use it for DNA testing. The “Direct-to-DNA” technology was fully implemented in all the crime laboratories operated in the spring of 2021 and the implementation timeline is included in the attachment.

At the time WSP was evaluating, procuring and transitioning to “Direct-to-DNA” technology for screening SAKs, WSP was also relying on the same staff to implement two other major technology advances related to forensic DNA testing for all case types, not just sexual assault cases. First, the FBI required crime laboratories to implement a new, expanded DNA typing kit by January 1, 2017, to continue accessing CODIS (Combined DNA Index System). Without access to CODIS, WSP would have been unable to submit DNA profiles for comparison against the national database. Second, the National Institute of Justice’s 2017 publication, *Best Practices for Testing Sexual Assault Kits*, included the recommendation to adopt specialized software to assist in interpreting DNA mixtures, which are commonly encountered in sexual assault evidence DNA profiles. The crime laboratory adopted this specialized software in 2018, which required additional staff time to validate and implement. These simultaneous major technology advancements impacted the WSP’s timeline to fully implement the “Direct-to-DNA” technology as a method to screen SAKs.

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We appreciate the opportunity to respond to the audit and provide additional information that may help the public understand the ongoing work related to SAKs and the progress made toward eliminating the testing backlog. Each month WSP updates the progress made towards addressing the SAK backlog and its testing efforts at <https://www.wsp.wa.gov/sak-testing/>.

Again, we appreciate the work of the SAO and look forward to sharing our progress in future audits.

Sincerely,



Chief John R. Batiste
Washington State Patrol



David Schumacher, Director
Office of Financial Management

Attachment

cc: Jamila Thomas, Chief of Staff, Office of the Governor
Kelly Wicker, Deputy Chief of Staff, Office of the Governor
Nick Streuli, Executive Director of Policy and Outreach, Office of the Governor
Emily Beck, Deputy Director, Office of Financial Management
Mandeep Kaundal, Director, Results Washington, Office of the Governor
Scott Frank, Director of Performance Audit, Office of the Washington State Auditor

Direct-to-DNA Implementation Timeline

- **January 2015 – June 2015:** The Crime Laboratory Division became aware of the “Direct-to-DNA” (Y-screening) technology as an approach for screening SAKs.
 - CLD began researching the Y-screening technology and determined it required a more sensitive DNA quantification chemistry kit to conduct the testing.
 - The technology consists of the two primary processes. The first process is cell lysis, which is performed by one chemistry kit. CLD currently uses Promega’s Casework Direct kit for the first process.
 - The second process is quantification, which is used to determine how much DNA is in a sample. This is a separate chemistry kit from the one previously described and CLD currently uses Promega’s PowerQuant kit.
 - CLD determined a more sensitive DNA quantification was needed to meet its quality standards and moved forward with validating the Promega PowerQuant kit.
 - The Promega PowerQuant Kit had to be procured and validated and the forensic scientists needed to be trained prior to implementing the technology.
- **April 2015:** The CLD Standards and Accountability Section (tasked with ensuring the crime laboratories meet quality standards requirements) submitted a proposal for the evaluation of the Quantifiler Trio and PowerQuant kits.
- **June 2015:** CLD approved the plan for the Standards and Accountability Section to evaluate both kits.
- **February 2016:** The Standards and Accountability Section completed its evaluation of the Quantifiler Trio and PowerQuant kits. It recommended procuring the PowerQuant kit from Promega due to its flexibility of reaction set-up for future Y-screening protocols, the standard curve set-up and reproducibility, mixture studies, and the ease of use of analysis tools.
- **March 2016 – October 2018:** Once the evaluation was completed and the decision was made to proceed with the PowerQuant kits, CLD contracted with Bode Technology to perform the validation of the kits.
 - The PowerQuant kits are used in other steps of the DNA process in addition to Y-screening, so additional validation was required for each of these steps.
 - All of the WSP crime laboratories also conducted additional experiments on the PowerQuant kits.
 - Once the validation and experiments were complete, an RFQQ (Request for Qualifications and Quotations) process was initiated to procure the kits.
 - At the end of 2018 the DNA Technical Leader (TL) for CLD retired.
 - An initial recruitment failed to find a suitable candidate and an interim TL was appointed.
 - Turnover in the TL position impacted the project timeline because the interim TL was working to get up to speed on the project while continuing to run the entire DNA program for WSP.
 - At the same time the interim TL was performing their duties specific to being the technical leader, they were also performing the duties of the DNA Operations Manager before the duties were eventually separated into two positions.
 - The TL was also responsible for evaluating and approving all of the validations, developing and implementing the training plans for new hires, and approving all of the contracts with external laboratories.

