If you think being raped is your worst nightmare, read what happens next. Women across the country are waiting years, even decades, for their rape kits to be tested. Ralph Blumenthal reports on America’s hidden outrage.

He materialized in the dark. One minute she was alone, feeding quarters into a coke machine at a deserted, self-service car wash just blocks from her home. The next minute he was beside her, his face buried in a wedged rag. “I was in a fight,” came the muffled plea. “Can you drive me to the hospital?”

Helena Luzaro, a cherubic teen standing just over 5 feet tall, took in his flannel shirt and black jeans—around 30, she thought, maybe a trucker. His sandy hair was cut in a mohawk’s mullet and, oddly, she would notice, in one of his eyes there was a glint of a drop of blood.

“Oh, sure,” she said, fighting panic, thinking she would just try to speed little her car and shoot away. But suddenly he was behind her, holding a knife to her throat, and the raped of Helena Luzaro began.

For more than 13 years, her ordeal in a sketchy outing area of Los Angeles, remained not only unseized but, also largely unrecognized—one of America’s hundreds of thousands of scandalously backlogged rape cases awaiting forensic analysis. A predator was on the loose and the authorities seemed indifferent, unwilling or unable to use modern tools familiar even to the casual viewer of CSI. But last December, Luzaro got...
surprising news. Long thought lost or destroyed, her rape kit—hospital swabs of semen and saliva, along with hair, nail clippings, and other potential evidence of a sexual assault—had yielded a DNA profile that matched a suspect—a 65-year-old long-haul trucker who was in prison. Roughly 13 years after her attack, Lazaro’s rape kit had finally been tested.

That was the good news. The bad news, which can now be pieced together, was that after sexually assaulting Lazaro in 1996, the man had gone on to rape his wife at knifepoint in Indiana—as well as an Ohio woman under strikingly similar circumstances to Lazaro’s. Following the attack on his wife, his unique genetic profile had been entered into the national database known as CODIS, the Combined DNA Index System, that was online by the late 1990s and now contains more than 7 million offender profiles. But because Lazaro’s rape kit was never tested, no match was made—a tragic error in a chaotic, inefficient system that would lead to at least one more rape.

“We can prevent rapes of women,” says Representative Carolyn Maloney, the New York congresswoman pressing for more resources for DNA testing. “We have the science. We just need the will.”

In the Lazaro case, the snooking conclusion was that had it not been for slippiness, human error, systemic failure, or a combination of the three (a sequence being repeated across the country), the Ohio rapist in 1996 could not have been prevented. And it took the authorities more than three years after the rapist’s third assault to make the forensic connection and arrest him. Linking that crime back to Lazaro’s would take another eight years.

Were other women around the country victimized by the same predator in the Internet? “I wouldn’t put anything past him,” says the Indiana sheriff’s deputy who arrested the man for raping his wife. “The arresting officer in the Ohio rape says, ‘I don’t doubt it.’” says Detective Michelle Beattie of the Fairfield Police. “But will we ever find them?”

The 13-year delay in acting on Lazaro’s rape and the tragic consequences it had for at least one other victim dramatize, in few other cases do, the perils of a dysfunctional system that, despite the great leaps in forensic science, has long treated sexual crimes with degrees of ambiguity, suspicion, and hostility often shaming the victims in the process.

“Most rapes are perpetrated by serial rapists,” says Dr. David Lisak, a psychology professor at the University of Massachusetts who studies the subject. The average rapist, he says, attacks multiple victims. One study suggested seven, another 11.

“For one woman to be believed, someone else has to be raped,” says Kristofer Morns, legal director of the Chicago Alliance Against Sexual Exploitation, a leading support group for rape survivors.

FOR ALMOST A DECADE, the backlog in testing and processing rape kits has been a national disgrace, funding shortages among rape survivors and women’s rights groups and prompting remedial efforts in Congress and the states. Law enforcement has had the science to match the DNA of Serial Killers to perpetrators since 1989. The realities of crime-fighting, of course, are complex. In 2007 there were 248,290 rapes and sexual assaults, according to the National Crime Victimization Survey. Demands for DNA testing, a shortage of technologists, limited funding, and the roughly $1,200 cost of collecting and processing each rape kit compared to create the backlog over many years. None of which quite explains why hundreds of thousands of rape kits—including Helena Lazaro’s—were among the forensic evidence from 542,000 criminal cases that the National Institute of Justice found lying unprocessed in police storage lockers and labs around the country as of 2003. Since then, efforts to cut the backlog have borne some fruit, but Congress estimates that more than 180,000 rape kits remain untested nationwide.

