

## Pushback

# Roy Cooper's Latest Ad Falsely Claims He Cleared The Backlog Of Untested DNA Evidence Kits

“Roy Cooper promised to never forget the victims of rape and to clear the backlog of untested DNA evidence kits. But now that he’s running for governor, Roy Cooper is lying to North Carolinians about his record as attorney general to hide the truth: he has failed victims, their families and the entire law enforcement community.”

– Ricky Diaz, McCrory Campaign Spokesman



**Cooper's Ad:** <https://patmccrory.box.com/s/cilyvy9sc9iovywg8piax25bmkri7zhx>

**Roy Cooper's claim:** “When I became Attorney General, we discovered a backlog of more than 5,000 DNA test kits, and years worth of shoddy investigations.”

**Fact:** An investigation by Kay Hagan when she was a state senator in 2002 estimated there were approximately 20,000 untested rape evidence kits in North Carolina.

- “Yet nearly 20,000 of these kits sit untested in local law enforcement offices or at the state crime lab, according to a study commissioned by Sen. Kay Hagan, D-Guilford.”  
*(Greensboro News & Record Editorial, 12/3/2002)*
- **Cooper, State Leaders Criticized For Not Caring, Failing To Address The Issue:**  
“Lawmakers in Raleigh and Washington don’t care that women are being raped. That

bald accusation might appear preposterous and outrageous. But it is the simple truth. They don't care. Not enough to do much about finding and arresting these criminals. The proof of the politicians' indifference is boxed, labeled and stacked in police stations across North Carolina..." (*Wilmington Star-News Editorial, 11/21/2002*)

- **In 2004, Roy Cooper promised to never forget rape victims who need to have their rape kits tested:** "I promise that I will never forget those rape victims who need DNA to have their rape kits tested. I promise I will never forget the working people who have to work so hard to make their loan payments," Cooper said." (*Charlotte Observer, 11/3/2004*)

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**Roy Cooper's claim:** "But what Governor McCrory isn't telling you is that we cleared the backlog."

**Fact:** Roy Cooper claimed to have cleared the backlog during his 2008 campaign for attorney general, but severe delays and backlogs persist to this day.

**2008:** "Today, Cooper said, the backlog of rape kits has been cleared" (*Greensboro News & Record, 10/5/2008*)

**Today:**

- "40: Number of untested rape kits in storage at the Guilford County Sheriff's Office. 251: Number of untested rape kits in storage at the Greensboro Police Department. 25 months: Current turn around time at state lab for rape kits." (*Greensboro News & Record, 7/26/15*)
- "At last check, prosecutors in North Carolina say the state is still processing rape kits submitted from 2 and a half years ago." (*WECT, 6/22/15*)
- "The Asheville police evidence room holds 67 untested kits; Buncombe County has 163." (*Asheville Citizen-Times, 7/18/15*)
- "Somerville's unit also has found untested rape kits -- 58 of them. 'They weren't sent to the lab,' Somerville said. "They date back to the early '90s. Basically, the protocol for a period of time was that the lab wouldn't test the kit if there wasn't a known suspect.'" (*Fayetteville Observer, 6/26/2015*)

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## Timeline

**2001: Roy Cooper takes office as Attorney General, which oversees the state crime lab**

**2002: An investigation by former N.C. and U.S. Senator Kay Hagan estimated there were approximately 20,000 untested rape evidence kits in North Carolina**

- “Yet nearly 20,000 of these kits sit untested in local law enforcement offices or at the state crime lab, according to a study commissioned by Sen. Kay Hagan, D-Guilford.” (*Greensboro News & Record Editorial, 12/3/2002*)

**2002: Roy Cooper and other state leaders were criticized for not caring enough to address chronic backlogs in processing rape evidence kits**

- “Lawmakers in Raleigh and Washington don’t care that women are being raped. That bald accusation might appear preposterous and outrageous. But it is the simple truth. They don’t care. Not enough to do much about finding and arresting these criminals. The proof of the politicians’ indifference is boxed, labeled and stacked in police stations across North Carolina...” (*Wilmington Star-News Editorial, 11/21/2002*)

