

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

March 26, 2015

8:11 a.m.

MEMBERS PRESENT

Representative Bob Lynn, Chair
Representative Wes Keller, Vice Chair
Representative David Talerico
Representative Liz Vazquez
Representative Louise Stutes
Representative Max Gruenberg
Representative Jonathan Kreiss-Tomkins

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 117

"An Act requiring a report on untested sexual assault examination kits; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 61

"An Act relating to special motor vehicle registration plates for recipients of the Bronze Star, Silver Star, or other meritorious service awards; and providing for an effective date."

- MOVED CSHB 61(STA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 117

SHORT TITLE: SEXUAL ASSAULT EXAMINATION KITS

SPONSOR(S): REPRESENTATIVE(S) TARR

02/18/15	(H)	READ THE FIRST TIME - REFERRALS
02/18/15	(H)	STA, JUD, FIN
03/26/15	(H)	STA AT 8:00 AM CAPITOL 106

BILL: HB 61

SHORT TITLE: MILITARY MERITORIOUS AWARD LICENSE PLATES

SPONSOR(s): REPRESENTATIVE(s) GARA, GRUENBERG, VAZQUEZ, LYNN, LEDOUX

01/21/15 (H) PREFILE RELEASED 1/16/15
01/21/15 (H) READ THE FIRST TIME - REFERRALS
01/21/15 (H) MLV, STA, FIN
02/10/15 (H) MLV AT 1:00 PM CAPITOL 120
02/10/15 (H) Heard & Held
02/10/15 (H) MINUTE(MLV)
02/26/15 (H) MLV AT 1:00 PM CAPITOL 120
02/26/15 (H) Moved CSHB 61(MLV) Out of Committee
02/26/15 (H) MINUTE(MLV)
02/27/15 (H) MLV RPT CS(MLV) NT 5DP
02/27/15 (H) DP: TUCK, GRUENBERG, LEDOUX, LYNN, HERRON
03/26/15 (H) STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

REPRESENTATIVE GERAN TARR
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, presented HB 117.

RAY FRIEDLANDER, Staff
Representative Geran Tarr
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 117 on behalf of Representative Tarr, prime sponsor.

ORIN DYM, Forensic Laboratory Manager
Scientific Crime Detection Laboratory (SCDL)
Department of Public Safety (DPS)
Anchorage, Alaska

POSITION STATEMENT: During the hearing on HB 117, testified and answered questions with regard to sexual assault kits.

LIEUTENANT RODNEY DIAL, Deputy Commander
Division of Alaska State Troopers
A Detachment
Department of Public Safety (DPS)
Ketchikan, Alaska

POSITION STATEMENT: During the hearing on HB 117, testified and answered questions.

SKYLER HEARN, Assistant Director

Law Enforcement Support Division
Texas Department of Public Safety
Austin, Texas

POSITION STATEMENT: During the hearing on HB 117, testified as to the Texas Department of Public Safety's policy.

HILARY MARTIN, Attorney
Legislative Legal and Research Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: During the hearing on HB 117, testified and answered questions.

REPRESENTATIVE LES GARA
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As joint prime sponsor, presented HB 61.

LAURENCE GORDAOFF
Alaska Native Veterans Association
Fairbanks, Alaska

POSITION STATEMENT: During the hearing on HB 61, testified.

ACTION NARRATIVE

[8:11:15 AM](#)

CHAIR BOB LYNN called the House State Affairs Standing Committee meeting to order at 8:11 a.m. Representatives Talerico, Stutes, Keller, Vazquez, and Lynn were present at the call to order. Representatives Gruenberg and Kreiss-Tomkins arrived as the meeting was in progress.

HB 117-SEXUAL ASSAULT EXAMINATION KITS

[Due to technical difficulties portions of audio are indiscernible throughout.]

[8:11:34 AM](#)

CHAIR LYNN announced the first order of business was HOUSE BILL NO. 117, HOUSE BILL NO. 117, "An Act requiring a report on untested sexual assault examination kits; and providing for an effective date."

[8:12:32 AM](#)

REPRESENTATIVE KELLER moved to adopt the proposed committee substitute (CS) for HB 117, labeled 29-LS0386\W, Martin, 3/24/15, as a work draft. There being no objection, Version W was before the committee.

[8:12:54 AM](#)

REPRESENTATIVE GERAN TARR, Alaska State Legislature, as prime sponsor, presented HB 117, and explained that in terms of where the sexual assault kits are sent and the timing in testing the kits, there is disorganization in the current process. She said Alaska has the highest rate of rape and sexual assault in the nation, and opined that HB 117 is the first step in addressing the issue.

[8:14:32 AM](#)

RAY FRIEDLANDER, Staff, Representative Geran Tarr, Alaska State Legislature, on behalf of Representative Tarr, prime sponsor, explained that the Department of Public Safety (DPS) finds this bill to be so important that it does not foresee any additional funds or infrastructure requirement in implementing the audit and preparing a report for the legislature. She referred to the fiscal notes and advised that the original bill was drafted in a manner that the attorney general reaches out to local law enforcement agencies to obtain the number [of kits], prepare the report, and deliver the report to the legislature. She pointed out that the first fiscal note is \$15,000; however, the Department of Public Safety, subsequent to that fiscal note, expressed willingness to "take this project on" at zero dollars, because it is "that important."

MS. FRIEDLANDER, in response to Chair Lynn, advised there is a zero fiscal note.

