



DIVISION OF LAW ENFORCEMENT
BUREAU OF FORENSIC SERVICES
P.O. BOX 161089
SACRAMENTO, CA 95816-1089
Telephone: (916) 210-7460

May 31, 2023

Betsy Kim
P.O. Box 1558
Bellevue, WA 98009

Re: California Public Records Act Request

Dear Ms. Kim:

This letter is in response to your follow-up correspondence received by the California Department of Justice (Department) on April 17, 2023, in which you clarified the information you wished to receive from the Department. We are responding pursuant to the California Public Records Act as set forth in Government Code section 7920 et seq. You wrote:

1. *During our call (back in February, I believe), I clarified that I was looking for data on the backlog, i.e., kits that had not been tested by the end of each year. Does the data you sent me on kits tested over 30 days also include kits that weren't tested at all? Would it be possible to get the data on untested kits by the end of each year? This is the backlog data that my records request was seeking. It would be great if you could send me the number of kits that were untested by the end of each year and in the lab for 30+ days (so a kit received Dec 31 2022 wouldn't count towards the 2022 backlog, for example), but an aggregate of untested kits at the end of each year is also fine.*
2. *Do you have any data on rape kits that were held by law enforcement? This is also something my records request was seeking.*

You also provided a table with columns for 2018 through 2022 and rows labeled, "Kits that weren't tested by the crime lab(s) by the end of each year," and, "Kits that weren't submitted by law enforcement agencies by the end of each year."

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In response to item (1), the data provided in our correspondence of April 13, 2023, represents the number of kits received each year that had not yet had testing started or were still in the process of being tested more than 30 days after receipt at the laboratory. We understood your request to seek the total number of kits that had not had testing completed within 30 days of receipt at any point throughout the year, rather than at a single point in time each year. All kits received by the Department are entered into its DNA laboratories' workflows and tested as expeditiously as possible. As we noted in previous responses, the Department's DNA laboratories have a mandate to comply with California Penal Code section 680, subdivision (c), which requires a public crime laboratory to process all sexual assault evidence kits within 120 days of receipt.

As we understand your most recent correspondence, you are seeking the number of kits at the end of the years 2018 through 2022 that had been received by a laboratory more than 30 days prior to December 31st of that year and still had not had testing completed as of December 31st of that year. Following please find the number of kits that were still being tested more than 30 days after receipt by one of the Department's laboratories as of the end of each year:

2018	2019	2020	2021	2022
350	440	390	373	375

As a reminder of what we have noted previously, BFS does not consider kits untested after 30 days as representing a "backlog." It should also be noted that these aggregate numbers are a static representation of a flow process. All of the kits represented by the listed numbers have had DNA testing completed.

For item (2), we are unable to provide data responsive to your request. As noted in our original response, California law enforcement agencies and public crime laboratories are required to create a record for each sexual assault kit collected on or after January 1, 2018, in the Department's Sexual Assault Forensic Evidence Tracking (SAFE-T) database. Apart from annual summary reports and the status updates available to victims, kit records in the SAFE-T database are exempt from disclosure pursuant to Penal Code section 680.3, subdivision (g). If you wish to review the annual SAFE-T reports, they are available on the Attorney General's website at <https://oag.ca.gov/publications#forensic>.

Sincerely,

BUREAU OF FORENSIC SERVICES
Division of Law Enforcement

For ROB BONTA
Attorney General