



## **Illinois State Police Sexual Assault Evidence Submission Act (PA 96-1011) Section 20 Final Report**

**NOVEMBER 30, 2013**

### ***OVERVIEW***

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On July 6, 2010, Governor Quinn signed into law the Sexual Assault Evidence Submission Act (PA 96-1011), which became effective September 1, 2010. The Act mandated several changes regarding how law enforcement agencies address the submission of sexual assault (SA) evidence to forensic laboratories for analysis. The Illinois State Police (ISP) operates seven such forensic science laboratories statewide and serves a vast majority of Illinois' state, county and local law enforcement agencies. Two other publicly funded forensic laboratories, the DuPage County Forensic Science Center and Northeastern Illinois Regional Crime Laboratory, serve a smaller number of agencies within DuPage County and the northeastern corner of the state, respectively. All these forensic laboratories were affected by the Act, however, this report only includes information about the SA cases submitted to the ISP laboratories and how the ISP addressed them.

The first major change resulting from the Act requires law enforcement agencies to submit any new criminal SA cases to a forensic science laboratory for analysis within 10 days of collection (Section 10 of the Act). The impact of Section 10 is a permanent increase in the number of new SA case submissions to the forensic laboratories, since agencies no longer have discretion whether to submit the case for analysis if the case is a criminal matter.

The second major change mandated all law enforcement agencies to submit for analysis all criminal SA cases in their possession which had not previously been submitted to a forensic laboratory (Section 20 of the Act). Preliminary information suggested such cases could number in the thousands. In accordance with the Act, the ISP established mechanisms for agencies to submit an inventory list of "Section 20" SA cases still in agency custody. Both the ISP and the Illinois Attorney General's Office subsequently spent considerable time and effort working with agencies on compliance with this provision. As of November 30, 2013, of the 986 law enforcement agency offices required to submit an inventory list to the ISP, 943 (96 percent) were in compliance.

The Act also required the ISP to submit a plan to address the analysis of the "Section 20" SA cases, including a timeline and resources required. This plan was submitted to the Governor, the Attorney General, and both chambers of the Legislature on February 14, 2011. As noted in

the ISP plan, the new “Section 10” cases are incorporated into the analytical schedule of the ISP laboratories in accordance with current practice. These cases become part of the normal caseload and are not being tracked separately. The original “Section 20” portion of the ISP plan is summarized below; each component is followed by a final summary in bold.

## **SECTION 20 IMPACT**

Original Plan Summary: Based on inventory information provided by the agencies using the ISP laboratories, approximately 4,000 “Section 20” cases were expected to be submitted to the ISP laboratories. The total number of cases to be submitted by the agencies was anticipated to change over the course of this program as additional cases were identified and/or non-applicable cases were removed from the lists. Some cases to be submitted dated as far back as 1978, while some were as recent as July 2010. In accordance with state statute 730 ILCS 5/5-4-3a, the ISP began including the “Section 20” backlog figure in backlog reports as of January 2011.

### **Final Summary:**

- **Cases reported to be submitted to ISP by agencies = 4,138**
- **Cases received in ISP laboratories (upon request by ISP) = 4,138**
- **Cases completed = 4,138**
- **Cases pending (in-progress or unstarted) = 0**
- **Cases remaining to be submitted from agencies = 0**
- **CODIS hits made in completed cases = 927**

“CODIS” stands for the Combined DNA Index System, which is the DNA database system comprised of DNA profiles from convicted offenders, other eligible individuals, and unsolved cases. By November 30, 2013, there were a total of 927 CODIS hits (i.e., matches to DNA profiles in the database) involving “Section 20” cases. Approximately 96 percent of all cases analyzed by the ISP laboratories annually are submitted from non-ISP agencies (e.g., local police departments, county sheriff’s offices, etc.); laboratory accreditation standards mandate that all client agency case information be kept confidential, unless otherwise authorized by that agency. If so authorized by the submitting agency, the ISP did provide the confidential CODIS hit information to the Illinois Attorney General’s Office. The ISP laboratories are not involved in investigative activities beyond the forensic analysis of submitted evidence and do not track what, if any, further action or investigation is taken by an agency as a result of laboratory analysis. Because of this, the ISP cannot determine the significance of any CODIS hit reported to agencies; such determination must be made by the respective law enforcement agency and may require further investigation be conducted by that agency. The ISP is aware that, as of November 30, 2013, at least four of these “Section 20” CODIS hits resulted in the respective investigating agency submitting additional known standards to an ISP laboratory for confirmation and statistical analysis. Whether any further action (e.g., arrest, prosecution, etc.) resulted from the analysis in these four cases, or in any other “Section 20” case, is not known by the ISP.

