

Hundreds of DNA cases backlogged at LI crime labs

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Almost 500 untested DNA samples -- crucial evidence in homicides, sexual assaults and other criminal cases -- are backlogged in the [Suffolk](#) County crime lab.

The latest records available show that, as of April 1, there were 492 pieces of DNA evidence in the [Suffolk](#) lab that went untested for longer than 30 days, the point at which the [U.S. Justice Department](#) considers a case backlogged. Since 2007, the lab has ended each year with a backlog of at least 300 cases.

In [Nassau](#) County, there were 47 backlogged cases as of April 1, compared with 180 at the end of 2012, records show.

Lengthy delays in DNA testing raise crucial questions about speedy trials, fairness to victims of crimes, and even whether some criminals could be caught sooner if testing procedures were faster.

A Newsday review of data provided by Suffolk and [Nassau](#) counties, as well as [U.S. Department of Justice](#) grant documents, found that local delays coincide with a soaring national DNA backlog estimated by experts to be as high as 400,000 cases.

The backlogs persist despite more than \$400 million in grant funds doled out nationwide since 2004 by the National Institute of Justice, an agency within the [Justice Department](#) that provides funding to crime labs that aren't able to keep up.

The NIJ awarded more than \$1.6 million in grant money to Suffolk and \$1.7 million to Nassau as part of its DNA Backlog Reduction Program from 2006 to 2012, records show. Officials say the funds have prevented far worse delays but have not eliminated them. In Nassau, the purchase of new testing equipment has helped speed up testing and reduce the county's backlog, officials said.



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DNA cases typically include homicides, sexual assaults, property crimes and robberies. Genetic samples are usually taken from crime scenes, victims and suspects, and they have helped solve crimes in both counties over the years, officials said. But that reliance on DNA has contributed to the backlog.

"There's no question that backlogs are delaying justice for victims and defendants on [Long Island](#) and across the country," said [Garden City](#) defense attorney Brian Griffin, a former Nassau County assistant district attorney. "Very often you continually wait for results from a forensic lab because of high demand. Everyone involved in the system suffers because of this issue."

And lengthy delays in prosecutions are only one possible fallout. "The most serious impact is that there are criminals out there who are free to continue what they're doing," said Lawrence Kobilinsky, a DNA expert and chairman of the Department of Sciences at [John Jay College of Criminal Justice](#) in Manhattan. "It's a terrible loss to the criminal justice system."

Intricate, lengthy process

DNA testing is complex. Evidence must first be screened to determine if it is biological material and, if so, what kind. Some samples can be degraded and difficult to analyze, or contain DNA from multiple suspects and victims, which also complicates testing.

"While analysis of DNA evidence is much more complex and time-consuming than is portrayed on television, the main reason for our backlog is an increase in evidence submissions," said Daniel Burhans, assistant chief of the Suffolk County Crime Laboratory.

Prompt DNA testing is crucial because "delays in submitting evidence to a forensic laboratory, as well as delays in analyzing the evidence, results in delays in justice," said an NIJ statement on its website. "In worst-case situations, delays can result in additional victimization by serial offenders or in the incarceration of individuals who have not committed the crime they are accused of or charged with."

In Suffolk alone, officials said, DNA submissions by police have increased 150 percent in the past 12 years. Delays can leave police agencies reluctant to request DNA analysis in all but the most essential cases. And in some instances, the analysis isn't being done at all, officials say.

Advances in DNA testing technology -- and the successful use of such evidence in prosecutions -- have resulted in more reliance on it and a dramatic increase in submissions, said Robert Clifford, a spokesman for the Suffolk district attorney's office.

"The inevitable result is delay as laboratory staffing has not kept up with the pace of laboratory submissions by investigative agencies," Clifford said.

Natasha Alexenko of [Bay Shore](#), a sexual assault victim and a victims advocate who asked that her name be used in this story, said it took 16 years to see the man who raped her in Manhattan convicted. At that time, [New York City](#) had an estimated 17,000 kits of backlogged sexual assault evidence. Her attacker was sentenced to 44 to 107 years in prison.

The city's backlog has since been erased due to a four-year, \$12 million lab overhaul, the hiring of more DNA analysts, and the outsourcing of backlogged rape kits to private labs, officials said.

"The backlog numbers on [Long Island](#) are significant, because each of these backlogged cases represents a human being," said Alexenko, founder of Natasha's Justice Project, a [West Sayville](#)-based organization that focuses on the issue of backlogged DNA evidence.

One woman whose rapist was convicted in Suffolk in 2006 said the county's crime lab waited four

months to test her rape kit -- evidence collected by police -- because of backlogs.

"I don't blame the crime lab or the police, because they have so many cases to handle, but it did exacerbate the pain I felt," said the woman, whose name is being withheld because of the nature of the crime. "In a perfect world, these samples get analyzed right away. Four months can feel like a lifetime."

Beyond slowing the process, the backlog means law enforcement agencies -- while submitting more requests than ever -- still submit fewer than they would like to avoid making the situation even worse.

"There are many cases that are not submitted . . . because they are aware that we are unable to analyze the evidence," Burhans said.

Turnaround time differs

In Suffolk this year, it has taken 54 days on average to complete testing on a DNA case, records show. That's an improvement from 2012, when the average turnaround time was 92 days. In Nassau, the average turnaround time for a DNA case this year is 96 days, records show, compared with the average 90-day turnaround in 2012.

Suffolk has been analyzing DNA with state-of-the-art technology since 1999, and Nassau began advanced testing in 2003, county officials said.

Suffolk first tests so-called "rush" cases -- ones authorities ask be expedited, including some murders and rapes -- before analyzing additional homicide and sexual assault cases, Burhans said.

"All other cases, including property crimes, [nonsexual] assaults, and home invasions, are either backlogged or returned to the submitting agency without analysis" because of the large caseload, he said.

Nassau officials referred questions about DNA testing to the medical examiner's office. Pasquale Buffolino, director at that office's Department of Forensic Genetics, said his staff tries not to turn away any cases. Records show that in 2011 it took an average of 139 days for the medical examiner's office to complete forensic analysis in homicide cases, the last year for which complete data are available. Sexual assault cases took an average of 125 days to complete, according to records, while robbery cases took an average of 87 days. Comparable data were not available for Suffolk.

Faulty evidence testing prompted Nassau to close the police crime lab in February 2011. Since then, the medical examiner's office has tested other criminal evidence in addition to performing DNA analysis.

Suffolk adopted a \$10.7 million budget for 2013 for its medical examiner's office, which includes the crime laboratory, records show, about the same as its 2012 budget. Nassau increased funding for its medical examiner's office this year to \$7.3 million, up from \$6.4 million in 2012, records show.

The [New York](#) State court system supports backlog reduction in the interest of speedy justice, spokesman David Bookstaver said.

"Anything that can either aid in a prosecution or in an exoneration serves a critical function in the judicial system," Bookstaver said.

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