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May 19, 2020

**TO:** California Assembly Public Safety Committee

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

**RE: Testimony in Support of Assembly Bill 2481**

The Joyful Heart Foundation (Joyful Heart) strongly supports Assembly Bill 2481, which would require all sexual assault kits received by law enforcement before January 2016 be submitted to the appropriate crime lab for testing by January 20, 2021. The lab will be required to test these pre-2016 kits by January 31, 2022. With the passage of this bill, California will join the growing list of states requiring the testing of all previously unsubmitted rape kits and demonstrate to survivors not only in this state, but also across the country, that the criminal justice system is serious about reforming its response to sexual assault.

Joyful Heart was created in 2004 by actor, director, producer and advocate Mariska Hargitay. 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 rape kit backlog—hundreds of thousands of untested rape kits across the nation—our top priority. We work directly with survivors, stakeholders, and jurisdictions to achieve this goal. Our staff, Board of Directors, 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 41 states including Arizona, California, Florida, Georgia, Hawai'i, Kentucky, Massachusetts, Nevada, New Mexico, New York, Texas, and Utah, 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 testimony supporting A.B. 2481.

**The Problem**

Every 73 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 will preserve this evidence in what is commonly called a "rape kit." Survivors who take the step of undergoing this exhaustive and invasive forensic exam do so because they have been told this evidence could help law enforcement hold their offender accountable.

When tested, the DNA evidence from rape kits can be a powerful tool to solve and prevent crimes. DNA evidence can identify unknown assailants, link crimes together, and exonerate the wrongfully convicted. 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. Since we began our work, we have identified over 220,000 untested rape kits in the United States. We don't know the true extent of the backlog nationwide because many states do not require police departments to count or track the kits in their possession. Most times, the number of untested kits in a particular jurisdiction is unknown until legislators, journalists, survivors, or advocates step in to investigate.

It's important to understand that every single rape kit represents a survivor whose body has become a crime scene and has reported the crime to police, everything society asks them to do. Many do this because they want to prevent the perpetrator from hurting anyone else and they want the criminal justice system to hold the offender accountable.

### **Joyful Heart's Six Pillars of Reform Campaign**

In 2016, Joyful Heart launched a grassroots, survivor-focused, and actionable nationwide campaign to end the backlog through enacting six essential pillars of comprehensive rape kit reform in all 50 states, Washington, D.C., and Puerto Rico. Our campaign not only ensures the testing of all backlogged kits, but it also increases accountability and transparency in the system for all stakeholders, especially for survivors. Each state must enact all of our pillars to reach full reform.

#### **These pillars are:**

1. Annual statewide inventory: Conduct a recurring count of all untested rape kits in law enforcement and medical facilities to understand the scope of the problem and create greater accountability and transparency across the system.
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 requiring these kits be tested in a set time frame.
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 requiring the lab to test these kits within a specific time frame.
4. Tracking system: Ensure hospitals, law enforcement agencies, and crime labs are using the same system to track rape kits and are allowing survivors to check the status of their kit throughout the process, from collection through analysis.
5. Victims' right to notice: Grant victims the right to receive information about the status of their rape kits.
6. Funding for reform: Appropriate state funding to implement these reforms.

Right now, there are 12 states that have reached full reform: Connecticut, Hawai'i, Illinois, Kentucky, Massachusetts, Michigan, New York, Nevada, Oregon, Texas, Utah, and Washington state. California should aim to join this list.

## California Rape Kit Reform

[California](#) was one of the first states to reform rape kit policies. In 2003, the state granted victims the right to be informed about whether a DNA profile was obtained from testing of their rape kit by enacting [A.B. 898](#). In 2014, California enacted [A.B. 1517](#) that “encouraged” law enforcement agencies to submit newly collected kits to the lab; legislators improved this law with [S.B. 22](#) in 2019, which mandates kit submission. Bills enacted in 2016 ([A.B. 2499](#)) and 2017 ([A.B. 41](#)) granted victims further rights to information about the location and status of their kits, and mandated all law enforcement participate in the statewide kit tracking system, SAFE-T system by the California Department of Justice.

In an effort to bring the handling of rape kits to light, in 2017 Joyful Heart submitted open records requests to eight jurisdictions, including [Bakersfield](#), [Long Beach](#), [Oxnard](#), [Redding](#), [San Bernardino](#), [Santa Cruz](#), [Shasta County](#), and [Stockton](#). This uncovered more than 13,600 backlogged kits. Importantly, it also identified six jurisdictions -- 75 percent that were either not complying with the intent of the submission and testing law or had no means through which to know how many kits they were receiving into evidence and submitting for testing.

