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No Longer Ignored, Evidence Solves Rape Cases Years Later

By ERIK ECKHOLM AUG. 2, 2014

MEMPHIS — Meaghan Ybos was 16 and had just arrived home from school when a man in a ski mask held a knife to her throat and raped her.

The man said he would kill her if she called the police, but she did so anyway. That led to barrages of skeptical questions, Ms. Ybos said, and the excruciating collection of evidence from her body, gathered into what is commonly known as a rape kit.

“I felt so vulnerable being laid out on a table, with all my clothes off and in a bag and all the swabs and brushes and combs,” she recalled. But at least, she figured, the police would use the swabs and hair samples to help catch the rapist.

They did not. Like hundreds of thousands of other rape kits across the country containing evidence gathered from victims, that of Ms. Ybos lay untested for years on a storeroom shelf.

The reasons for the backlog, experts say, include constraints on finances and testing facilities, along with a slow recognition among investigators that even when the offender is known, DNA testing might reveal a pattern of serial rapes. And too often, women’s advocates say, the kits went untested because of an uncaring and haphazard response to sexual assault charges.

In recent years, the issue has exploded as one city after another has discovered stockpiles of untested kits.

Today, after years of pressure, a shift is beginning. Several cities — including, most recently, Memphis — have won praise for aggressive new efforts not only to submit all new rape kits for testing but also to test those in storage. In just the last year, initial testing of old kits in Detroit and Cleveland has yielded hundreds of indictments and revealed scores of repeat offenders.

It was in 2012, nine years after her rape, that Ms. Ybos learned that her kit had gone untested. She had called the police to say an attacker described in news accounts resembled the man in her nightmares. At that point, the evidence gathered in 2003 was sent for analysis. Ms. Ybos, it showed, had been an early victim of a man who went on to assault at least six more women over the years and who is now serving a 178-year sentence.

“I felt like I finally got my life back,” Ms. Ybos said of the moment she knew her attacker was behind bars.

It will be a while before many others can say the same, even in Memphis. More than 12,000 kits here have been tested incompletely or not at all. Mayor A C Wharton Jr. has vowed to proceed with a \$6.5 million plan to test the entire lot, appealing for state and private donations to help meet the cost and hoping that long-promised federal aid will soon appear.

The stacked-up kits are “more than pieces of evidence,” Mr. Wharton told reporters; each one represents a victim hoping for justice. He formed a task force of police officials, prosecutors and community advocates that meets twice a month to oversee the process and make monthly public reports.

Over the last decade, reports of large rape-kit backlogs have surfaced, often after investigations by news reporters or advocacy groups. But because many cities have resisted looking too hard or have even destroyed untested kits over time, the extent of the problem is unknown, said Sarah Tofte, director of policy at the Joyful Heart Foundation, a New York group that aids victims of sexual assault and is now advising Detroit and Memphis.

“What we know about the extent of backlogs around the country is still less than what we don’t know,” said Ms. Tofte, saying it appears likely that hundreds of thousands of kits still lie on shelves untested. Some of the rape kits were collected in the 1980s, before DNA analysis was fully developed, to establish blood types, something of limited use in court. But in the 1990s and after — as the technology improved and the F.B.I. set up the Combined DNA Index System, or Codis, to allow matching — a large share of kits were still not processed.

The newly concerted testing programs, when combined with the investigative heft to turn cold cases into prosecutions, are producing results.

In Detroit in 2009, officials discovered more than 11,000 unprocessed rape kits, dating back to the 1980s, in a police warehouse. Kym L. Worthy, the Wayne County

prosecutor, has won praise for pursuing full testing. Analysis of the first 1,600 kits identified 455 suspects in 23 states, including 87 involved in multiple assaults, her office reported in March.

Cuyahoga County, which includes Cleveland, has sent its backlog of nearly 4,000 kits to the state laboratory for the free testing Ohio now offers. The county prosecutor, Timothy J. McGinty, formed a DNA cold-case task force to follow new leads.

Initial priority has been given to kits from crimes committed in 1993 and 1994, so indictments can be issued before the 20-year statute of limitations is exceeded. So far, 173 people have been indicted, including 38 accused of multiple rapes, according to Joseph Frolik, a spokesman for the Cuyahoga County prosecutor.

Officials expect to bring as many as 1,000 cases over the next few years, Mr. Frolik said.

Some officials question the value of analyzing all the neglected kits from the past, saying indiscriminate testing diverts funds and laboratory resources from the cases most likely to yield prosecutions. Salt Lake City has decided to take a more selective approach, but many advocates argue that it is worth the cost to possibly detect serial offenders.

DNA testing is only the start. Memphis has created a cold-case team of 10 officers and expects to add more as results from the new testing efforts arrive, said Jim Harvey, the deputy police chief in charge of detectives.

Another challenge being confronted in Memphis, Detroit and elsewhere is how best to contact victims of long-ago crimes when belated testing provides a lead and investigators may want to conduct new interviews or seek their testimony in court. Some women may have buried their memories of the crime, or never told a later spouse about it. Do you start with a letter or a home visit? From whom? Cities are experimenting and comparing protocols for this delicate task.

If the testing gaps are a sign of broader problems in the investigation of sexual assaults, as many critics say, then more wide-ranging changes in the culture of police departments must be nurtured as well.

In an interview at City Hall, Mayor Wharton of Memphis said he had asked for changes in police promotion and assignment guidelines “to make sure those moving into this field have a special passion.”

“We’ll do whatever it takes to have a top-notch sex-crimes unit,” he said. “The police are taking reports more seriously, and there is no more saying, ‘Victim is a known prostitute,’ ” he added, referring to one notorious rationale for not pursuing rape cases.

Where the money will come from to wipe out the backlog remains murky, he admitted, but said, “We’ll get it done.”

Here and elsewhere, the new efforts, however welcome, cannot erase the sense of betrayal expressed by victims who assumed that evidence so painstakingly collected from their bodies would be fully analyzed.

In the case of Ms. Ybos, whether prompt testing would have made a difference is in dispute. City officials note that the DNA of the offender, Anthony Alliano, was not collected and recorded until his arrest in 2012.

But Ms. Ybos and two other women have sued the city and county, charging that lax investigations and reckless handling of rape kits left predators on the loose and inflicted wrenching uncertainty on victims. Officials said they could not comment on a pending lawsuit.

“We were left in the dark for a decade,” said a second woman in the suit, Madison Graves, who was just 12 when an intruder now known to be Mr. Alliano, again in a ski mask and wielding a knife, raped her in her home. It was in the same suburban area, Cordova, and only two days after the assault on Ms. Ybos. In the case of Ms. Graves, the police say they did test her rape kit at the time. But they did not inform her and, she said, at some early point told her to stop calling for updates.

Officials have not explained the inconsistent handling of the two similar attacks or why they failed to connect them, which might have led to a more focused search for a serial offender and a different response to a later case that, in retrospect, was a disastrous missed opportunity.

In 2004, according to police records described by The Memphis Commercial Appeal, officers were called to a Motel 6 where Mr. Alliano, then 33, had plied a 16-year-old girl with “date-rape” drugs and had sex with her.

The prosecutors considered a charge of forcible rape, records show, then charged him with felony statutory rape and then, for undisclosed reasons, dropped the charge. No sample was taken of his DNA, and he resumed his secret life as a predator.

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