- **November 2018:** WSP executed a contract with Promega Corporation to validate Promega's Casework Direct kit as customized for the WSP Vancouver High-Throughput DNA Section. The contract was from November 2018 to November 2019.
- **November 2018 – November 2019:** The CLD performed the necessary validation procedures to ensure that the customized chemistry kits procured from Promega met the high-quality standards required to forensically test the SAKs.
- **December 2019 – November 2020:** All of the WSP crime laboratories finished completing their independent validation of the Promega chemistry kits:
 - January 30, 2020 – Vancouver Crime Laboratory
 - August 31, 2020 – Spokane Crime Laboratory
 - October 14, 2020 – Marysville Crime Laboratory
 - November 6, 2020 – Seattle Crime Laboratory
 - November 13, 2020 – Tacoma Crime Laboratory

The laboratories must perform an independent validation since each laboratory is accredited under a separate accreditation certificate and scope document, requiring each laboratory to have its own set of validation data. It is an FBI quality assurance standard that validation data can be shared in a multi-laboratory system, but each individual site must conduct studies for contamination, sensitivity, and precision.

- **December 2020 – March 2021:** Y-screening was implemented statewide based on the dates of when the scientists were individually authorized to use the method in their casework.
 - Dates for implementation vary since the scientists also had to be trained in the Y-screening method before it could be used.

Appendix A: Initiative 900 and Auditing Standards

Initiative 900 requirements

Initiative 900, approved by Washington voters in 2005 and enacted into state law in 2006, authorized the State Auditor’s Office to conduct independent, comprehensive performance audits of state and local governments.

Specifically, the law directs the Auditor’s Office to “review and analyze the economy, efficiency, and effectiveness of the policies, management, fiscal affairs, and operations of state and local governments, agencies, programs, and accounts.” Performance audits are to be conducted according to U.S. Government Accountability Office government auditing standards.

In addition, the law identifies nine elements that are to be considered within the scope of each performance audit. The State Auditor’s Office evaluates the relevance of all nine elements to each audit. The table below indicates which elements are addressed in the audit. Specific issues are discussed in the Results and Recommendations sections of this report.

I-900 element	Addressed in the audit
1. Identify cost savings	No. This audit was not intended to assess cost savings for the tracking system or testing sexual assault kits.
2. Identify services that can be reduced or eliminated	No. This audit did not identify services that can be reduced or eliminated, as the testing and tracking of sexual assault kits are state requirements.
3. Identify programs or services that can be transferred to the private sector	No. The testing of sexual assault kits cannot be fully transferred to private laboratories due to federal and state requirements, although the Washington State Patrol already contracts with private companies to test some kits. In addition, State Patrol has already contracted with a private company to create the tracking system.
4. Analyze gaps or overlaps in programs or services and provide recommendations to correct them	No. This audit did not identify any gaps or overlaps in services related to the tracking system or testing sexual assault kits.

I-900 element

Addressed in the audit

5. Assess feasibility of pooling information technology systems within the department	No. This audit did not address pooling information technology systems.
6. Analyze departmental roles and functions, and provide recommendations to change or eliminate them	No. The audit analyzed whether State Patrol's actions were aligned with legal requirements and best practices, and the progress the agency has made in eliminating the backlog of untested sexual assault kits, not departmental roles and functions.
7. Provide recommendations for statutory or regulatory changes that may be necessary for the department to properly carry out its functions	No. This audit did not identify any recommendations for statutory or regulatory changes for the tracking system or testing sexual assault kits.
8. Analyze departmental performance data, performance measures and self-assessment systems	Yes. The audit used departmental performance data and performance measures to analyze State Patrol's progress in eliminating the backlog of untested sexual assault kits.
9. Identify relevant best practices	Yes. The audit identified national best practices for testing sexual assault kits more efficiently, as well as recommended practices for sexual assault kit tracking systems.