## **ANALYTICAL APPROACH/TIMELINE**

Original Plan Summary: For the older “Section 20” cases, outsourcing would be utilized to the fullest extent possible to enable in-house resources to focus on meeting investigative

and court needs of current cases. A general timeline was developed for this effort that began in Fiscal Year (FY) 2011 and was projected to be completed by the end of Calendar Year (CY) 2014. The ISP original outsourcing schedule assumed sufficient funding would be sustained and the outsourcing vendor would maintain the ability to meet the ISP's established high-quality expectations. Continuous monitoring of those quality expectations would be conducted by the ISP. Should insufficient funding, unsatisfactory quality, or any other factor have adversely affected this outsourcing schedule, the ISP back-up plan was to incorporate "Section 20" SA cases into the in-house analytical schedule amongst current cases, prioritized to ensure the statute of limitations deadlines were met. In the event all "Section 20" SA cases had to be analyzed in-house, not only would years be added to the analytical timeline for completion of these cases, but this would also negatively impact the timeline for completion of all types of new/current cases in the Forensic Biology (FB)/DNA section.

**Final Summary:**

**Outsourcing "Section 20" cases to the contractual vendor laboratory, Orchid Cellmark, began in March 2011 and was completed in November 2013. By the completion of this project, a total of 3,513 original (i.e., newly submitted) "Section 20" cases had been shipped to the vendor laboratory for analysis. The vendor laboratory met all quality assurance requirements throughout the course of this project. The ISP was able to secure sufficient funding for all appropriate "Section 20" cases to be analyzed by the outsourcing vendor. Another 529 "Section 20" cases had to be analyzed "in-house" at an ISP laboratory; these could not be outsourced due to the nature of the evidence involved or other case circumstances. Of the 4,138 total "Section 20" cases submitted to the laboratories, 96 were cancelled for various reasons (e.g., further investigation determined a crime did not occur, lack of required victim authorization to release evidence, etc.). The "Section 20" project was completed by the ISP on November 13, 2013, more than a year ahead of schedule.**

**RESOURCES NEEDED (HEADCOUNT AND FUNDING)**

**Original Plan Summary – Headcount:** Based on the observed increase in CY 2010 SA case submissions (originally projected at 840 additional SA cases annually), the ISP required five additional headcount to hire more forensic scientists to address the permanent increase in new SA submissions ("Section 10" cases), and to assist with the "Section 20" cases requiring in-house analysis. These positions would be permanent and in addition to refilling any vacancies within the FB/DNA section due to attrition. To be most effective in addressing the SA caseload, the new positions, as well as the current vacancies, should have been filled immediately. The extensive training program for FB/DNA requires approximately 18 months to complete, so these new hires would not have had an immediate impact on the SA caseload but would have eventually increased the ISP's analytical capacity.

**Final Summary - Headcount:**

**In November 2011, the ISP hired and began training eight forensic scientists using only headcount which was available through attrition; the five additional headcount requested in the original plan had not been received. By the end of 2012, seven of these forensic scientists had completed their FB training (one resigned) and are currently working FB cases. The ISP still requires the five additional headcount (and associated funding) originally requested in the February 2011 plan in order to address**

**the permanent increase in “Section 10” case submissions and to reduce the backlog of all types of FB/DNA cases. The overall FB/DNA case backlogs increased during the “Section 20” project since significant personnel and outsourcing resources had to be refocused on that initiative.**

Original plan summary - Headcount Funding: As stated in the February 2011 plan, the ISP required additional General Revenue funding for the five new forensic scientists described above. Assuming a July 1, 2011, hire date, the FY 2012 cost (including salary, benefits, and insurance) was projected at approximately \$407,500. This would result in a permanent increase in the amount of headcount funding required.