**2004: Roy Cooper promised to never forget rape victims who need to have their rape kits tested**

- “‘I promise that I will never forget those rape victims who need DNA to have their rape kits tested. I promise I will never forget the working people who have to work so hard to make their loan payments,’ Cooper said.” (*Charlotte Observer, 11/3/2004*)

**2005: It was discovered Roy Cooper's SBI had a policy not to test rape kits without a suspect, letting rapists go free**

- "The fate of a Winston-Salem man accused of raping and sexually assaulting a 7-year-old girl in 1989 is now in the hands of a Forsyth County jury after closing arguments Wednesday" (*Winston-Salem Journal, 12/5/2013*)
- "'Why 2013?' Pace asked the jury in his closing argument. 'Why 26 (sic) years later?' Foster said in her closing arguments that at the time of the incident, the SBI had a policy of not testing rape kits if there was no suspect. That changed in 2005, she said." (*Winston-Salem Journal, 12/5/2013*)

**2008: A media investigation revealed rape victims were being charged for their rape kit exams needed to put their rapists behind bars**

- “Rape victims across the state are paying for their ill fortune in the most tangible of ways: a bill for the evidence kit needed to lock up the rapist. The vast majority of the 3,000 or so emergency room patients examined for sexual assaults each year shoulder some of the cost of a rape kit test, according to state records and victim advocates.” (*Raleigh News & Observer, 2/13/2008*)

**2008: Roy Cooper made local law enforcement agencies across the state pay \$250,000 to equip the crime lab to handle expanded DNA evidence kit testing**  
(*Greensboro News & Record, 10/5/2008*)

**2008:** Roy Cooper claimed to have cleared the backlog during his 2008 campaign for attorney general

- "Today, Cooper said, the backlog of rape kits has been cleared" (*Greensboro News & Record, 10/5/2008*)

**2010: Backlogs of untested rape kits reemerge amid a scathing 2010 audit which revealed the State Bureau of Investigation had withheld or misrepresented blood evidence in more than 200 cases**

- "His office also has attempted to address the state's backlog of rape kits, Cooper said, an effort slowed in recent weeks after an independent audit of cases handled by the State Bureau of Investigation's crime lab. The review found that the SBI had withheld or misrepresented blood evidence in more than 200 cases. The SBI lab also is responsible for processing rape kits." (*Greensboro News & Record, 10/8/2010*)
- ***After problems at the SBI were publicly revealed, Roy Cooper promoted the director to another position and hired a lobbyist with no law enforcement expertise to oversee the agency:***
  - "Attorney General Roy Cooper announced Thursday that director Robin Pendergraft is leaving the post to serve as a special deputy attorney general for his office's Medicaid fraud program." (*"SBI director stepping down to take on new role," WRAL, 7/29/2010*)
  - Cooper praised Pendergraft in announcing her promotion: "We need an aggressive leader with law enforcement and legal experience, and Robin Pendergraft can bring that expertise to the job." (*"SBI director stepping down to take on new role," WRAL, 7/29/2010*)
  - "Greg McLeod, who has served as legislative counsel for the Attorney General's Office since 2003, has been named the new SBI director." (*"SBI director stepping down to take on new role," WRAL, 7/29/2010*)
  - Roy Cooper praised the SBI's work: "McLeod, Cooper said, will build upon the SBI's successes and continue to improve it." (*"SBI director stepping down to take on new role," WRAL, 7/29/2010*)
- ***Cooper's choice of a political appointee to lead SBI widely criticized by the law enforcement community***
  - "'You don't need a lawyer or legislative assistant to run it, you need an investigative professional, someone with management experience to run a law enforcement agency of this size and complexity,' Cooney said. 'It's beyond me why there isn't a nationwide search going on.'" (*Joseph Neff and Mandy Locke, "Legal tangle may slow SBI reforms," Raleigh News & Observer, 8/20/2010*)
  - "Some fear SBI task is beyond McLeod" (*Joseph Neff and Mandy Locke, "Some fear SBI task is beyond McLeod," Raleigh News & Observer, 8/22/2010*)
  - "McLeod has never investigated a criminal case. He has never prosecuted or defended a criminal case. And he has no management experience." (*Joseph Neff*

and Mandy Locke, "Some fear SBI task is beyond McLeod," *Raleigh News & Observer*, 8/22/2010)