Compliance with generally accepted government auditing standards

We conducted this performance audit under the authority of state law (RCW 43.09.470), approved as Initiative 900 by Washington voters in 2005, and in accordance with generally accepted government auditing standards as published in *Government Auditing Standards* (July 2018 revision) issued by the U.S. Government Accountability Office. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The mission of the Office of the Washington State Auditor

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Appendix B: Objectives, Scope and Methodology

Objectives

The purpose of this performance audit was to assess the Washington State Patrol's progress toward eliminating its backlog of untested sexual assault kits, including whether it took required and recommended actions to improve efficiency and efficacy of testing, as well as State Patrol's sexual assault kit tracking system. The audit addressed the following objectives:

- What progress has the State Patrol made toward eliminating the backlog of untested sexual assault kits?
- Does Washington's statewide sexual assault kit tracking system follow legal requirements and best practices?

For reporting purposes, the audit results have been organized into key findings. The messages relate to the original objectives as follows:

1. The State Patrol has taken important steps to eliminate the sexual assault kit backlogs, but thousands of kits remain untested (pages 11-17) – This finding addresses Objective 1.
2. Washington's sexual assault kit tracking system follows legal requirements and recommended practices (pages 18-21) – This finding addresses Objective 2.

Scope

This performance audit examined the Washington State Patrol's progress in eliminating the sexual assault kit testing backlog and the functionality of its sexual assault kit tracking system. The audit focused on the performance of the Patrol as the state agency responsible for testing kits and the tracking system. It did not examine in-depth the performance of other entities involved in sexual assault kit tracking and testing, such as medical facilities, local law enforcement agencies, and the Attorney General's Office as the recipient of the federal Sexual Assault Kit Initiative grant.

Objective 1: What progress has the State Patrol made toward eliminating the backlog of untested sexual assault kits?

The audit examined State Patrol's progress eliminating its sexual assault kit testing backlog as of March 31, 2022. It also assessed whether the State Patrol Crime Laboratory has taken actions consistent with best practices and legal requirements to address the backlog, and otherwise improve efficiency and efficacy of sexual assault kit testing.

The audit adopted the operational definition of “backlog” used by State Patrol: any sexual assault kit that has not been tested within one day or more. As a result, the audit examined State Patrol’s progress testing these groups. (The terms in parentheses are how State Patrol categorizes kits based on legislation.)

- “Historical” kits collected prior to July 24, 2015 (SAK-3s)
- Kits collected on or after July 24, 2015, that are not part of an active investigation (SAK-2s)
- Kits currently associated with an active investigation (STRs)

These areas were outside the scope of this audit objective:

- Whether the Patrol met the legal requirement to test sexual assault kits and enter relevant information into the national DNA database within 45 days of receipt. The requirement became effective May 1, 2022, which was after the period of performance we reviewed.
- Whether the State Patrol Crime Laboratory met federal quality assurance standards
- Whether the Patrol met legislatively mandated reporting requirements related to its progress testing sexual assault kits

Objective 2: Does Washington’s statewide sexual assault kit tracking system follow legal requirements and best practices?

The audit focused on examining whether the current sexual assault kit tracking system, managed by the State Patrol, included required and recommended features and functionalities, particularly those needed to provide survivors with transparency about their kits’ location and status.

These areas were outside the scope of this audit objective:

- The evidence tracking systems used by State Patrol crime labs and other entities to track the chain of custody of sexual assault kits for purposes of admissibility of the evidence in court. These systems are distinct in purpose and function from the sexual assault kit tracking system.
- The information technology security of the sexual assault kit tracking system
- The Patrol’s original implementation and rollout of the system in 2018
- Whether the Patrol met legislatively mandated reporting requirements related to the sexual assault kit tracking system
- Whether professional users were entering information into the system as required or recommended

Methodology

We obtained the evidence used to support the findings, conclusions and recommendations in this audit report during our fieldwork period (January 2022 to the middle of June 2022). We have summarized the work we performed to address each of the audit objectives in the following sections.