**Final Summary – Headcount Funding:**

**As noted above, the ISP still requires the five additional headcount (and associated funding) originally requested in the February 2011 plan in order to address the permanent increase in “Section 10” case submissions and to reduce the backlog of all types of FB/DNA cases. Assuming a hiring date in mid FY 2014, the associated first-year funding for these positions would now be projected at approximately \$493,986.**

Original Plan Summary - Other Funding: Based on the measured analytical timeline, the ISP had projected all other costs associated with addressing the impact of this new Act (outsourcing costs were estimated at more than \$2.6M for “Section 20” cases) would be met over the course of several fiscal years through current General Revenue appropriations, as well as through the use of the following sources:

Grants – The ISP planned to continue aggressive pursuit and expenditure of appropriate federal grant funding to assist in the timely analysis of all FB/DNA cases. Current and future DNA backlog grant awards would encompass any in-house analysis of SA cases submitted pursuant to Section 10 and Section 20 of the new Act. These funds are used for overtime, commodities, equipment, and other needs to help reduce FB/DNA backlogs. The ISP had also been awarded a Violence Against Women Act (VAWA) grant via the Illinois Criminal Justice Information Authority (ICJIA) to specifically assist in outsourcing the backlog of “Section 20” cases.

State Offender DNA Identification System Fund – These funds, collected pursuant to state statute 730 ILCS 5/5-4-3 (k), are already used extensively to support FB/DNA analysis in the ISP laboratories. The ISP had identified monies in this fund to cover anticipated “Section 20” outsourcing costs beyond those which will be provided through grants each fiscal year. Assuming receipts remain at or above current levels each fiscal year and no statutory transfer or borrowing from the fund occurs, this support was expected to continue throughout the course of the “Section 20” backlog reduction program.

NOTE: Had the anticipated funding provided through grants and/or the State Offender DNA Identification System Fund dropped below current projections, the ISP would have had to reevaluate the need to request additional General Revenue appropriations in future fiscal year budgets.

**Final Summary – Other Funding: The original outsourcing cost estimate of \$2.6M was based on the conservative projection that about half of the cases would require the**

more costly DNA analysis (beyond the initial biological screening analysis). As it turned out, about 75-80 percent of the outsourced cases also required DNA analysis. The total cost to outsource the “Section 20” cases was over \$3.3M. These funds came from General Revenue appropriations and grant funding sources (see the table below for distribution of outsourcing funds).

<b>Outsourcing Funding Source</b>	<b>Outsourcing Funds Expended</b>
FY09 Violence Against Women Act (VAWA)/American Recovery and Reinvestment Act (ARRA) Illinois Statewide Rape Kit Relief Program	\$276,000
2007 VAWA Illinois Statewide Rape Kit Relief Program	\$94,036
NIJ 2011 DNA Forensic Casework Backlog Reduction	\$667,159
NIJ 2012 DNA Forensic Casework Backlog Reduction	\$108,697
General Revenue	\$2,169,679
<b>Total Funds Spent on Outsourcing of “Section 20” cases</b>	<b>\$3,315,571</b>

The ISP “in-house” analysis costs (e.g., salaries, commodities, and overtime) for the “Section 20” cases which could not be outsourced were not tracked separately. Over the course of this project, “in-house” costs were covered from standard laboratory operation sources such as General Revenue appropriations, fee funds, and grant funding.

## **CONCLUSION**

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As of November 13, 2013, the ISP had completed the “Section 20” sexual assault case initiative which resulted from Section 20 of the Sexual Assault Evidence Submission Act in 2010. A total of 4,138 cases, dating back to 1978, were identified by Illinois law enforcement agencies as not having been previously submitted for forensic analysis. At the ISP’s direction, the most probative evidence in each case (as determined by the law enforcement agency based on the case circumstances) was submitted to the ISP laboratory system for analysis. After initial review by laboratory personnel, 96 cases were canceled for administrative reasons; some of these may be resubmitted by agencies if/when the issue is resolved. The remaining 4,042 cases were analyzed; 3,513 (87%) by an outsourcing vendor laboratory and 529 (13%) by the ISP laboratories. Upon completion of analysis, a report was sent to the submitting agency with the analytical results. If applicable, CODIS hit information was also provided. Based on the results of the analysis and the CODIS search, the agency must determine whether additional investigation is necessary and/or whether to submit any additional evidence for analysis. The ISP is committed to continuing to work with any law enforcement agency in the analysis of

additional evidence in these “Section 20” cases, should the agency deem additional analysis to be warranted. Please note that any subsequent submission of evidence from these completed “Section 20” cases (or any newly discovered old cases) will be handled under standard ISP protocols and will no longer be tracked as “Section 20”. Although this massive initiative took three years to complete and required the ISP to redirect significant resources from current cases, this effort was successful in eliminating the backlog of sexual assault cases in the agencies’ custody. By doing so, perhaps some measure of closure or potential new leads are brought to these investigations.