Meanwhile, a new National Institute of Justice report released in June cautioned that signs of progress are deceptive. More cases were being processed, but backlogs were rising because of the fast-growing demand for DNA testing.

“What other crimes would be disregarded like this?” asks Gail Alston, director of the Rape Treatment Center at Santa Monica-UCLA Medical Center, the nation’s oldest rape clinic, serving some 1,000 new victims a year. “How could you close a case and never open the evidence?”

“Most victims,” she adds, “have no idea their kits are not being opened.

THE NIGHT OF AUGUST 5, 1996, had started off well for Helena Lazaro, the eldest daughter of an Argentine X-ray technician and a nurse who had fled Castro’s Cuba. Helena attended Catholic schools until, at 16, she says, “I rebelled,” transferred to Downey High, and adopted a nose ring and a tattoo. She had a sweet, round face, curly brown hair, and green eyes flecked with rust. She wrote poetry and wanted to become a writer. But that summer before her senior year, she was working the carnival games at Knott’s Berry Farm.

Earlier in the evening she had gone on a blind date in Santa Monica with a cute software programmer she had met online. “I like nerdy guys,” says Lazaro. She was wearing a new blue turtleneck and a floor-length floral skirt she had gotten for her 18th birthday six days before. After dinner she’d left in her cherished new white-over-black Rabbit convertible, another birthday gift, and decanted, blocks from home, to wash it yet again.

The car wash in a strip mall on Telegraph Road was deserted when she pulled in after dark. She was getting the hose when he suddenly appeared, becloset, the rapist shouldering his features, startling her with his plea for help.

“Immediately the bells went off,” Lazaro recalls. “Oh, sir,” she said, frigging calm. “Let me put my mats in the car.”
Lazaro struggled to signal her terror. “I tried to motion with my eyes,” she recalls, “to no avail. The woman wrenched off.”

But Lazaro’s attacker wasn’t through. “That bitch made me horny,” he said, compelling her to stay just as she was. Soon after, he slipped out of the car, stopped into the shadows, and disappeared.

A FEDERAL SURVEY of rape last year pointed a seedy picture of the state of scientific awareness among the nation’s crimefighters. The report, prepared for the National Institutes of Justice, found that 150,070 unreported rapes over the past five years. 27595 (for more than 18 percent) produced forensic evidence that was never sent to a lab. That’s more, nearly half of the police agencies surveyed said they were under the impression that they not to submit such evidence without an identified suspect—the very purpose of taking DNA samples. Approximately, the report noted: “Some law enforcement agencies are still not fully aware that forensic evidence can be used as an investigative tool and not just during the prosecution phase.”

After years of scattered newspaper exposes around the country, Human Rights Watch (HRW) threw a spotlight on the backlog the following year with a report, “Testing Justice,” that documented shocking negligence in Los Angeles City and County.

Pressing the L.A. Police Department and Sheriff’s Department to search their storages spaces and crime labs, HRW found a staggering backlog of 12,600 untested rape kits. Other cities were equally bad or worse. As far back as 2002, the scandal-plagued Houston crime lab was found to have run a backlog of 19,500 untested rape kits, at which point a new lab director, Irina Rich, was promptly appointed. Rich subsequently began a series of reforms, including the use of robotic testers, that has cut the number to less than 4,000, with the goal of processing the remainder within a year.

In Detroit, some 10,500 rape kits, unopened and untouched, were discovered at the discredited crime lab there, with thousands more in surrounding Wayne County. That’s not all. Police in Denver and other cities around the country throw out biological evidence for nearly 6,000 murder and rape cases, deeming them unreturnable or outdated. Although such evidence might prove vital in making arrests. And now Illinois is the latest target of HRW, which found that of 1,247 rape kits booked into police storage from 1995 to 2009,

ANATOMY OF A RAPE KIT

In an effort to gather as much evidence as possible that could be used in the attacker, forensic nurses will ideally perform an examination of the victim’s body as soon as possible following the rape. All of this evidence is assembled to create what is commonly known as a “rape kit.” Elizabeth Tidwell, supervisor of nurses practitioners at UCLA Medical Center’s Rape Treatment Center, walked us through the various elements in the rape kits used by Los Angeles (including all the items listed below)

1. RAPE KIT ENVELOPE

Evidence collected from the victim’s exam is placed in this envelope. The envelope is given to law enforcement to analyze in this crime lab. If the kit cannot be opened immediately, it is stored in a freezer to avoid evidence degradation.

