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## FISCAL IMPACT REPORT

**SPONSOR** Maestas Barnes      **ORIGINAL DATE** 1/23/16  
**LAST UPDATED** 2/03/16      **HB** 130

**SHORT TITLE** State Crime Lab Employees for Rape Kits      **SB** \_\_\_\_\_

**ANALYST** Sánchez

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		
	\$590.3	Recurring	General Fund
	\$609.7	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>			\$365.4	See Table in Fiscal Implications Section	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Partially Duplicates Appropriation in the General Appropriation Act  
 Duplicates HB 230

### SOURCES OF INFORMATION

LFC Files

Responses Received From  
 Department of Public Safety (DPS)

### SUMMARY

#### Synopsis of Bill

House Bill 130 appropriates \$1.2 million from the general fund to DPS to hire additional full-time employees to process sexual assault examination kits.

**FISCAL IMPLICATIONS**

The appropriation of \$1.2 million in this bill is a recurring expense to the general fund. Any unexpended balance remaining at the end of fiscal year 2017 shall revert to the general fund.

DPS requested a supplemental appropriation of \$88 thousand for a 12 percent increases for forensic scientists through the remainder of FY16 and \$111 thousand for forensic laboratory costs. The LFC recommendation includes the \$111 thousand supplemental appropriation for forensic laboratory costs. However, the executive recommendation includes a \$1.2 million special appropriation to process pending forensic cases. LFC also recommended a \$600 thousand special appropriation to address the rape kit backlog, which DPS did not request.

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.

A press release on the Office of the State Auditor’s website reports that New Mexico has 5,406 rape kits that have not been tested. This number includes responses from all “relevant” law enforcement agencies. Using the estimates from DPS, the cost and timeframe in which to address the backlog statewide may be longer than four years.

DPS states that the appropriation for the stated purpose is insufficient since it is limited to additional staffing and the time in which to use the appropriation is limited to one fiscal year. It estimates having to hire three additional forensic scientists, remodeling space at department headquarters or leasing space for the additional staff, purchasing equipment, test kits, supplies and other operational expenses. The breakdown of expenses by fiscal year is presented below:

<b>Fiscal Year</b>	<b>Estimated Amount (in thousands)</b>
FY17	975.1
FY18	365.4
FY19	365.4
FY20	121.4
Total	\$1,827.3

**SIGNIFICANT ISSUES**

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 even though the vacancy rate for forensic scientists is 30 percent and sustain turnover rates of 20 percent. The LFC recommendation includes targeted increases for forensic scientists.

The laboratory facility in Santa Fe is at maximum capacity and would not be able to support three 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 1500 cases is expected to be virtually 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 the positions, recruiting and hiring are a relatively straightforward process, 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.

The major issue DPS has with the bill, other than the amount, is the time limitation of one year since it will take at least nine months to hire and remodel or lease a suitable facility. In addition to officer shortages, the department also faces a critical backlog in forensic science cases as a result of vacancies.

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

Relates to SB 17

Partially duplicates the General Appropriation Act.

Duplicates HB 230 - Rape Kit Testing and Analysis

### **OTHER SUBSTANTIVE ISSUES**

The Department of Justice in its 2007 survey of law enforcement agencies in the United States found that 26 percent of all backlogged rape kits were in the West. The majority of those backlogged rape kits were in municipal police departments.

End the backlog, a national nonprofit organization in partnership with other nonprofits (e.g., the National Center for Victims of Crime and Human Rights Watch), reports that the size of the backlog of rape kits in 23 states is unknown. The number of backlogged kits in the remaining states ranges from a low of 350 in South Dakota to a high of 20 thousand in Texas. New Mexico is reported as having 5,400 backlogged rape kits, much higher than reported by DPS.

In September 2015, Vice President Biden and US Attorney General Loretta Lynch announced \$41 million in grants to 20 jurisdictions to reduce or eliminate the number of untested sexual assault kits across the country. New Mexico was not one of those grantees.

DPS states that if the backlog of untested DNA evidence kits continues to grow, law enforcement will have longer wait times for results, victims will not have closure in a timely manner, and the citizens of New Mexico will not be protected from the potential identification and apprehension of serial rapists.

The National Institute of Justice reported that its findings in "The 2007 Survey of Law Enforcement Forensic Evidence Processing" suggest that some law enforcement agencies may not fully understand the potential value of forensic evidence in developing new leads in a

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criminal investigation. For example, police departments cited several reasons for not sending forensic evidence to the lab. Those results are shown in the table below.

Suspect has not been identified	44%
Suspect was adjudicated without forensic evidence testing	24%
Case was dismissed	19%
Officers did not feel evidence was useful to the case	17%
Analysis was not requested by prosecutor	15%
Suspect was identified but not formally charged	12%
Laboratory was not able to produce timely results	11%
Not enough funds for analysis of forensic evidence	9%
Laboratory would not accept forensic evidence because of backlog	6%

**ALTERNATIVES**

DPS suggests increasing the appropriation to \$1.8 million and expand the time to spend the appropriation through FY20.

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