

**Statement for the Record for Mariska Hargitay
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**Before the Bipartisan Task Force to End Sexual Violence
June 16, 2017**

Good morning. I want to thank the chairs of this congressional Task Force to End Sexual Violence for inviting me to speak today. I also want to acknowledge the 26 members of this bipartisan group for making the rape kit backlog the subject of your first briefing. By elevating this critical issue, you are sending a powerful message to survivors of sexual assault that they matter—and their cases matter. You are demonstrating to law enforcement and prosecutors that we must work together to ensure we are doing everything we can to hold offenders accountable and keep our communities safe.

I am humbled to be on this distinguished panel today. When I first learned about the backlog, it was important to me to listen and learn from advocates who had worked for decades to implement rape kit reform; prosecutors leading the way, like the Manhattan District Attorney's Office; and those on the ground, including rape crisis centers, statewide sexual assault coalitions, crime lab directors, and medical personnel. I honor their work and I bring the voices of those advocates, survivors, researchers, and law enforcement professionals with me to share what we have seen over the past several years in order to provide some national context to your discussion.

About the Joyful Heart Foundation

I founded the Joyful Heart Foundation in 2004 with the intention of helping survivors heal and reclaim a sense of joy in their lives. Today, we are a national organization with a mission 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 national rape kit backlog a priority. Our advocacy team, along with board members, advisors, researchers and partners with expertise in this work, is at the forefront of identifying backlogs in cities across the country, advocating for funding to test backlogged kits and investigate cases; appealing for laws and policies to improve criminal justice responses to sexual violence; and working with jurisdictions to assist them to develop and implement survivor-centered reforms.

Through endthebacklog.org, the first and only comprehensive online hub for information about the rape kit backlog across the United States, we are sharing best practices, resources, progress on reform, and are offering a way for people to join this growing movement.

Critical Role of Federal Funding

Today, I'd like to focus on the progress that has been made on this issue in recent years. But first, I want to acknowledge the significant change that we are seeing across the country, seeded by the actions of the federal government.

The ability of law enforcement, crime labs, and prosecutors to implement change often depends, in part, on whether additional resources and funding are dedicated to clearing backlogs and pursuing leads. The federal government has played a key role in helping

jurisdictions address their backlogs by investing in justice for survivors, accountability for perpetrators, and safety for America's communities.

More than a decade ago, Congress took a major step toward addressing the rape kit backlog with the passage of the Debbie Smith Act, which provides funding to crime labs to test DNA, including rape kits. Thanks to the courageous leadership of Debbie Smith, this law has brought critical attention to rape kit backlogs and galvanized lawmakers and the public.

The Sexual Assault Forensic Evidence Registry (SAFER) Act, passed by Congress as part of the 2013 reauthorization of the Violence Against Women Act, provides state and local governments with funding to conduct an audit of the untested rape kits in their possession and develop a tracking system for rape kits from collection through testing. This was an important step toward providing resources to communities.

We know that testing rape kits is only one step toward comprehensive reform. Once the problem is acknowledged and the first kits are sent out for testing, cities are left to grapple with the enormous task of finding a way to test all of the rape kits in their storage facilities, figure out how to investigate and prosecute these cases and re-engage survivors in the process, and address any systemic failures that led to the problem in the first place.

This work takes political will, but it also takes significant resources. Finding the money has been a struggle. Communities simply do not have the resources necessary to make all of this possible while also responding to newly reported cases.

And so for the first time, the federal government created a grant program in 2014 within the Department of Justice's Bureau of Justice Assistance—the Sexual Assault Kit Initiative (SAKI)—to provide local communities with critically needed resources to: supplement efforts to test backlogged kits in law enforcement facilities; create multidisciplinary teams to investigate and prosecute cases connected to the backlog; and address the need for victim notification and re-engagement with the criminal justice system. To date, Congress has awarded \$131 million in SAKI grants to 25 states.

