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March 30, 2018

**TO:** Senator Nancy Skinner, Chair  
Senator Joel Anderson, Vice Chair  
Members of the Senate Committee on Public Safety

**FROM:** Ilse Knecht  
Director of Policy & Advocacy  
Joyful Heart Foundation

**RE: Testimony in Support, S.B. 1449**

The Joyful Heart Foundation strongly supports Senate Bill 1449, which strengthens the language of existing statute to ensure the timely submission and testing of sexual assault evidence kits and appropriates \$2 million to help law enforcement agencies comply with the proposed amendments.

The Joyful Heart Foundation's mission is to transform society's response to sexual assault, domestic violence, and child abuse, support survivors' healing, and end this violence forever. Since 2010, Joyful Heart has made the elimination of the rape kit backlog—hundreds of thousands of untested rape kits across the nation—our top advocacy priority. We work directly with survivors, stakeholders, and jurisdictions to achieve this goal. Our staff, consultants, and partners have decades of expertise at the forefront of rape kit reform efforts. We have been instrumental in passing state-level rape kit reform legislation in several states including Arizona, Florida, Georgia, Hawai'i, Kentucky, Nevada, New Mexico, New York, Oregon, Texas, Utah, and Washington, and we have collaborated with local and state agencies to provide support during the implementation process. We are working directly to support rape kit reform legislation in 11 states in 2018. With this expertise and legislative track record, we respectfully submit this testimony in support of S.B. 1449.

**The Problem**

Every 98 seconds, someone is sexually assaulted in the United States. In the immediate aftermath of a sexual assault, a victim may choose to undergo a medical forensic examination to collect evidence left behind during the assault. A doctor or nurse will conduct the four-to-six hour examination and preserve this evidence in what is commonly called a "rape kit." Survivors who take the step of undergoing invasive forensic exams expect that their rape kits will be tested. The public expects the same.

DNA evidence is a powerful law enforcement tool. When tested, rape kit evidence can identify unknown assailants, link crime scenes together, reveal serial offenders, and exonerate the wrongfully convicted. Testing rape kits for DNA evidence can both solve and prevent crimes. Too often, however, these rape kits languish untested for years—even decades—in storage facilities.

There are hundreds of thousands of untested rape kits in storage across the country; to date, over 225,000 such kits have been identified. Because most states do not require law enforcement and forensic agencies to count or track rape kits, there is no way of knowing the full extent of the problem. In most cases, the number of untested kits in a particular jurisdiction is unknown until

legislators, journalists, survivors, or advocates step in to investigate.

### **Why Testing Rape Kits Matters**

Testing rape kits solves crimes and saves lives. In 2017, the U.S. Department of Justice National Institute of Justice released National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach, which includes 35 recommendations for victim-centered approaches for responding to sexual assault cases. For the first time, the federal government unambiguously declared that testing every rape kit connected to a reported crime is a best practice. Testing all kits is victim-centered, trauma-informed, and promotes public safety. This approach has been embraced by elected officials, law enforcement leaders, lab professionals, prosecutors, and advocates in jurisdictions across the country. Joyful Heart joins experts in calling for the mandatory submission and testing of every rape kit connected to a reported sexual assault.

By mandating the swift testing of every sexual assault kit, California can send a powerful message to survivors that they—and their cases—matter. Testing every kit sends a message to perpetrators that they will be held accountable for their crimes, and demonstrates a commitment to survivors to bring healing and justice. It is also the pathway to a more effective criminal justice system and safer communities across the country.

In the last decade, communities across the country have discovered thousands of backlogged kits in storage and taken action. These jurisdictions started testing their kits, submitting eligible DNA profiles into the national database (CODIS), and investigating and prosecuting resulting cases. So far, testing backlogged rape kits in three large cities—Cleveland, Detroit, and Memphis—has resulted in the identification of over 1,300 suspected serial rapists. These serial offenders have been connected to crimes across at least 40 states and Washington, D.C. Many of these offenders have been linked to other violent crimes, including domestic violence and homicide, as well as to non-violent crimes, including burglary and larceny.

