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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/5/2016

SPONSOR McQueen LAST UPDATED \_\_\_\_\_ HM 58

SHORT TITLE Study Backlog of Sexual Assault Exam Kits SB \_\_\_\_\_

ANALYST Rogers

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		
NFI	NFI	NFI	NFI

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to HB 130, HB 131, HB 230, SB 18  
Duplicated SM 50

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Office of the State Auditor (OSA)

#### Responses not Received From

Department of Public Safety (DPS)

### SUMMARY

#### Synopsis of Memorial

House Memorial 58 requests that the Department of Public Safety (DPS) and the Director of the Statewide Coalition to End Sexual Violence create a task force to study and report on the processing of backlogged sexual assault exam kits.

The task force would include the state auditor or auditor's designee, the attorney general or the attorney general's designee, the director of a rape crisis center that serves a community with a population of one hundred thousand or greater, the director of a rape crisis center that serves a community with a population of less than one hundred thousand, the director of a sexual assault nurse examiner program that serves a community with a population of one hundred thousand or greater, the director of a sexual assault nurse examiner program that serves a community with a population of less than one hundred thousand, the chief of the department of public safety's forensic laboratories bureau, the director of the Albuquerque police department's crime laboratory, and the statewide sexual assault nurse examiner coordinator.

The task force would be required meet at least twice a year for five years, beginning in 2016, and report annually to the interim legislative committee dealing with courts, corrections and justice issues and to the legislative health and human services committee with the task force's recommendations and updates on the progress made on processing backlogged sexual assault examination kits, contacts made by law enforcement and rape crisis center representatives with survivors whose sexual assault examination kits have been processed and where DNA evidence matches have been made in the DNA database, the adequacy of support services available to survivors who are affected by the processing of backlogged sexual assault examination kits, and any legislation the task force recommends for introduction.

## **FISCAL IMPLICATIONS**

There is no appropriation contained in the memorial. The Office of the State Auditor (OSA) and DPS have already conducted a study of the number of untested kits statewide and are identifying best practices to prevent future backlogs. Parts of HM 58 may be duplicative of previous efforts.

There is a fiscal cost to clear the backlog of kits, however, which DPS has estimated at a cost of \$1,826.6 thousand over four years. There could also be costs associated with implementing new best practices or policies.

## **SIGNIFICANT ISSUES**

Over the last half of 2015, DPS and OSA coordinated a statewide count of all the backlogged sexual assault evidence kits in New Mexico. According to a press release issued by the OSA dated December 18, 2015, the total number of untested kits is 5,406 including those kits housed at DPS.

Earlier in 2015, DPS sent letters to law enforcement agencies statewide asking for a tally of untested kits in their inventory. OSA followed up with the agencies that did not respond to DPS' attempts.

OSA stated in their letter that beginning in January, 2016, they will review internal controls at the different law enforcement agencies that may contribute to the backlog. The OSA will identify common issues and best practices to guide policymakers in efforts to prevent another backlog from happening.

DPS estimates there are 1,500 unprocessed rape kits located in evidence vaults at law enforcement agencies around the state. It will take the three DNA forensic scientists dedicated solely to addressing the backlog between four and five years to process the estimated 1,500 rape kits.

According to LFC files, the number of backlogged cases has grown 70 percent since FY10. In FY15, DPS completed an average 20 percent of all cases received within 30 days, which addresses current cases and not those in the backlog. In FY16, the department received \$170 thousand in the base and a \$205 thousand special appropriation to work on clearing the backlog of cases. For FY17, DPS requested \$615.5 thousand in general fund for two additional scientists and their associated overhead costs. The vacancy rate for forensic scientists is 30 percent and the turnover rate is 20 percent.

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The laboratory facility in Santa Fe is at maximum capacity and would not be able to support new scientists and the equipment and tools they would need. Locating the scientists at the Las Cruces or Hobbs laboratories is not practical, as all DNA evidence is processed and stored in secured environments in Santa Fe.

DPS estimates that, based on productivity calculations, the backlog of 1,500 cases is expected to be cleared within a four to five year period, all dependent on time to remodel existing facility or leasing a building and hiring forensic scientists. Creating new scientist positions, recruiting and hiring are relatively straightforward, but could take between five to nine months because of the demand for forensic scientists.

According to the U.S. Bureau of Labor Statistics, the 2014 median income for a forensic scientist was \$55.4 thousand. New Mexico State government's payband midpoint for a forensic scientist I and II is \$54.4 thousand and \$61.4 thousand, respectively -- slightly below the 2014 median. DPS requested the State Personnel Office to include forensic scientists in the FY17 compensation request.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Relates to HB 130, HB 131, HB 230, SB 18.  
Duplicates SM 50.

TMR/al