The impact of SAKI grants cannot be overstated. We have heard from law enforcement and prosecutors that the funds, as well as the requirement to create a multidisciplinary team to undertake systemic reform, are bringing communities together like never before. These focused resources are helping law enforcement get serial criminals off of the street, easing the burden on personnel, facilitating community engagement and relationship building, and making communities safer. We have heard the same feedback from victim advocates—SAKI funds are helping agencies already stretched thin to implement reform in the way they know best serves their community. The protocols and trauma-informed training made possible by SAKI funds will also last well beyond any one grant and help catalyze positive systemic changes.

Joyful Heart would like to thank the members of this Task Force for your continued support of this funding in the annual Commerce, Justice and Science spending bill. We hope we—and the survivors we represent—can continue to count on your advocacy for these much-needed funds as the FY18 appropriations process continues in Congress in the weeks and months to come.

Then and Now

In May 2010, I first testified about the rape kit backlog before the House of Representatives Committee on the Judiciary's Subcommittee on Crime, Terrorism, and Homeland Security. The national landscape is very different now.

- **Known Backlogs:** In 2010, we had no idea how many rape kits were sitting untested in police storage facilities and crime labs. Advocates' best guess was an estimate of 400,000 untested rape kits, but now that number is disputed. Because most jurisdictions do not have systems for tracking or inventorying rape kits, we cannot be sure of the total number of untested rape kits in the United States.

However, through public records requests, investigative journalism, state legislative reforms, and grassroots advocacy—often by survivors and local advocates—we are beginning to understand the backlog nationwide. Since 2010, more than 200,000 untested rape kits have been accounted for. Twenty one states and Washington, D.C. have passed laws requiring audits of untested rape kits, with Alaska expected to be the 22nd (pending the governor's signature). SAKI and SAFER grants have helped make this accounting possible, providing key resources to allocate for additional staff time to inventory kits and implement processes.

- **Reforms enacted:** When I testified in 2010, there were no state rape kit reform laws on the books, although Illinois became the first later that year, passing an audit and mandatory testing bill. Today, the trend has shifted. Since January 1, 2017, 71 rape kit reform bills have been introduced in 32 states, and 10 states have enacted reform laws.

Joyful Heart has launched a national campaign to pass comprehensive rape kit reform legislation in all 50 states by 2020. Our campaign was developed in consultation with trusted experts across the country—advocates, survivors, prosecutors, investigators, and crime lab personnel—and local, state and national leaders. The assessment formalized six essential pillars for comprehensive rape kit reform:

1. Annual statewide audit: Inventory all untested rape kits periodically to understand the scope of the problem and monitor progress.
2. Mandatory testing of backlogged kits: Eliminate the existing backlog by requiring law enforcement agencies to submit all previously untested kits to the lab, and require these kits be tested.
3. Mandatory testing of new kits: Prevent future backlogs by requiring law enforcement agencies to promptly submit all newly collected kits to the lab, and mandating the lab test these kits within a specific timeframe.
4. Tracking system: Ensure hospitals, law enforcement, and labs are using the same system to track rape kits. Build in a way for survivors to check the status of their kits throughout the process, from collection to analysis.
5. Victims' right to notice: Grant victims the right to receive information about the status and location of their rape kits.
6. Funding for reform: Appropriate state funding to address these issues.

SAKI has become a critical tool in conducting reform work. Many states received federal funding before enacting rape kit reform laws, but after seeing firsthand the value of testing backlogged rape kits, in terms of public safety and justice served, many of these states have begun the work on legislative change. To date, 30 states have enacted some type of legislation and I am happy to be able to tell you that last week, Texas became the first state

in the nation to enact all six pillars. This progress gives us hope, as do our partnerships and the fostering of a next generation of leaders carrying this work forward with determination.

- **Survivor Engagement:** Through the SAKI grants, we are seeing a change in law enforcement's understanding of the impact of rape trauma on survivors, and the incorporation of trauma-informed approaches to their interactions with victims.

We know sexual assault can bring deep pain and suffering—physical, mental, emotional and spiritual. We honor the process of healing and know it looks different for each person. Deciding which choices to make in the aftermath of an assault is a complex and deeply personal part of this process. Seeking medical attention, reporting the crime, and moving forward with prosecution is a decision that belongs to the survivor alone. We must honor every survivor's path to healing.