Objective 1: What progress has the State Patrol made toward eliminating the backlog of untested sexual assault kits?

To address this objective, we first researched legal requirements, best practices, and practices in other states with regard to eliminating sexual assault kit testing backlogs. To understand State Patrol's kit testing process and evaluate whether it was aligned with best practices, we conducted observations, interviews and document reviews. We also reviewed data to understand the Patrol's progress eliminating its testing backlog.

Research and interviews about best practices

We first conducted online research and interviews to identify best practices related to sexual assault kit testing. We identified two sources. The first was the National Institute of Justice's 2017 report "National Best Practices for Sexual Assault Kits: A multidisciplinary approach," which included a number of recommendations to crime labs to improve kit testing. The second was recommendations from the national Sexual Assault Kit Initiative; these addressed how agencies should implement plans to test kits and adopt more efficient methods for kit testing.

Interviews with other states that have eliminated their sexual assault kit testing backlogs

We interviewed officials responsible for testing sexual assault kits in three states to learn about practices used to eliminate backlogs of untested kits. We selected states that had eliminated their backlogs and reported a similar number of previously untested kits in their backlog. We reached out to six of these states, and interviewed the three that responded (shown in Figure 1).

To learn about any practices used to eliminate the backlogs of untested kits in these states, we:

- Interviewed officials responsible for kit testing
- Reviewed relevant information about kit testing in each state that was available online or provided to us
- Followed up after each interview to confirm the key information we discussed

Figure 1 – States interviewed about eliminating their sexual assault kit backlog

State	Estimated size of sexual assault kit backlog eliminated
Florida	about 8,000
Ohio	about 14,000
Oregon	about 6,000

Auditor created based on interviews and document reviews.

Observations of sexual assault kit testing at the State Patrol's Vancouver Crime Laboratory

To understand the testing process for sexual assault kits in Washington, we visited State Patrol's Crime Laboratory in Vancouver. We visited the Vancouver lab because it has a high-throughput unit dedicated to sexual assault kit testing, which will soon test all kits for the entire state. Employees demonstrated the process from start to finish, including the lab's intake of the kit, case review by forensic scientists, DNA processing and analysis, reviews and reporting, upload into the national DNA database, and the return of the evidence to police. We observed the processes for both standard kit testing and the new method using automated technology.

Interviews and document reviews to understand Washington's sexual assault kit testing processes

We conducted interviews with the State Patrol's Crime Laboratory employees to understand processes related to eliminating the backlog of untested kits, including their strategies, process improvements, and any challenges. We also requested and reviewed relevant documents, including relevant reports, strategic plans, project management documents, and grant and contract documentation.

We also interviewed officials at the Attorney General's Office to learn about their inventory of unsubmitted sexual assault kits as well as the subawards to State Patrol for testing kits under the federal Sexual Assault Kit Initiative grant.

Review of State Patrol data on sexual assault kit testing

We also requested and reviewed aggregate data from State Patrol on its progress eliminating the sexual assault kit testing backlog. This data included the following measures, disaggregated by type of kit: the total number of requests, turnaround time, rate of testing per year, and size of the backlog. We reviewed data starting from 2015, because that is when the Patrol established different categories of kits in response to legislation, through early 2022. We reviewed these measures to understand the Patrol's progress eliminating the testing backlog, and how its progress aligned with key dates related to funding, changes in lab processes, and challenges such as COVID-19.

The data was drawn from State Patrol's laboratory information management system, which was designed to track forensic scientists' work and not necessarily individual cases. For that reason, the Patrol could not provide data that had a kit as the unit of measurement. Instead, the unit of measurement for data in this report is a request for DNA testing related to a sexual assault case, which can include sexual assault kits, other items beyond the kit itself (such as bedding or clothing), or both.