[8:15:34 AM](#)

MS. FRIEDLANDER relayed that under Version W of HB 117, local law agencies will, by July 1, 2015, report the number of untested sexual assault kits in their possession. In response to Chair Lynn, she confirmed that this relates to kits already used, but not yet analyzed. She said DPS will compile a report, by September 1, 2015, detailing the number of untested sexual assault examination kits stored by each law enforcement agency, the date each kits was collected, and present the report to the legislature. She then referred to page 2, line 10, of HB 117, which read:

(d) In this section, "untested sexual assault examination kit" means a sexual assault examination kit that has been collected but has not been submitted to a laboratory operated or approved by the Department of Public Safety for either a serological or DNA test.

MS. FRIEDLANDER advised this is a definition of an untested sexual assault examination kit.

[8:18:18 AM](#)

REPRESENTATIVE STUTES asked for clarification of changes that were made in Version W. She pointed to bill language on page 1, [Section 1], of HB 117, [regarding which entity would get an inventory of untested sexual assault examination kits].

MS. FRIEDLANDER made a comment about how the length of "attorney general" [the entity chosen in the original bill version] and "Department of Public Safety" [the entity changed to in Version W] were different, and how that might affect where they fell along a line.

REPRESENTATIVE TARR spoke about the change from "the attorney general", [on page 1, line 12, of the original bill], to "the Department of Public Safety", [on page 1, line 13, of Version W].

[8:20:03 AM](#)

MS. FRIEDLANDER explained that a sexual assault kit or rape kit is a kit or box filled with tools that may be used by an examiner while collecting evidence, such as the perpetrator's deoxyribonucleic acid (DNA), and from the sexual assault victim. The contents of the kit vary by state, she noted, but could include the following: bags and sheets, swabs, combs, envelopes, blood collection devices, and documentation forms. She said Orin Dym, forensic laboratory manager of DPS's Scientific Crime Detection Laboratory (SCDL), was present to testify and would provide a demonstration. She relayed that the exam, in addition to those materials, can also contain a physical component wherein the examiner collects (indisc.).

[8:20:57 AM](#)

CHAIR LYNN (indisc.) the kit and other medical procedures.

MS. FRIEDLANDER stated she believes so, and deferred to Mr. Dym. She continued that the evidence is compiled into the sexual assault kit, stored to ensure contamination does not occur, and maintained under a chain of custody until further action is taken with the kit. An area of concern, she pointed out, is that some of the sexual assault kits are shelved by their respective agencies for a variety of reasons and are [unprocessed]. (Indisc.) the State of Alaska does not have a single, uniform protocol utilized by the 150 law enforcement agencies to do the same. She said that, in essence, there could be a local law enforcement agency in Alaska [in possession of] untested sexual assault kits potentially containing DNA that could remove rapists from Alaska's streets. Unfortunately, there is no data base or manner to manage untested, shelved sexual assault kits, she explained. (Indisc.) there has been a national movement, and states conducting audits have found thousands of untested sexual assault kits sitting on their shelves contributing to a major rape kit backlog. In response to a question from Chair Lynn, she confirmed that those audits had been done in other states. (Indisc) three times the national average (indisc.). She suggested the capture of rapists was being delayed by not having the kits processed, and she questioned why the kits were not being processed.

[8:23:14 AM](#)

CHAIR LYNN opined that if someone was raped, an examination would be performed with a rape kit and possibly shelved someplace and, as a result, the DNA from the rapist would not be tested. He pointed out that if the DNA was tested, it may be possible to match it with someone already on file. He ventured that there are serial rapists running loose on the streets whose DNA is on file, but because of the delay in testing the kits these rapists are not arrested. He clarified that while his statement is not a fact, it could be occurring.

MS. FRIEDLANDER answered that is correct. She offered her understanding that the current practice is to process the perpetrator's DNA when available; however, before the Combined DNA Index System (CODIS) - a database used by the Federal Bureau of Investigation (FBI) - existed, it was difficult for states to process DNA, so some states kept untested rape kits dating back to the '70s and '80s. She added she was not comfortable speaking "on that particular topic," but noted she had "a variety of reasons why kits aren't tested."

CHAIR LYNN (indisc.) and while there may not be a known suspect, someone's DNA may be on file [from some other crime].

REPRESENTATIVE TARR offered that the prosecution of these cases may not happen immediately because the case may not go to trial for a long period of time. She highlighted that for the period of time the testing has not taken place, that individual may be committing other crimes; therefore, she pointed out, expediency to the process is vital.

CHAIR LYNN surmised that the matter will not go to trial without a suspect, and the suspect will not be found until the DNA is tested.

[8:26:33 AM](#)

MS. FRIEDLANDER advised that working in conjunction with Senator Berta Gardner, the bill sponsor asked Legislative Legal and Research Services to conduct a research brief to determine: how many untested kits are in Alaska, which laboratories have a backlog, and the reasons [the kits were untested]. She said the aforementioned Mr. Dym, when asked by Legislative Legal and Research Services about the number of kits, responded, "I don't know - the department does not know how many completed sexual assault evidence collection kits have been utilized by the law enforcement agency but not yet submitted to the crime lab for testing." Further, she said, Alaska has no policy, regulation, or statute establishing timeframes for testing sexual assault kits, and no federal mandate requires coordination. She reiterated that Alaska has 150 local law enforcement agencies, and it is difficult to know how many untested sexual assault kits there are, even at SCDL.