Testing every kit also saves communities money. In 2016, the Begun Center for Violence Prevention Research and Education at Case Western Reserve University analyzed the cost of testing backlogged rape kits in Cuyahoga County, Ohio. Factoring in the cost of testing kits, investigating cases, and other related expenses, the study calculated the overall cost effectiveness of testing 4,347 unsubmitted kits. The study found testing all 4,347 kits produced a net savings of \$38.7 million.

Research is now confirming what cities and states around the country have already discovered: testing every rape kit and thoroughly investigating every reported rape is financially beneficial for communities. As more sexual assault cases are pursued, more offenders are apprehended, future crimes are averted, and communities save money.

### **Testing Newly Collected Rape Kits in California**

S.B. 1449 strengthens the language of existing California law, which merely encourages law enforcement agencies to submit kits for testing. The Sexual Assault Victims' DNA Bill of Rights (Penal Code Section 680) states that sexual assault forensic evidence received after January 1, 2016 should be submitted for testing within 20 days, that laboratories should test the kit and submit DNA evidence as soon as possible but within 120 days, and a transferred kit's DNA evidence should be uploaded as soon as possible but within 30 days. The law does not mandate uniform guidelines statewide, allowing for broad discretion and inconsistency in how rape kit evidence is handled.

In 2017, Joyful Heart submitted eight open records requests to jurisdictions across the state to bring the handling of rape kits to light. Out of these eight jurisdictions, six are either not following the encouragement of the law or have no way of knowing whether they are—that is, 75% of jurisdictions in our current round requests are either not complying with the intent of the law or have no means through which to know how many kits they are receiving into evidence and submitting for testing. This inconsistency in rape kit handling across the state demonstrates the inadequacy of current statute. Right now in California, the zip code you live in determines your access to justice.

By replacing “should” with “shall” in Section 680 of the penal code, S.B. 1449 ensures the swift submission and testing of sexual assault forensic evidence. It also appropriates \$2 million to the Department of Justice to distribute to law enforcement agencies to help them comply with these amendments. These critical provisions ensure consistent application of the law across the state, offering a path to justice for survivors of sexual assault, taking violent offenders off the streets, and strengthening public safety statewide.

### **Appropriating State Funding for Reform**

On average, it costs between \$600 and \$1,500 to test one rape kit. Lack of essential funding at multiple levels is often a factor in why kits go untested. Public crime laboratories throughout the country have struggled to obtain sufficient funding and personnel, as technology has advanced and the demand for DNA testing has grown. In addition to rape kit evidence, crime laboratories may receive DNA samples from hundreds, or even thousands, of crime scenes each year. As a result, many labs have exceedingly long turnaround times—sometimes years—for testing DNA evidence, including rape kits. Law enforcement agencies often lack the technology to track untested rape kits, as well as the personnel needed to transport untested kits to a crime lab in a timely manner. Many also lack the staffing resources necessary to investigate or follow up on leads that arise from the rape kit testing.

Public safety is a principal government responsibility. By appropriating \$2,000,000 from the General Fund to the Department of Justice, to be further disbursed to law enforcement agencies, S.B. 1449 is dedicating the necessary resources to ensure that rape kits are swiftly tested and justice is pursued. This is a critical step toward rape kit reform in California.

### **The Road Ahead**

To achieve comprehensive rape kit reform and to align with national best practices, California should pass laws that mandate an annual inventory of rape kits and the testing of all backlogged kits. We encourage the legislature, in consultation with advocates, practitioners, agency leaders, and most importantly, survivors of sexual assault, to push forward with legislative action. Additionally, agencies should consider applying for federal funds such as the Sexual Assault Kit Initiative (SAKI) grant administered by the U.S. Department of Justice as a means to supplement state funding.

Joyful Heart urges the Senate Public Safety Committee to pass this bill. We look forward to working with you to enact comprehensive rape kit reform and provide a path to healing and justice for survivors and safer communities in California.

Thank you,

Ilse Knecht  
Director of Policy and Advocacy  
Joyful Heart Foundation  
(212) 475-2026  
i.knecht@joyfulheartfoundation.org