- "That lack of experience makes him the wrong choice, said John Midgette, executive director of the N.C. Police Benevolent Association and a former Raleigh police officer." (Joseph Neff and Mandy Locke, "Some fear SBI task is beyond McLeod," *Raleigh News & Observer*, 8/22/2010)

**2011: Roy Cooper names Joseph R. John, Sr. – an appellate and trial court judge, not a forensic expert – to head the State Crime Lab** (*WRAL*, 10/7/2011)

**2013: Roy Cooper's crime lab issues new evidence guidelines which place limits on the number of items of evidence that law enforcement may submit in cases** ([\*State Crime Laboratory Evidence Guide\*](#), 10/16/2013)

**2013: "A slap in the face" to victims... untested rape kit led to a bad plea deal for rapist**

- "A local man served 53 days in jail last year after being indicted on eight felony charges of rape and other sexual offenses in which some victims suspect they were drugged and all were photographed naked." (*Greensboro News & Record*, 9/1/2013)
- "the rape kit had not been processed" (*Greensboro News & Record*, 9/1/2013)
- "'It's kind of like a slap in the face to me and the other girls he did this to,' said the woman, whose allegations against Mathis were dismissed as part of his Sept. 19, 2012, plea bargain." (*Greensboro News & Record*, 9/1/2013)

**2014: "A big problem" ... Report shows backlogs still persist at state crime lab**

- "We've been looking at the problems in the State Crime Lab this week, particularly the backlog in evidence testing... The interesting thing is that no one is disputing that there is a big problem." (*WUNC-FM*, 11/19/2014)
- "A recent report from a working group of judges and district attorneys on ways to reduce a testing backlog at the state lab spotlighted the salary problem, calling it a 'grave concern.'" (*Raleigh News & Observer*, 11/17/2014)

**2015: 'Stab in my heart' ... Backlogs and delays for processing rape kits "gathering dust" persist across the state, discouraging victims and sometimes letting rapists go free**

- "UNTESTED: Rape Kits Collecting Dust Across NC" (*WECT*, 10/28/2015)
- "At last check, prosecutors in North Carolina say the state is still processing rape kits submitted from 2 and a half years ago." (*WECT*, 6/22/15)
- "But dozens of other rape kits from Southeastern North Carolina are still waiting for DNA analysis at the state lab. There are 34 DNA cases awaiting processing from New

Hanover County, 15 cases from Brunswick, 13 from Columbus County, 8 from Pender County and 13 cases from Bladen County. State officials say those numbers include all criminal cases needing DNA analysis, not just rapes." (*WECT*, 6/22/15)

- "“Having to wait for approximately two years without a rush request is pretty devastating in cases like this,’ said New Hanover County sex crimes prosecutor Connie Jordan.” (*WECT*, 6/22/15)
- "The wait time doesn’t just add to the pain and suffering. In many cases, it can cost victims a conviction... A couple of recent examples include DNA results from two rapes in the summer of 2013 recently returned to the New Hanover County DA’s office. In one case, the victim waited two years to find out that the DA’s office doesn’t have enough evidence to proceed. In the other case, the evidence is there, but it took so long to get it the victim no longer wants to go to trial. Jordan said this is commonplace.” (*WECT*, 6/22/15)
- "Somerindyke’s unit also has found untested rape kits -- 58 of them. 'They weren’t sent to the lab,’ Somerindyke said. “They date back to the early ‘90s. Basically, the protocol for a period of time was that the lab wouldn’t test the kit if there wasn’t a known suspect.” (*Fayetteville Observer*, 6/26/2015)
- "When I found out that rape kits weren't getting tested, that was the next stab in my heart, and I cried for days," Laurie said. "I knew it was everywhere and I thought, 'Oh my God, I am up against huge problems here.'" (*Asheville Citizen-Times*, 7/18/15)
- "The Asheville police evidence room holds 67 untested kits; Buncombe County has 163." (*Asheville Citizen-Times*, 7/18/15)
- "North Carolina has been engaged in a decadelong struggle to efficiently process rape kits — along with a host of forensic material — a battle against a backlog" (*Asheville Citizen-Times*, 7/18/15)
- "In North Carolina, forensic processing of the rape kits is time best measured in years, rather than months. Results can take from 18 months — sometimes much longer — to return." (*Asheville Citizen-Times*, 7/18/15)
- Asheville police Sgt. Joe Silberman: "I know I have waited for up to a year and a half for results to come back." (*Asheville Citizen-Times*, 7/18/15)
- "40 Number of untested rape kits in storage at the Guilford County Sheriff’s Office. 251 Number of untested rape kits in storage at the Greensboro Police Department. 25 months Current turn around time at state lab for rape kits." (*Greensboro News & Record*, 7/26/15)
- "The long wait time for a rape kit to process is enough to deter some victims of rape from reporting the crime in the first place." (*WNCT News*, 9/24/15)