[8:27:45 AM](#)

MS. FRIEDLANDER said that prior to February 1, 2015, there were no requirements by SCDL to return the kits back from local law enforcement agencies, hospitals, or other agencies. She said beginning February 1, SCDL requires that all kits are sent back to the lab, which could offer a better understanding of the number of kits collected and analyzed; however, the requirement was made only of the Alaska State Troopers (AST) and does not include all of the 150 local law enforcement agencies in the state. Further, it does not require the State Troopers to send in kits [collected] prior to February 1, 2015. She explained that SCDL has a thorough protocol for logging evidence such as rape kits, but no procedure to capture the data or create a

uniform process to ensure kits are not lost or shelved. She related that when agencies send a kit into the lab, it may label the kit in a completely different manner than SCDL's label, which could make accounting for the kits difficult. In response to Chair Lynn, she confirmed there is no standardization of labeling.

[8:29:39 AM](#)

REPRESENTATIVE TARR offered that as it was described by Mr. Dym, rape kits come to SCDL with language in the manner the officer, or whoever processed it, wrote it - with no standard protocol; therefore, there is no easy way to compare notes, because people use a different set of terms to describe the materials submitted.

[8:30:27 AM](#)

MS. FRIEDLANDER directed attention to a Legislative Legal and Research Services research brief, [from Tim Spengler, Legislative Analyst, to Senator Gardner, dated 2/13/15, included in the committee packet], which indicates the number of kits tested in Alaska in each of the last five years, and shows that 443 kits had been tested in 2014. She then referred to an email correspondence [from Dean Williams, Special Assistant, DPS, to Ms. Friedlander, dated 3/24/15, included in the committee packet], which contains a report submitted by [Mr. Dym] that indicates 395 kits were submitted in 2014. She said Mr. Dym explained the reason for the discrepancy was that he had thought the researcher from Legislative Legal and Research Services had asked for the number of cases - not kits. Ms. Friedlander explained that this, again, shows the difficulty in terminology: a case may have many different rape kits linked with it, because there could be one used for the suspect and another for the victim. She explained another reason for the discrepancy could be that they were processing rape kit backlog from previous years. She noted the sponsor was surprised in that this is such an important and complicated issue, yet no protocols have been developed.

[8:32:04 AM](#)

MS. FRIEDLANDER directed attention to an article from Alaska Dispatch News, entitled, "New FBI definition increases Alaska's already high rape rate," [included in the committee packet]. She advised the FBI lists that there were 922 rapes in Alaska in 2013, while the aforementioned brief lists 617 for the same

year. Provided that the rape kits were used in conjunction with every rape, she questioned what happened to the approximately 300 kits not processed and why they did not get tested. She expressed that the thought of serial rapists on the streets because of untested kits is frightening. She noted that the difficulty in conveying information from the state's crime lab alone - not including the 150 local law enforcement agencies - further demonstrates the need for an audit.

MS. FRIEDLANDER said DPS has been supportive and guarantees that an audit will not require additional infrastructure or staff time, thereby, allowing a zero fiscal note. Local law enforcement agencies, such as the Anchorage Police Department, have begun submitting numbers and untested sexual assault kits [in anticipation of the passage of HB 117]. She remarked that the respective agencies involved understand the importance of an audit as the first step in addressing successful management of the kits.

[8:33:38 AM](#)

MS. FRIEDLANDER stressed that the audit will not only shed light on the extent of the untested sexual kit backlog, but also help qualify Alaska to receive money from the U.S. Department of Justice, the Office of Justice Programs, and "the Bureau of Justice" in addressing Alaska's backlog. She explained that being able to include, in these grants, information such as: Alaska has "X" amount of kits, reasons why they have not been tested, and information on the staff and laboratory capabilities charged with processing the kits, will best assist Alaska in qualifying for these available funds.

[8:35:48 AM](#)

REPRESENTATIVE VAZQUEZ asked whether it is possible for the victim to choose to not have a kit tested.

REPRESENTATIVE TARR answered that the victim could choose not to press charges, and the rape kit would not automatically have to be tested.

CHAIR LYNN clarified that the question was whether a victim could choose not to be tested. In response to Representative Tarr, he stated that pressing charges and choosing not to be tested are two different issues.

REPRESENTATIVE TARR explained that SCDL receives a request for services from the prosecuting agency, but if the crime is not prosecuted, there would be no request for service. She added, "So, there's the potential for that to be another problem."

[8:36:48 AM](#)

REPRESENTATIVE VAZQUEZ asked whether (indisc.) came from the prosecutor's office rather than from a law enforcement agency.

REPRESENTATIVE TARR opined they could come from both, as the law enforcement agency would be working in conjunction with the prosecuting agency.

REPRESENTATIVE VAZQUEZ asked for further details regarding what happens if a victim does not want the kit to be tested and notifies the police officer or trooper in that regard.

[8:37:37 AM](#)

MR. FRIEDLANDER deferred to Mr. Dym, but reiterated that she had a list of reasons as to why kits go untested.

REPRESENTATIVE VAZQUEZ asked how many victims request that the kits not be tested.

MS. FRIEDLANDER again deferred the question to Mr. Dym.

[8:38:09 AM](#)

REPRESENTATIVE KREISS-TOMKINS requested the aforementioned list.

MS. FRIEDLANDER named the following reasons: cost of analysis - local law enforcement agencies sometimes only pursue cases with the best chance of being solved; cases in which the alleged rapist is not a stranger to the victim whereby the suspect's identity was not an issue; the victim decided not to pursue prosecution; other issues with evidence, witnesses, or victims, resulting in a decision that the case was not prosecutable; the lab was contacted by the submitting agency to withdraw the request for analysis; the kit was collected beyond the timeframe in which detectable, scientific evidence would remain; analysis would not yield interpretable findings owing to the limitations of the scientific method; tests with low scientific value may take up to 14 months; anonymous reporting; cases not prosecutable; issues related to consent; and the kit was not submitted to the lab. She said the audit is important in that

it could, at least, highlight why the kit had not been processed. She suggested that catching even one rapist through processing untested sexual assault kits would be worth [the effort] for Alaska.