In 2019, Joyful Heart was an original sponsor of [A.B. 3118](#), which required a statewide inventory of untested kits. This inventory, released in April 2020, found more than 13,000 untested rape kits across the state, though every jurisdiction did not respond and it did not include a count of untested kits sitting at medical facilities.

Ultimately, we still do not have a thorough count of the untested kit backlog across California. And though S.B. 22 mandates the testing of all rape kits moving forward, there is no mandate to test kits that are backlogged within law enforcement custody, medical facilities, or crime labs. That is why passage of A.B. 2481 is so important.

## Why Testing Rape Kits Matters

Mandating the swift testing of every sexual assault kit connected to a reported crime sends a powerful message to survivors that they—and their cases—matter. Sexual assault has the lowest arrest rate of all violent crimes. Leaving rape kits on shelves tells perpetrators that they can escape punishment for rape. Testing every kit sends a message to perpetrators that law enforcement will employ every available tool to apprehend and prosecute them. Testing rape kits also contributes to a more effective criminal justice system. By testing kits, communities can identify serial perpetrators, take dangerous offenders off the streets, prevent future crimes, exonerate the wrongly convicted, and help create a path to healing for survivors.

Joyful Heart has endorsed the federal government’s best practice recommendation to submit every rape kit connected to a reported sexual assault to a crime lab for DNA analysis. 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. This approach has been embraced by elected officials, law enforcement leaders, lab professionals, prosecutors, and advocates in jurisdictions across the country.

**Testing all rape kits solves cold case investigations and prevents future crimes.** Rape kits can yield DNA evidence which can be entered into local, state, and national (CODIS) DNA databases containing profiles of offenders. By testing every kit connected to a reported crime, more DNA profiles will be in these databases, potentially linking crimes and revealing [serial rapists](#), who assault both acquaintances and strangers as recent research has shown.

[Research](#) conducted by the Begun Center for Violence Prevention Research and Education at Case Western Reserve University shows that in Cuyahoga County, Ohio, out of the nearly 7,000 backlogged

sexual assault evidence kit investigations, 796 have been linked to serial rapists. In March 2016, Begun Center researchers also published an analysis of serial versus one-time sexual offenders based on a random sample of these cases, and found that more than half of these sexual assaults were connected to serial offenders, suggesting that these types of offenders are more common than previously believed. Even more, offenders who commit sexual assault often are engaged in other crimes such as burglary, domestic violence, child abuse, and homicide.

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 appropriate databases, and investigating and prosecuting resulting cases. As a sample, 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.

The case studies of serial rapists emerging from cities around the country working to clear their backlogs send a clear message: testing rape kits can prevent future rapes.

- Keith Asberry Jr. of Antioch, CA sexually assaulted at least five women over nine years, eventually murdering one of his victims. According to prosecutors, Asberry kidnapped and raped a 15-year-old (victim 2) and a 19-year-old (victim 3) in 2008. The rape kits collected from these victims sat untested for years. In 2015, he attempted to rape a 46-year-old woman, and a few weeks later, burglarized a home, raping and murdering a 37-year-old student. Several of these crimes could have been prevented with the timely testing of a single rape kit back in 2008.
- In 2013, DeShawn Starks sexually assaulted two women in Detroit. Both women's rape kits were tested. When the DNA profile was entered into CODIS, the evidence linked to cases of another crime. Ten years earlier, Sparks had sexually assaulted two other women in Detroit. Both of those women's rape kits went untested until a decade later, as part of Detroit's backlog elimination initiative. The DNA in the backlogged kits linked Starks to both crimes. Had the kits been tested in 2003, at least two sexual assaults could have been prevented. Sparks is currently serving a sentence of 45-90 years in prison.
- Memphis's efforts to clear their backlog uncovered the violent criminal history of serial predator Eric Curry. Between July 2005 and February 2006, seven women reported being raped in South Memphis. All of these victims indicated that their attacker had lured them into a white Jeep, and three of them identified Curry in a photo lineup. At least one of the women also had a rape kit exam. In 2009, Curry pleaded guilty to three of these crimes, and was sentenced to 10 years in prison. In 2014—after being released from prison—Curry was charged with two additional sexual assaults dating back to the early 2000s. He is also suspected in as many as 18 other sexual assaults. Had these kits been tested sooner, it is likely that some of this violence could have been prevented.
- In Wisconsin, a rape kit from 2014 sat untested until 2018 and when tested, it finally identified Cedric Ball as the offender. The survivor in this case waited for justice for four years while Cedric Ball was on the streets, likely committing more crimes.