Data reliability testing and limitations

State Patrol provided the data we reviewed; the data itself was self-reported by law enforcement agencies to the Patrol. We tested the reliability of this data by comparing it to publicly available reports to the Legislature and other stakeholders, and then conducting follow-up interviews with Patrol employees knowledgeable about the data.

The data represents a snapshot in time as of March 31, 2022 (January 1, 2022, for the size of the backlog). Data on sexual assault kits is dynamic, as State Patrol regularly receives new kits to be tested from police. The data includes only those kits that have been received by the Patrol's Crime Laboratory or contracted private labs for testing, and does not include any kits that have not yet been submitted by police.

Objective 2: Does Washington’s statewide sexual assault kit tracking system follow legal requirements and best practices?

To address this objective, we first researched legal requirements and best practices with regard to sexual assault kit tracking systems. We then conducted observations of and interviews with State Patrol about Washington’s kit tracking system, to see whether it followed these required and recommended practices. We could not confirm that survivors’ experience was as they expected, nor could we confirm that professional users completed data entry as the law requires, but we could observe the system’s functionality.

Research and interviews about best or leading practices

We identified a number of practices recommended by End the Backlog, an initiative of the Joyful Heart Foundation whose work includes doing advocacy around sexual assault kit tracking systems. To compile and understand these practices, we interviewed employees from End the Backlog and reviewed relevant documents and information on its website.

We also reviewed the “National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach” report published in 2017 by the U.S. Department of Justice’s National Institute of Justice, and identified one relevant practice. Most of this report’s recommendations related to broader evidence tracking systems, which are used to document the chain of custody of kits for purposes of admissibility of the evidence in court. These systems are distinct in purpose and function from the kit tracking system, which has the primary goal of providing survivors with transparency about the status and location of their kits.

We were not able to identify additional sources of best practices related to sexual assault kit tracking systems, or states with “best” or “leading” kit tracking systems, through research or interviews with stakeholders that included End the Backlog, the Rape, Abuse & Incest National Network, and the national Sexual Assault Kit Initiative. Some stakeholders said that information on how well kit tracking systems are operating in practice is not available yet; others stressed that states have set up different systems for different purposes and under different operating contexts, which makes it difficult to choose one as an ideal option.

We interviewed officials in five other states to learn about their sexual assault kit tracking systems. We selected them because their kit tracking systems were also used by at least one other state. These states were: Connecticut, Georgia, Idaho, Michigan and Oregon. We learned that their systems vary depending on the state’s operating context (as also described by stakeholders). For that reason and for reasons described above, we do not consider their practices to be clear criteria for evaluating Washington’s system. For information on these other systems, see Appendix C.

Observations and interviews for Washington’s sexual assault kit tracking system

We observed live demonstrations of the sexual assault kit tracking system to learn whether it possessed required and recommended functionalities. State Patrol screen-shared the testing environment for the system, and walked us through the kit tracking process in different user portals, including medical facilities, police, labs and prosecutors. The Patrol also demonstrated that the system is designed to follow other required or recommended practices.

We also conducted interviews with staff at State Patrol to better understand and clarify certain aspects of the kit tracking system and processes related to how they operate the system.

We also reviewed documentation for the kit tracking system to better understand its features, processes related to State Patrol's operation of the system, and how often survivors were using the system. This included the contract between the Patrol and the vendor (STACS DNA, recently purchased by Invita), legislative reports by the Patrol, and a separate report showing survivor use of the system. We were unable to obtain certain proprietary information, such as the system's user procedures.

Work on internal controls

We assessed general internal controls to gain an understanding of State Patrol's compliance with legal requirements and recommended practices. Where it was relevant, we compared functionality of the sexual assault kit tracking system with required or recommended functionalities.

As part of Objective 1, we gained a general understanding of controls by reviewing relevant documents, such as strategic plans and a project charter. The purpose of this work was to understand State Patrol's plans, performance measures, and processes for achieving goals to eliminate the testing backlog, as well as its strategies for responding to risks to achieving those goals.