8:40:00 AM

REPRESENTATIVE GRUENBERG asked who ultimately decides whether to prosecute.

MS. FRIEDLANDER said she was not sure.

REPRESENTATIVE GRUENBERG suggested it was the Department of Law (DOL) and asked whether the audit process includes asking questions of DOL, since that department makes the ultimate decision.

8:40:35 AM

REPRESENTATIVE TARR opined that DPS would coordinate the effort of compiling necessary information, and it would be included as one of the agencies among the 150 law enforcement and other agencies that would be a part of this. She indicated that DOL would also submit information that would be part of the audit.

REPRESENTATIVE GRUENBERG stated that DOL makes the ultimate decision to prosecute, and he suggested the sponsor speak with DOL to "find out additional information," because without doing so, "you won't get the ultimate decider."

8:41:42 AM

REPRESENTATIVE VAZQUEZ noted (indisc.) definitive decision as it is ultimately the prosecutor (indisc.) gets a file and has the kit tested believing it is a good case, (indisc.) that decision before he submits the case to the prosecutor is her interest. She noted that historically there was a "bad" backlog within SCDL before the new crime lab was built. Usually, she said, the prosecutor had to specifically request the testing, because law enforcement did not want to proceed with the testing if the prosecutor was not going to go forward with the case. She recommends clarifying that point rather than making assumptions.

8:42:50 AM

REPRESENTATIVE KELLER asked the sponsor's staff to submit the list of reasons she previously read.

MS. FRIEDLANDER relayed that the list is within the aforementioned Legislative Legal and Research Service's research brief. She directed attention to [a letter from the Texas Department of Public Safety, dated 3/4/15, included in the committee packet], which lists reasons relating to its own untested sexual assault kits, which at one time reached 20,000.

8:43:45 AM

REPRESENTATIVE GRUENBERG ventured that another dimension to [the backlog] is a lack of resources. He added that SCDL would accomplish more if it had more money and "that comes back to us." He encouraged the sponsor to "take the circle around."

REPRESENTATIVE TARR expressed appreciation for Representative Gruenberg's comments, and acknowledged that lack of resources is a factor in the low number of cases actually going to trial and is something that warrants consideration.

REPRESENTATIVE GRUENBERG responded, "You bet, because then we know where the faults may really lie."

8:45:01 AM

REPRESENTATIVE VAZQUEZ said with regard to that, the Office of the District Attorney has, historically, been chronically understaffed and under-resourced, which made it impossible to prosecute everything in need of prosecution. She asked whether an audit of "this very issue" was being conducted, or about to be conducted, regarding the backlog in SCDL.

MS. FRIEDLANDER answered that she had not heard of such an audit, especially on the untested sexual assault kits, because this audit wouldn't just be about SCDL, it would also coordinate the number of untested sexual assault kits in the 150 local law enforcement agencies, hospitals, and other departments.

REPRESENTATIVE VAZQUEZ offered her understanding that an overall audit on SCDL was scheduled in order to ascertain what was being tested or not tested, and she said she would like more information. She opined that the sponsor's timelines look good, but may not be consistent with the overall audit. She cautioned that without considering the overall comprehensive audit, the audit proposed under HB 117 could end up being disjointed.

REPRESENTATIVE TARR deferred to Mr. Dym, as she explained she was not aware of an overall audit being planned, although, HB 40 would require performance reviews. She offered that perhaps DPS is next in line for a performance review, and SCDL would be part of that consideration. She stressed that the overall goal is expediency and efficiency in this process. She noted that Dean Williams, of DPS, was interested in potentially moving back the dates in the legislation a bit, but that has not been discussed in conjunction with any other audit.

[8:48:35 AM](#)

ORIN DYM, Forensic Laboratory Manager, Scientific Crime Detection Laboratory (SCDL), Department of Public Safety (DPS), relayed that under statute, SCDL and DOL are charged with developing sexual assault kits and forms; therefore, the lab makes it a priority to provide the kits to agencies across the state, free of charge. He explained that from the moment a case comes into the lab via a request for analysis, the lab knows exactly what it has and where it is at all times. He said the lab does not know the status of kits not submitted back to the lab.

[8:50:47 AM](#)

REPRESENTATIVE KELLER said it had been portrayed to the committee that DPS is eager for HB 117 to pass, which strikes him as odd because it would increase the cost of analysis, and yet there is a zero fiscal note. He said he would like to hear from DPS, on paper, with regard to its stance on HB 117.

MR. DYM, responding from the perspective of SCDL, said that determining what kits have not been submitted that should be submitted is a good thing. He deferred addressing the specifics on how that occurs to a department head.

[8:52:07 AM](#)

CHAIR LYNN asked Mr. Dym whether the lab matches the number of kits that are sent in with the number it sent out.

MR. DYM responded that the kit is an inventory item for agencies, which order a year's supply of kits at one time. For example, the Anchorage Police Department orders (indisc.). He said another complication in tracking the kits is that many of the AST posts become distribution hubs for agencies beyond them. For example, the AST in Bethel may order 80 kits, which are then

pushed out to other regions. In response to a follow-up question from Chair Lynn, he estimated that at any given time, there are approximately 500 kits in inventory, in different agencies throughout the state.