2. BLOOD STAIN CARD

The crime lab needs the victim’s DNA as a reference sample so they know what DNA cases to rule out when they test the kit. A finger stick is used to obtain a drop of blood on which is placed on the card.

3. SWABS

Small cotton-tip swabs are used to collect the evidence from various parts of the victim’s body. The swabs go into a collection tube and in separate containers (not shown).

4. GLASS SLIDES

Some of the swabs are placed in an acidified saline solution and dried for one hour, then sealed in blue cases.

5. GREEN-TOP CONTAINER

A urine sample is collected from the victim that may determine if she was drugged with an incapacitating substance. If so, this is the urine drug test.

6. RED-TOP CONTAINER

Blushing a specimen erect, these vials of sterile urine are emptied into the victim’s vasa. The urine is then removed and collected in a special urine tube. This urine may contain additional evidence.

7. BRUSH

After placing a piece of cloth at the entrance to the woman’s pubic hair is combed so that any debris or foreign hair can be collected. The brush is placed in a paper sheet and both are packaged.

8. CLOTHING BAG

Underwear, together with any other clothing that might have specific evidence, are put into a paper clothing bag.

9. CLEANING AND ATTACHING

LOS ANGELES COUNTY/CITY SEXUAL ASSAULT EVIDENCE

CLOTHING

INSTRUCTIONS

1. Label all the evidence. Do not cross-contaminate labels.

2. Package each evidence bag separately and secure with the evidence envelope seal. Date and initial the seal, so that the initials extend across the entire width of the envelope.

3. Label each clothing item with a �d�� tag. If, for example, the �d�� tag is placed on a shirt, tag the shirt as follows: “Joe Smith, 664 E. 12th Street. Chicago, Illinois 60601.”

4. Place the following information on all bags used:

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only 20 percent could be confirmed as having been tested (this after disgraced Governor Rod Blagojevich falsely announced the statewide backlog-free in 2005). But there’s really no notifying the deba- cle, says Sarah Bollin, AHRN’s executive and author of the report, since the 2011 Illinois law-enforcement agencies queried for information, only one-third responded with complete data. What’s more, an Illinois audit in 2009 found that 96 percent of state funds allocated for forensics went elsewhere, according to Eric Monke, the director of the state police, claiming this happened under Blagojevich’s orders. In a stunning move in July, Illinois Governor Pat Quinn signed the Sexual Assault Evidence Submission Act, the first law in the nation requiring the police to test all rape kits within 10 days of their collection. So problems can be fixed. In 1999, when the New York Police Department discovered nearly 12,000 untested rape kits, New York City’s then-Mayor Rudolph Giuliani and his police commissioner, Howard Safir, cented with three outside auditors, that by 2003 they had eliminated the backlog. But in 2007, the city opened a $290 million Forensic Biology Laboratory at the Office of the Chief Medical Examiner. The laboratory, doing testing than any lab in the country, including the FBI’s. By promptly testing every rape kit, New York has seen less than 10 percent arrest rate, three times the national average.

“New York is the best in the country,” says HRA’s Ford. “If there’s any problem, it’s getting the cases cleared. We have a high bar for others. They’re so good, it almost looks unfair.”

Simply throwing money at the problem has not proved successful. Over the years, the Justice Department has provided in excess of $330 million to help labs reduce backlogs, but the funds were often squandered and not used to hire more forensic scientists.

“DNA never forgets, it cannot be intimidated. It demands justice and accountability,” said Cong. Jones has witnessed the outcry. In 2004 it passed the Debbie Smith Act, which provides funding for DNA testing. The act is the result of an effort by a woman who was raped in 1989. Her rape kit went untested for six years, when it was finally received, it was found that her attacker had been arrested for another offense.

SUDDENLY ALONE AFTER her attacker fled, Lazaro dove off in shock. She couldn’t go home, she thought fashioned. She was afraid to call the police. What if he was listening to a scanner as he had threat- ened her when she began screaming.

But when she spotted a parked police cruiser, she pulled over. “I need help,” she blurted. “I’ve just been raped.”

At Allentown Hospital Medical Center, she endured a painful rectal exam and the rape-kit swabs. When a counselor tried to comfort her, she said, “It’s not your fault.” Lazaro erasured. “Of course it’s not!”

They couldn’t reach her parents. Finally, by surly, her father arrived. His first words, Lazaro remembers, were: “This is really expensive. We need to get out of here.”