- "Charlotte City Council voted to approve a grant ... to test 885 unprocessed sexual assault kits, according to the City of Charlotte." (*Fox 46 News*, 9/28/15)

**2016: Untested rape kits remain a problem across North Carolina, as new revelations show Cooper tried to cover up damning investigation showing shortcomings in the lab.**

- "Legislators and state officials around the country have worked in recent years to try to clear a backlog of untested rape kits, spending millions of dollars to do so . But officials in states like Colorado , Kentucky and North Carolina are increasingly disclosing that it's not uncommon for labs to have to trashed untested kits..." (*Huffington Post*, 2/23/2016)
- "2016-2017 budget included \$3.6 million for personnel at the State Crime Lab to reduce case backlogs" (*WRAL*, 4/22/2016)
- *As Roy Cooper's record as attorney general, especially his continual failure to fix problems at the state crime lab, comes under intense scrutiny, a new report from Craig Jarvis at the Raleigh News & Observer reveals how Roy Cooper's department concealed a critical report about the state crime lab to hide damning findings with the unit that performs ballistics analysis. An independent 2010 report by the American Society of Crime Laboratory Directors (ASCLD) found the ballistics lab did not meet "essential criteria" and did not follow accredited processes and procedures. The report was never released and surfaced six years later amid an ongoing libel lawsuit between a crime lab analyst and the Raleigh News & Observer. This report had a direct impact on the legal system and may have impeded the state's ability to administer justice. Because proper processes and procedures were not followed by ballistics analysts under Cooper's tenure as attorney general, the ASCLD report called into question testimony from a crime lab analyst during a 2009 Pitt County murder trial. "... 'It is not possible to determine if the firearms examiner had sufficient information available to support the documented conclusions (report) and testimony' read the report, which was never made public. ([Raleigh News & Observer](#), 8/20/2016)*

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**While Roy Cooper hasn't fixed the problem after 16 years as attorney general, Governor McCrory has pushed for millions to address backlogs at the state crime lab once and for all**

- Upon taking office, Governor McCrory's proposed 2014-2015 budget pushed for expanded funding for the state crime lab, "providing \$500,000 for more equipment and \$3.1 million over the next year for to enhance DNA analysis" (*WRAL*, 3/20/2013)
- Governor McCrory pushed for additional resources for a Western Crime Lab in his 2015 State of the State address ([State of the State Transcript](#), 2/4/2015)
- Governor McCrory has since pushed for additional positions at the state crime lab to reduce backlogs (*WXII*, 3/6/2015)

- Governor McCrory has emphasized pay raises for hard-to-fill positions: "the governor emphasizes improving pay for certain teachers and targeting state employees in hard-to-fill or dangerous law enforcement positions." (*The Associated Press, 3/8/2015*)
- Governor McCrory's proposed 2016-2017 budget included \$3.6 million for personnel at the State Crime Lab to reduce case backlogs and to finally open the Western Crime Lab (*WRAL, 4/22/2016*)

*Governor McCrory has received the endorsement of major law enforcement organizations that had previously endorsed Cooper, including the N.C. Police Benevolent Association, the N.C. Troopers Association and the N.C. Fraternal Order of Police.*