[8:53:29 AM](#)

MR. DYM, in response to Representative Vazquez, shared his professional background. In response to a follow-up question from Representative Vazquez, he described the process by which the sexual assault test kits are submitted as evidence to the lab, and explained that law enforcement agencies submit a request for laboratory service form - a contract to perform work on the evidence submitted. He said police agencies submit the evidence, but the lab also communicates with DOL, which may be involved in the decision-making on some of the larger cases.

[8:55:20 AM](#)

REPRESENTATIVE VAZQUEZ asked the average time required to test a kit.

MR. DYM clarified that when considering service for sexual assault, a kit could be a single item of evidence or a multi-evidentiary item request for service; "it's not the only evidence that's submitted." He stated that the lab could complete a test in 24 hours when the need was urgent, but that is not the normal turnaround time. Routine analysis, start to finish, of a DNA case is six weeks, and cases are worked in batches for efficiency's sake. He explained that the current average turnaround time for DNA cases - including all types of crimes, not just sexual assault - is 170 days. He related that the oldest sexual assault request goes back to 16 months from today's date, which he said is a vast improvement over the six-plus years previously. He stated that SCDL has been making tremendous headway on the backlog, and although not where it wants to be yet, it will continue to make improvements.

CHAIR LYNN commented that it could take six months from the time the lab receives the kit back before the test results are available.

MR. DYM reiterated that the oldest sexual assault case currently waiting at the lab to be analyzed is 1.5 years old.

[8:57:16 AM](#)

REPRESENTATIVE VAZQUEZ asked what could be done to shorten that timeline.

MR. DYM offered that SCDL has invested time in reworking how it approaches scientific examination and brought in several independent experts to evaluate the process and make recommendations in streamlining it. He indicated that a goal is to increase training and the number of analysts performing DNA tests. He offered that the lab recently completed retooling the entire process of biological screening, and a supervisor presented a paper in that regard to the American Academy of Forensic Science, because the lab stepped into a leadership position on how it screens sexual assault cases. In response to Representative Vazquez' follow-up question, he said the process took "so long" because the lab has more business than it could complete in a timely fashion. When losing an experienced staff member, it takes the lab one to two years to replace that individual at the same experience level and capacity, he said.

CHAIR LYNN expressed amazement at the length of time it takes to receive results.

[8:59:36 AM](#)

REPRESENTATIVE VAZQUEZ commented that she is not amazed, and asked whether either the previous or current governor [had intervened], with regard to setting forth an action plan to remedy the situation of 1.5 years.

MR. DYM replied that he routinely reports to the deputy commissioner and the commissioner of DPS, and that the information has gone on to the governor's office as to the plan in addressing the backlog. He concurred that 1.5 years is an excessive quantity of time; however, he views it as a definite improvement over six-plus years, with a goal of a 30-day turnaround time on cases.

REPRESENTATIVE VAZQUEZ restated her question to inquire whether anyone within the lab - Mr. Dym's director or anybody in a leadership position - had attempted to acquire more resources to solve this issue and submitted "some type of action plan to correct or remedy the situation."

MR. DYM noted that within the last fiscal year, the lab requested and was granted an additional position for DNA analysis to attempt to reduce the turnaround time. He indicated that part of the funding request for the new crime laboratory

was to "ease congestion" and increase [productivity] through the use of "the DNA sciences."

REPRESENTATIVE VAZQUEZ questioned the additional resources the lab requires.

MR. DYM indicated he has sufficient equipment, space, and staffing to accomplish the aforementioned goal, but then asked the desired time frame in accomplishing the goal. He offered that if the goal is 30 days, he recommends outsourcing the backlog to a private laboratory, although that would probably take about a year to accomplish. He estimated that the lab is on track to catch up with the work itself in approximately two years, assuming he does not lose staff.

[9:02:38 AM](#)

REPRESENTATIVE VAZQUEZ opined that two years is a long time for a victim's case to come to justice.

MR. DYM concurred. He said there are a number of options, especially in a scenario in which "they're going to throw a pile of money at this and outsource it." He offered that 150 sexual assault cases could take approximately eight to twelve months for a private laboratory to complete. He indicated that if he could materialize five experienced DNA analysts at his doorstep, he could achieve the same result; however, there are no contract DNA analysts available to hire in long-term, non-permanent positions. He reiterated that subsequent to losing one experienced analyst, it took him one year to find another analyst who would accept a job offer in Alaska, and another few months to get them working - approximately a year and half to recover that productivity.

[9:04:31 AM](#)

REPRESENTATIVE VAZQUEZ asked whether compensation is the issue in attracting qualified applicants.

MR. DYM answered that the lab pays at about the forty-eighth percentile in the country, and receives between 0-1 qualified applicants from a national search, and then loses the applicants when they discover they may never be able to afford a home in Anchorage, which is a large issue. He offered that it is not just in the realm of DNA testing, but in other areas of the lab, such as finding a latent print analysts. He added, "I will say Scottsdale Police Department has also been advertising for the

same timeframe, offering \$30,000 a year more than we do, and has not successfully filled their position."

[9:06:03 AM](#)

REPRESENTATIVE VAZQUEZ asked whether Mr. Dym had any suggestions.

MR. DYM said the backlog at SCDL is his job to manage, and while he plans to methodically improve it and increase capacity, it is not an instantaneous process. He explained that the lab just retooled (indisc.) multiple screening (indisc.). He stated that currently when a case comes to the lab, within 30 days the initial process is complete, and a report is sent to the agency with those findings. He said SCDL is "getting more information today to give to them than they got a year ago." He noted the next step is to determine how to increase capacity per analyst. He suggested bringing in entities to study the process and offer input; however, he said the current budget is "tight for things of that nature."