The police wanted her to help them make a sketch of the suspect. But Lazaro, still terrified, refused. She had her driver’s license, all, and could easily trace her. Her terrorized to leave the house, called the police the very few weeks. They had no news.

ABANDONING HELENA LAZARO, her tormentor, Charles Samuel Courttney, Jr., made his way back to Indiana, where he had a wife and a young son with a bone disease. He would soon rape again.

Less than six weeks later, on September 14, 1996, Franklin County Deputy Lovern D. Baker responded to a call from a grocery store in Lakeview, just west of the Ohio line. A witness was reporting a rape. The victim, Jane Courtney, 24, told Baker that her husband, Charles, had been gone most of the week. When he came home, she told him the marriage was over. He locked the door and started yelling at her and calling her names. Baker reports, “he could not have her, nobody would.”

Charles Courtney then revealed a knife, held it to her throat, pulled her from the house, and pushed her down in the rear bedroom,” Baker’s account continued. “Mary said the whole time he threatened to kill her and at one point held the knife to his own throat. Mary stated that while in the bedroom, he pulled her onto the bed and told the kidnap victim on the mattress, and held up her pants off and told her to take off her shirt. While holding her on her mouth to keep her from screaming, he had sex with her. In December 1996, Courtney was arrested and charged with a Class A felony that could have put him behind bars for 30 years. But on Octo- ber 19, 1997, his legal defense and the prosecutor—unaware of Lazaro’s rape in California or the rape kit waiting to be tested—was arrested and charged with attempted murder. If Courtney would plead guilty, the charge would be reduced to sexual batter- y, a Class C felony. In this instance, Courtney could be freed in a year—sooner, counting time already served. He ultimately served only five months.

One month after her release, shortly after midnight on April 21, 1998—18 months after raping Lazaro—Courtney, by then living in the Cincinnati, Ohio, suburb of Hamilton, was stalking new prey. This time he abducted Kimberly Lazaro, a 21-year-old medical worker, in the parking lot of a thrift- way in nearby Fairfield. Once again he had a knife, threatening to “slit” her, according to the complaint later taken to Delphi police, Michelle Breen. Courtney forced Lazaro to drive to a deserted location, where he raped her repeatedly. Once again his defense attorney, and court, told him he knew where she lived, and promised that he’d find her if she went to the police. As before, the victim submitted to a rape kit. And once more, it would yield her attacker’s DNA. Only this time, authorities had no preset against the victim’s DNA. The date was July 27, 1998, 11 months after she had been taken in Indiana. It was too late to help Lazaro through the knowledge that she might have escaped her nightmare, but had Courtney’s DNA been matched to Lazaro’s rape kit when he went to jail, he could have flagged Courtney as a serial rap- ist and kept him behind bars instead of on the street for months. And it would certainly have spared Breetzke Lakes.

“I would say it’s a testament,” said the Local Board of Supervisors, 34, “Almost every detail that happened to Lazaro happened to me. And it may well have happened to others. He’s a predator driving across the United States,” says Lazaro. “I honestly feel there are more women out there.”

But as it was, the DNA profile taken from Courtney after his attack on his wife’s dog could not be matched against Lazaro’s rape kit for more than three-and-a-half years, until November 2001. When it was, he was arrested, as it matched the DNA in Lazaro’s kit. New was found up to 50 years. But once again, a deal was struck. In 2002 he pleaded
guilty to rape, kidnapping, and intimidation and was sentenced to 25 years.

COURTNEY’S PUBLIC DEFENDER IN the Lakes case, Richard Koehler, said recently he’d had no idea about Lazaro’s rape at the time of his defense. And Lazaro didn’t know her attacker was sitting in prison, Lithium over the years she’d repeatedly called the Local Board of Supervisors, 34, and whom he had arrested. As she approached her 28th birthday in July 2007, she stepped up her inquiries, believing that the statute of limitations on a minor’s rape extended 10 years from the victim’s 18th birthday. The authorities said her rape kit appeared to have been destroyed. Why the case lapsed still remains unexplained.

Desperate for some kind of resolution, Lazaro reached out to a man who worked with femiletic social-service agency Peace Over Violence. The Hend, Abigail Sims, was shocked. “The stranger rapist of a minor” is a nickname. Sims had a collection of stories, but calling the Sheriff’s office, and suddenly the case was alive again. Miraculously Lazaro’s rape kit was found and used to develop these results uploaded to CODIS. It matched Courtney’s DNA profile. Early this year, armed with Lazaro’s case, deputies traveled to Ohio to build a new case against Courtney.