As part of Objective 2, we gained a general understanding of a limited number of controls outlined in legal requirements and recommended practices. We also determined whether the system was designed with these controls by reviewing State Patrol's contract with STACS DNA, which describes the sexual assault kit tracking system's functionalities. As part of our review of internal controls, we observed as Patrol representatives demonstrated different functionalities of the system and how a sexual assault kit travels through the system. The purpose of this physical observation was to determine if the system included the required and recommended functionalities.

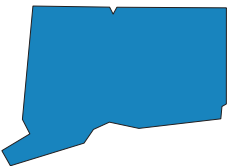
We evaluated design of State Patrol's internal controls and their implementation. However, we did not evaluate operating effectiveness of these controls.

Appendix C: Sexual assault kit tracking systems in other states

As part of our audit fieldwork, we interviewed officials in five other states to learn about their sexual assault kit tracking systems. We selected them because their kit tracking systems were also used by at least one other state. These states were: Connecticut, Georgia, Idaho, Michigan and Oregon. We learned that while these kit tracking systems are similar in their intention of helping survivors track their kit through the criminal justice process, specific features vary depending on the state's operating context. Below, we provide a summary of some of the key features of sexual assault kit tracking systems for the states we interviewed.

Connecticut and Michigan: Track-Kit

As in Washington and many other states across the country, both Connecticut and Michigan use a program created by STACS DNA (recently purchased by Invita) called Track-Kit for their kit tracking systems.



Connecticut recently decided to switch from its old system to Track-Kit. The new system will better integrate with Connecticut's laboratory information management system because both systems are by STACS DNA. An important system feature for Connecticut was its ability to alert users when kits have not been submitted within mandated deadlines.



Michigan worked with STACS DNA to develop Track-Kit, and was one of the first states to pilot the system. System development was guided by the recommendations of a multidisciplinary committee. Michigan State Police is in the process of implementing a new compliance portal within the system, for the state's Department of Health and Human Services to monitor and report on agencies' compliance with sexual assault kit requirements.

Georgia: Forensic Advantage



Georgia uses a kit tracking system developed by third-party vendor Forensic Advantage, which other states also use. Georgia prioritized low ongoing costs and simplicity/ease of use in selecting its system. Some features of Georgia's kit tracking system include:

- **Multilingual functionality:** the survivor portal is available in Spanish, as well as additional languages using a browser feature
- The inclusion of out-of-state kits, kits from correctional facilities, and – optionally – military bases (not required as they are federal agencies)
- Notifications – for example, if a law enforcement agency is nearing a legal deadline to submit a kit for testing



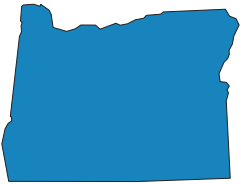
Idaho Kit Tracking System

The **Idaho** State Police chose to develop its own kit tracking system. It did so to minimize costs, because it had in-house software programming capacity. Idaho's system is freely available to other states, and several other states have adopted it.

Idaho's system was designed around a simple, user-friendly interface. Survivors need only their kit number to access the information; no login information is required because the system does not hold personally identifying information.

Idaho law required that the system provide survivors with the following information:

- Whether their kit's results were uploaded to the national DNA database, and if it produced a match
- The anticipated destruction date for the kit



Oregon SAMS-Track

The Portland Police Bureau developed **Oregon's** kit tracking system, called SAMS-Track. The system was designed to be easy to use and share with other agencies, so it can be easily customized and configured depending on the context. It is freely available to other states and cities with minimal ongoing costs, and several have adopted SAMS-Track.

SAMS-Track offers a variety of dashboards to monitor kit testing progress, including a statewide dashboard as well as dashboards for each user role (for example, police or medical facility). The system also allows users to configure notifications depending on their role. SAMS-Track can also track how many people are using the survivor portal.

Appendix D: Washington’s kit tracking system’s compliance with state law and recommended practices

This appendix lists Washington’s legal requirements and End the Backlog’s recommended practices for sexual assault kit tracking systems, which we used to evaluate Washington’s system.