MR. DYM, in response to a series of questions from Representative Vazquez, offered that SCDL's operating budget is \$6 million. He related that there are currently 24 positions, and of that \$6 million, personnel expenses are \$3.8 million. He said the annual costs for the electric bill and natural gas bill are \$240,000 and \$100,000, respectively. He indicated that SCDL has (indisc.) million in prorates, which pay for network infrastructure, telephone support, the Office of the Commissioner's fee, and administrative services.

[9:08:48 AM](#)

CHAIR LYNN asked Mr. Dym if he had given any of this information to the House Finance Committee.

MR. DYM responded that this was the first time a breakdown of expenditures had been requested. He reiterated that point at the request of Representative Vazquez.

CHAIR LYNN opined that both the House and Senate Finance Committees need to receive this information.

[9:09:27 AM](#)

REPRESENTATIVE TALERICO recollected that the bill sponsor mentioned there were inconsistencies in collection of the kits

and information received by SCDL, and he asked whether Mr. Dym is aware of the training of the people required to collect the specimens and why there might be inconsistencies in the information SCDL receives. He asked whether the lab ever rejected a kit because it was improperly collected or pertinent information was missing.

MR. DYM answered that SCDL has made changes to its online requests for laboratory services, and - as of October [2014] - the online form requires additional information in mandatory fields for the sexual assault kit in that when the sexual assault kit box is checked, a supplemental sheet appears requiring additional information in mandatory fields to close that gap. He said when an officer submits a kit, he/she provides an evidence item, along with a description in a "free-text" description field. He said the descriptions vary widely, including: "kit," "kit collected from" - and the individual's name, and "evidence collected." He said predominantly the word "kit" is utilized, which is helpful when doing a keyword search to determine how many kits the lab has. He specified that if someone gives him the name of a case, he can look into it and report exactly what the evidence is on that case, but he said that is "a little bit of a different search." He said that is where the inconsistency comes out. He related that the submitting agency owns the information it sends to SCDL, and the lab's job is to do the analysis; therefore, the lab does not alter their descriptions, because it is their evidence.

[9:11:40 AM](#)

REPRESENTATIVE TALERICO presumed there are a set of standards for collection, but he wondered whether training is lacking in terms of putting kits together, such as seals, date, and initials. He reiterated his question as to whether some kits may become tainted and unusable due to lack of training, and whether Mr. Dym feels the manner in which kits are submitted to the lab are sufficient or tainted in some manner.

MR. DYM explained that a lot of training is given through the Sexual Assault Response Team (SART) training program; the biological screeners actively working the kits go "out" to SART trainings and, as part of the program, provide presentations on the kits regarding what is performed at the laboratory. He said the kits are being collected appropriately with a good set of instructions, but the real issue is why a kit does not come to the laboratory. He described the current business model - which he said may have to change - as follows:

We are scientific analysis. If there are questions to be answered for the prosecution of a case, and the scientific evidence is needed to answer that question, we work it. In situations where scientific analysis did not add value or was not needed for verification, then the evidence was not sent to the crime laboratory because it was not needed. Some examples of that would be a consent case, where presence of the suspect to the victim is not in question, so scientific analysis does not yield an answer necessary for prosecution. I will add, though, keep in mind we are an arrestee state: since 2007, if you are arrested of a crime against a person, you provide a sample and we put that in the database. So, in that case, the suspect is still going into the national database for searching against other cases. So, that need is being met.

In the case of a no-suspect offense, that should be coming to the crime lab. I -- not being an investigator, I'm not sure what circumstance would give rise to that not being analyzed.

[9:14:48 AM](#)

REPRESENTATIVE VAZQUEZ reiterated her concern regarding the 170 days taken to test the kits, and Mr. Dym's best suggestion in the fastest manner to deal with the backlog, and what resources are needed to address it.

MR. DYM replied that currently SCDL has the capacity to handle what comes in, while making significant decreases in the backlog. He recommended outsourcing the suspect cases, in which there is a known suspect, out of the backlog. He emphasized that in no-suspect cases, it is critical to get the profiles into the national database for searching. He explained that private laboratories do not have permission to upload data into that national database; that work falls upon SCDL. He opined that relieving the lab of suspect cases would allow it to concentrate on the backlog of no-suspect cases, and both projects would merge and complete simultaneously, and that could be the last time a backlog in sexual assault cases is discussed at the lab. In response to Representative Vasquez, he relayed that he has 60 no-suspect kits, and 111 suspect kits.

REPRESENTATIVE VAZQUEZ asked how fast Mr. Dym could get the 111 suspect kits outsourced.

MR. DYM answered he would have to follow state procurement procedures, and indicated the last procurement bid process he oversaw took three months. In response to Representative Vazquez' follow-up questions, he said if he has funding to commit to the project, he could start the process tomorrow. He estimated the funding required would be \$3,000 per case, multiplied by 111. In response to Chair Lynn, he clarified that one contract could be made for all 111 kits.

[9:19:24 AM](#)

REPRESENTATIVE VAZQUEZ asked whether Mr. Dym could find the necessary \$333,000 anywhere in his budget.

