



25 Broadway, 9th Floor
New York, New York 10004
(212) 475-2026
joyfulheartfoundation.org

Board of Directors:

Mariska Hargitay
Founder & President

Debbie Millman
Chair

Sukey Novogratz
Vice Chair

Lauran Bromley
Secretary

Karen Polivka
Treasurer

Jessica Ambrose

Beth Armstrong

Jenny Belushi

Cynthia Erivo

Linda Fairstein

Erica Fisher

Peter Hermann

Danielle Herzlich

Mark Herzlich

Valli Kalei Kanuha, Ph.D.

Andrea McTamoney

Rev. Al Miles

Heather Mnuchin

Pamela Murphy

Tom Nunan

Chauncey Parker

Amanda Stephens

Noelle Wolf

Kym Worthy

March 26, 2019

TO: Senator Nancy Skinner (Chair)
Senator John M. W. Moorlach (Vice Chair)
Members of the Senate Committee on Public Safety

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

RE: Testimony in Support of Senate Bill 22

The Joyful Heart Foundation strongly supports Senate Bill 22, which strengthens the language of existing statute to ensure the timely submission and testing of sexual assault evidence kits. We thank Senator Connie Leyva for her leadership on this issue and dedication to survivors of sexual assault.

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 Alaska, 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. With this expertise and legislative track record, we respectfully submit this testimony in support of S.B. 22.

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 national 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 requiring 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 Newly Collected Rape Kits in California

S.B. 22 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 *require* uniform guidelines statewide, enabling 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 percent% of jurisdictions we surveyed are either not complying with the intent of the submission and testing 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 the current statute to encourage kit submission and testing. Right now in California, the zip code you live in determines your access to justice.

By replacing requiring rape kits to be tested instead of merely suggesting they be tested, “should” with “shall” in Section 680 of the penal code, S.B. 22 ensures the swift submission and testing of sexual assault forensic evidence. This critical change would 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. Fully funding this bill is a critical step toward rape kit reform in California.

Testing Every Kit 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.

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 S.B. 22. We look forward to working with this committee 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, Policy and Advocacy
Joyful Heart Foundation
(212) 475-2026
i.knecht@joyfulheartfoundation.org