Figure 2 organizes these practices into categories. Then, to show where state law and administrative rules align with recommended practices, we grouped them together in the same row. Most of Washington’s legal requirements align with practices recommended by End the Backlog and vice versa, except where noted below. The audit concluded that Washington’s sexual assault kit tracking system is designed to follow these required and recommended practices, though we could not confirm that survivors’ experience was as they expected or that professional users were entering information into the system as they should be.

Figure 2 – The sexual assault kit tracking system’s compliance with legal requirements and recommended practices

State law and/or administrative rules (RCW 43.43.545 & WAC Chapter 446-95)	Practice recommended by End the Backlog	Does Washington’s system allow for this required or recommended practice?
Tracking kits		
Track the location and status of sexual assault kits throughout the criminal justice process, including the initial collection in examinations performed at medical facilities, receipt and storage at law enforcement agencies, receipt and analysis at forensic laboratories, and storage and destruction after completion of analysis	Track initial collection at hospital, inventory and storage by law enforcement, and testing and storage by state labs – that is, from collection throughout the criminal justice process	✓
Document the destruction of a kit in the system	Track whether the kit has been destroyed	✓
Designate sexual assault kits as unreported or reported	Ensure anonymous kits remain anonymous in the system	✓
Indicate whether a sexual assault kit contains biological materials collected for the purpose of forensic toxicological analysis	Not addressed	✓
The tracking system will not provide historical data for existing kits prior to the initial entry. Subsequent transfers/changes in location will be documented by the tracking system.	Include all previously untested kits	✓

Figure 2 – The sexual assault kit tracking system’s compliance with legal requirements and recommended practices, *continued*

State law and/or administrative rules (RCW 43.43.545 & WAC Chapter 446-95)	Practice recommended by End the Backlog	Does Washington’s system allow for this required or recommended practice?
Tracking kits, <i>continued</i>		
Tracking begins when a kit is initially entered into the tracking system	Not addressed	✓
Kits are entered into the tracking system upon arrival at their intended destination. Kits are not recorded as they leave a destination.	Not addressed	✓
Professional users		
Allow medical facilities performing sexual assault forensic examinations, law enforcement agencies, prosecutors, the Washington State Patrol Bureau of Forensic Laboratory Services, and other entities having custody of sexual assault kits to update and track the status and location of sexual assault kits	Allow all participating agencies access to update status	✓
	Have mandatory full participation for law enforcement agencies, hospitals, labs and any facilities that receive, maintain, store or preserve kits	✓
	Be statewide	✓
	Ensure that hospitals, law enforcement and labs are using the same system to track rape kits	✓
The approved vendor will distribute kits with a unique identifier	Not addressed	✓
The kit is entered by the vendor using the tracking system prior to shipment. Upon delivery, the kits are entered using the tracking system as acknowledgment of receipt.	Not addressed	✓
Survivor portal		
Allow victims of sexual assault to anonymously track or receive updates regarding the status of their sexual assault kits	Have a victim portal that allows victims to access the system anonymously and receive updates regarding the location and status of their kit. Use kit tracking identifiers which are a unique number that cannot be used to identify an individual.	✓
Survivors receive unique login information to access the status and location of their kit at the discretion of the appropriate hospital, medical facility or law enforcement agency personnel		✓
The kit becomes trackable by the survivor when the unique identifier is entered to document that a forensic medical examination has taken place	Not addressed	✓

Figure 2 – The sexual assault kit tracking system’s compliance with legal requirements and recommended practices, *continued*

State law and/or administrative rules (RCW 43.43.545 & WAC Chapter 446-95)	Practice recommended by End the Backlog	Does Washington’s system allow for this required or recommended practice?
<i>Technical details</i>		
Use electronic technology or technologies allowing continuous access	Be electronic and have an online interface	✓
Not addressed	Have a good, simple way of entering a bar code – for example, by using a scanner	✓
Not addressed	Provide troubleshooting support for users	✓

Source: Auditor created using RCW 43.43.545, WAC Chapter 446-95, and practices recommended by End the Backlog.



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– Pat McCarthy, State Auditor

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