MR. DYM answered that based upon the latest budgetary projections, SCDL's budget will be at zero by July 1, 2015. In response to Representative Vazquez' follow-up question, he responded that the budget for the upcoming year on the Senate and House side is largely unchanged, with the exception that the vacant position for a Forensic Scientist III for the Controlled Substances Discipline was relinquished. He said that discipline has an average turnaround time of 18 days; therefore, he would be hard-put to (indisc.) that position.

[9:20:42 AM](#)

REPRESENTATIVE GRUENBERG asked what can be done - in looking at the system as a whole, not just legislatively, but budget-wise - to make the system more effective, accurate, and expedient.

MR. DYM indicated the question may be too large in scope for him to be able to come up with an answer on the spot. Nevertheless, he spoke about avenues he has been pursuing to improve the system. He said he has been discussing the issue with police chiefs and representatives of the state's major submitting agencies to determine how best to close the gap in misunderstandings and improve service with each other. He offered that the DOL is also present at that table, as is the FBI representing federal agencies. He noted it is an excellent avenue in ascertaining they all are working together and determining what is important.

[9:23:07 AM](#)

LIEUTENANT RODNEY DIAL, Deputy Commander, A Detachment, Division of Alaska State Troopers, Department of Public Safety (DPS), advised that the number of sexual assault kits with the Department of Public Safety (DPS) is relatively few, as the department's policy is to submit the kits to SCDL after they are obtained. Under the proposed legislation, he noted, DPS is required to verify information with 150 agencies across the state and prepare a report. He offered that the department is concerned about the timeline in which it is required to do so. He said that allowing the department a few additional months to obtain the information may result in greater participation and better information in determining individual cases. Lieutenant Dial related that he asked his evidence technicians to conduct a search of the trooper facilities in Southeast Alaska for untested sexual assault kits and advised the total was four kits: two were obtained in cases later determined to be unfounded, and two were from cases where prosecution was declined and the testing of the kits was not requested by the Office of the District Attorney. He indicated that in other areas of the state, there are larger evidence facilities, and as an example, Fairbanks has approximately 20,000 items stored, so the search and research of kits will take longer. Notwithstanding that, he added that DPS determined it can [handle the inventory] with its existing personnel and a [zero] fiscal note. He offered examples of instances wherein kits are obtained, but do not warrant testing, such as: the sex act was not contested, and the issue is consent; the issue later determined to be unfounded; the kit was obtained from a suspect who subsequently died; it was believed the kit did not contain useable DNA evidence; or the victim requested the kit not be examined, but wanted it retained.

[9:26:34 AM](#)

REPRESENTATIVE GRUENBERG asked whether there are frequent occasions wherein the victim declines prosecution in domestic abuse cases.

LIEUTENANT DIAL answered "not so much," in that DPS has approached domestic violence cases for many years from the standpoint that the state will take up the case on behalf of the victim - sometimes without the victim's participation.

REPRESENTATIVE GRUENBERG asked whether the prosecutor [technical difficulties] when there has been coercion for the victim to "back off," whether the state goes after that perpetrator.

LIEUTENANT DIAL answered that any time there is an initial report from the victim, who later recants, the first consideration of DPS and the Office of the District Attorney is of coercion. He advised if the state can prove a case where an individual intentionally puts pressure on a victim not to participate in the prosecution, they look into it for possible additional charges.

[9:29:29 AM](#)

REPRESENTATIVE KELLER stated his assumption that every controlled inventory item has a number, and he pointed to the legislation, which discusses examination kits collected but not submitted to a lab for various reasons. He asked the definition of that terminology and whether Trooper Dial anticipates any change.

[9:31:17 AM](#)

LIEUTENANT DIAL replied that the department's current policy is that all kits go to SCDL, so the kits in the possession of the department are "legacy cases." He described those cases as being fairly old, or cases where the kit was obtained with "real" odd circumstances that made sending it to the lab unwarranted. For example, he explained, if he collected a kit from a suspect today and tomorrow the suspect dies, the case might not be sent in, although, it is their policy to send every case to SCDL, which could be the reason some of the older cases are still in DPS's evidence facilities. He advised that the department does not track unused kits. He added, "That could be problematic" He explained that occasionally the kits are positioned in different locations, such as their medical facilities, and sometimes the kits are (indisc. - overlapping voices), while other times the kits may become damaged. He said, "Sometimes we'll take those kits and cannibalize them and use elements of that kit for (indisc. - shuffling noise) crimes. He pointed out that once a kit is collected, strict electronic tracking of that kit is implemented and it is considered evidence.

[9:33:14 AM](#)

REPRESENTATIVE VAZQUEZ asked what a kit is called that has been used to collect evidence but not returned to SCDL.

LIEUTENANT DIAL advised it is referred to as an evidence item and, under definition in the electronic records management system, as a "sexual assault kit."

[9:34:38 AM](#)

SKYLER HEARN, Assistant Director, Law Enforcement Support Division, Texas Department of Public Safety, advised that he oversees the Law Enforcement Support Division, which includes the crime laboratory service, and was asked to participate in this hearing as a resource on the bill. He said he has more agencies to poll, but the timeframe provided in which to report the number of untested kits to the Texas Department of Public Safety was 45 days. He advised it began 9/1/2012, and as of January 2015 the department was still receiving reports. He pointed out that most agencies in Texas do not have an electronic method of identifying whether or not a piece of evidence has been to a crime lab, so they have to go through every file and every kit to determine whether it has been sent and analyzed and returned or has not been tested.