Joyful Heart is also focused on bringing attention to the need to ensure that survivors are notified about the status of their rape kits, a process referred to as victim notification. One of the most critical steps along a community's journey toward full rape kit reform is to determine the best process for notification and re-engagement of survivors, years—sometimes decades—later.

In 2016, Joyful Heart and research partner Dr. Courtney Ahrens of California State University, Long Beach published *Navigating Notification: A Guide to Re-engaging Sexual Assault Survivors Affected by the Untested Rape Kit Backlog*. This study provides research-based guidelines for jurisdictions developing policies and protocols for victim notification.

Every day, we are working with jurisdictions that now understand the importance of implementing trauma-informed and victim-centered notification practices that seek to avoid re-victimization and further harm. Through our legislative work, we are advocating for laws that grant survivors the right to know the location and status of their rape kit throughout the entire process. The federal government set an important model for this work with the passage of Survivors' Bill of Rights Act in 2016. Our research on victim notification found this information is vital to survivors' healing and well-being.

Conclusion

Although we have seen progress throughout the country, much work remains.

Today, only 8 states have laws requiring the testing of both current and backlogged kits. That means, in most states the decision to send kits for testing is left up to individual discretion. Research has shown discretion to be a major contributing factor in the massive number of untested rape kits sitting on shelves across the country. We join experts in calling for the mandatory submission and testing of every rape kit booked into evidence and connected to a reported sexual assault. National best practices require the submission of all kits except in cases in which law enforcement has expressly, through a rigorous investigation that resulted in clear and convincing evidence, determined that a crime did not occur.

We know that testing all kits is critical to criminal justice reform. I know you will hear today from prosecutors from Cuyahoga County, who have been remarkable partners over the past several years. They know what we know, the numbers don't lie. Testing all rape kits solves crimes and saves lives.

Allow me to offer Detroit as an example of what happens when a jurisdiction commits to testing their backlogged kits, follows up on leads, thoughtfully engages survivors, and sees cases through the criminal justice process. In 2009, Wayne County Prosecutor Kym Worthy (who also testified at the same Subcommittee on Crime, Terrorism, and Homeland Security hearing in 2010) discovered 11,341 untested rape kits in a police storage facility. Since then, each of those kits has been tested, resulting in 2,616 DNA matches and the identification of 798 potential serial rapists—*so far*. The DNA from the kits tested in Detroit are linked to crimes committed in 40 states and the District of Columbia—crimes such as other rapes, burglary, domestic violence, and homicide. The results in Detroit, similar to other cities, underscore what we know about sex offenders: they rape again and again, they rape people they know and don't know, they commit all kinds of crimes, and they often move from state to state, community to community.

Only when the extent of a jurisdiction's backlog is revealed can real reform begin. Only when law enforcement agencies account for the untested kits in their custody can communities begin to take steps to test those kits, hold offenders accountable, and bring justice to sexual assault survivors whose cases have languished, often for years—or even decades.

Since I testified in 2010, I have added Director and Producer to my resume. Last night, my new film, the HBO documentary *I AM EVIDENCE*, was showcased at the AFI Docs Film Festival here in DC. Through an exploration of survivors' accounts, the film sheds light on the nationwide rape kit backlog and shows what can be achieved when evidence—and the individuals it represents—are treated with the respect we all deserve.

What mattered most to me in making *I AM EVIDENCE* was bringing survivor stories into the light and giving them the space to tell their truths. And not just of their assaults, but of the effect of a flawed criminal justice system that left their rape kit untested and their cases unresolved. The survivors' stories of strength, growth, perseverance and survival shook me, moved me, and inspired me deeply. And the process of making this film gave me a far more complete understanding of the impact the backlog has on survivors of sexual assault.

With this film, we want to provoke outrage, elevate the voices of those most impacted, mobilize the public, add fuel to the effort and, ultimately, join forces with advocates across this country to fix it.

On behalf of survivors across the country I thank you for your attention to this issue. I look forward to continuing this dialogue. I know you join me in commending the jurisdictions that are taking responsibility for reform, and that, together, we are committed to raising awareness around those that have not.