It's undeniable. When you swiftly test rape kits you prevent crime by taking repeat offenders out of society. Removing these criminals from the streets will bring down crime rates, make communities safer, and save money at the same time.

**Testing rape kits also saves communities money.** In 2016, the Begun Center analyzed the cost of testing backlogged rape kits in Cuyahoga County, Ohio. Factoring in the cost of testing kits and other related expenses, [the study](#) calculated the overall cost effectiveness of testing 4,347 unsubmitted kits,

engaging survivors, investigating every lead, and prosecuting cases. The study found that **Cuyahoga County** saved \$38.7 million **by testing 4,437 backlogged kits**.

In 2019, Dr. Paul J. Speaker of West Virginia University released [research](#) that demonstrates enormous economic returns for communities that invest state dollars to test kits swiftly. The study shows that processing every rape kit could be one of the most effective uses of state funds, producing an astounding 65,000% return on investment.

As of May 2020, 24 states — including California — have enacted bills that allocate funds towards ending the backlog. These states allocated \$89.4 million in total to end the backlog and test over 132,000 kits, averaging \$4.3 million per state and ranging from \$300,000 in Hawai'i to \$11 million in Texas and Michigan. Given the savings and return on investment, appropriate funding would ensure a financially viable way of bringing justice for survivors, holding sexual offenders accountable, and creating a safer California for all.

### **The Road Ahead: Passing A.B. 2481 and More Reform**

To achieve comprehensive rape kit reform and align with national best practices, California must pass A.B. 2481. The [Budget Act of 2019](#) appropriated \$2 million in grant funding that will assist in the implementation of A.B. 2481 by providing funds to local jurisdictions. This money is available now and the Attorney General is accepting applications.

Joyful Heart would like to take this opportunity to put on the record other survivor-centered reforms that should occur in California:

**Expand Tracking System Access to Survivors.** The SAFE-T rape kit tracking system must be built out to allow survivors to participate in the statewide tracking system, through the creation of a victim portal that allows them to know the status and location of their kit. Joyful Heart's research on victim notification found giving survivors a choice about how to receive information about their case can help counter the loss of self-determination and control at the core of the sexual assault experience. By building a portal for survivors to check the status of their kit into the SAFE-T system, California can give survivors control they need to heal on their own terms.

**Conduct Thorough and Annual Statewide Audits.** As mentioned on page 3, the California Attorney General released a one-time [statewide audit](#) mandated by [A.B. 3118](#) last month. The law states that each law enforcement agency, medical facility, forensic lab and any other facility that receives, maintains, stores, or preserves sexual assault evidence kits shall conduct an audit of all untested sexual assault kits in their possession and shall participate in the statewide audit. However, the report shows that **only 149 LEAs (out of more than 600 in the state) and crime labs** participated in the audit. The report also says that no medical facilities provided information for this report. This inventory was thus incomplete. Mandating compliance for annual reporting is a best practice that will finally be able to provide a definitive path to reform.

**Promote Reform Through Federal Grants.** California law enforcement 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. We worked to create this program to provide grants for the testing of previously unsubmitted rape kits, the investigation of cases that arise from testing, prosecution of offenders identified, and engagement and assistance for survivors in these cases. SAKI grants also support reform of approaches to sexual assault cases in jurisdictions where rape kits have sat untested on law enforcement or hospital shelves.

California legislators, advocates, law enforcement leaders, prosecutors, medical professionals, and crime lab leaders have asserted a strong commitment to reform the response to sexual assault in the state.

Joyful Heart urges you to continue this progress and pass A.B. 2481. This move will ensure that the more than 13,000 rape kits we know are sitting on shelves in California are tested, and put into place a mandate as additional backlogged kits are discovered under compliance with A.B. 3118. We thank you for your efforts on this issue, and stand ready to assist you in creating safer communities and offering a path to healing and justice to all sexual assault survivors in California.

With Gratitude,

A handwritten signature in cursive script that reads "Ilse Knecht". The signature is fluid and elegant, with the first name "Ilse" and last name "Knecht" clearly distinguishable.

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