[9:36:27 AM](#)

REPRESENTATIVE VAZQUEZ referred to page 1, line 9, with regard to "untested sexual examination kits", and opined there could be confusion over a non-tested, brand new kit that has been sent by SCDL to the law enforcement agency and sits in inventory versus a kit wherein evidence has been collected and is sitting on a shelf, untested. She pointed out those are two different untested kits. She suggested distinguishing between the different kits, and said she would like to see an amendment clarifying that issue.

[9:37:59 AM](#)

REPRESENTATIVE TARR advised she could work with the department in determining the language, and the audit that would follow would distinguish between the two. In response to a question from Chair Lynn, she stated she would work with the department to address concerns and give the information to the committee.

[9:39:07 AM](#)

HILARY MARTIN, Attorney, Legislative Legal and Research Services, Legislative Affairs Agency, pointed out that the bill does have a definition of untested sexual assault examination

kits, which means a kit that has been collected but not submitted.

MS. MARTIN, in response to Chair Lynn's question, agreed to work with the sponsor to clarify issues.

CHAIR LYNN announced HB 117 was held in committee.

HB 61- MILITARY MERITORIOUS AWARD LICENSE PLATES

[9:40:28 AM](#)

CHAIR LYNN announced that the final order of business was HOUSE BILL NO. 61, "An Act relating to special motor vehicle registration plates for recipients of the Bronze Star, Silver Star, or other meritorious service awards; and providing for an effective date."

[9:40:51 AM](#)

REPRESENTATIVE LES GARA, Alaska State Legislature, advised that the Alaska Native Veteran's Organization in Alaska brought this to the attention of Representative Gara, and noted there are a number of military license plates in Alaska, but they skip over honor for valor in combat. He said that the one Alaska Medal of Honor recipient is covered, but there are a few other medals members of the various branches receive.

CHAIR LYNN asked whether there is a specific license plate for the Medal of Honor recipient in statute.

REPRESENTATIVE GARA replied that it is authorized by statute, although, no one has applied for one. For background purposes, he advised that Representative Herron wants to raise the \$250, which is the cost of printing that license plate.

[9:42:11 AM](#)

REPRESENTATIVE GARA continued that the intent of the legislation is to honor those veterans who risked their lives, engaged in combat, and demonstrated valor by saving other lives. He pointed out policy calls within the legislation, and stated there are legislative license plates, but compared to people engaged in combat against the enemy and demonstrated valor, those people are more worthy to have designation, if they so desire. Currently, the missing medals include: the distinguished service crosses, which apply to all branches of

the military for risking their life in combat and demonstrating valor; the silver star, for extraordinary valor in combat; and the bronze star "V," for valor in combat. He noted valor is not a word taken lightly. He explained the second purpose of the bill is that the sponsor does not want to create a license plate bill every year, as new medals will be created in the future. He said, "The department, without a new bill, has the power to add other license plates that are defined by ... acts of valor," and described that acts of valor, through the military, mean acts of valor in combat.

[9:45:01 AM](#)

REPRESENTATIVE GRUENBERG pointed out that he had prepared an amendment and asked whether Representative Gara supports the amendment.

REPRESENTATIVE GARA advised he does support the amendment, as it makes the bill stronger.

[9:45:18 AM](#)

REPRESENTATIVE KELLER asked for clarification of what the Department of Motor Vehicles can authorize, as far as personalized plates.

REPRESENTATIVE GARA answered that they can only, in this category and under this bill, add license plates reflecting honors of valor, which is valor in combat. For example, he said, a marine medal was discontinued in 1940, and occasionally a new medal is added, and the intent is to not have a bill each time that happens. He explained that under HB 61, the Department of Military and Veteran's Affairs could add those license plates at the request of a recipient.

[9:46:16 AM](#)

LAURENCE GORDAOFF, Alaska Native Veterans Association, advised that the mission of the Alaska Native Veterans Association is to answer the concerns and needs of the state's veterans, help the community offer respect to all veterans, stay non-political, and strive for all Alaska Native veterans to have a voice. He offered that he was told an Afghanistan veteran who asked the Department of Motor Vehicles in Anchorage for a bronze star license plate for his vehicle was told there is no such plate in Alaska. He offered additional incidents regarding Alaska veterans and license plates. He said the bronze star license

plate offers a sense of pride and closure to the bronze star recipients and offers recognition to the service they gave to ensure the nation's freedom.

CHAIR LYNN closed public testimony on HB 61, after ascertaining that no one further wished to testify.

[9:49:50 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Conceptual Amendment [1], which read as follows [original punctuation provided]:

Page 2, lines 4 and 5, following "reflecting"

Remove "meritorious service and"

Page 2, line 8, following "reflecting:"

Remove "meritorious service and"

CHAIR LYNN objected for discussion.

REPRESENTATIVE GRUENBERG explained that veterans can receive meritorious medals that do not involve heroism, but that is not the intent of the sponsors. He advised the intent is to involve heroism in combat individuals, and the language is narrow so members know exactly what they are voting for.

CHAIR LYNN interjected that the addition of a "V" in relation to a bronze star indicates not only meritorious service, but also valor.

REPRESENTATIVE GRUENBERG expressed that [language within subparagraph (jj)] is included because other medals meet the criteria but are more complicated, such as the Presidential Unit Accommodation for the entire unit, which is rarely given. He advised that arising issues are left to the two departments to make a determination.

[9:51:54 AM](#)

CHAIR LYNN removed his objection. There being no further objection, Amendment 1 was adopted.

[9:52:10 AM](#)

REPRESENTATIVE KELLER moved to report CSHB 61(MLV), as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 61(STA) moved from the House State Affairs Standing Committee.

[9:52:58 AM](#)

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:52 a.m.