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**US House of Representatives Committee on the Judiciary
Subcommittee on Crime, Terrorism, and Homeland Security**

**“Rape Kit Backlogs: Failing the Test of Providing Justice to
Sexual Assault Survivors”**

May 20, 2010

Chairman Conyers, Chairman Scott, Ranking Member Gohmert, and distinguished Members of the Subcommittee, you have honored me deeply by inviting me to stand with you and among you in our common cause of bringing attention to the issue of sexual violence and developing a more compassionate and just community and criminal-justice response to rape and sexual assault.

Your dedication and commitment to this issue inspire me. I hope not only to honor the strength and significance of the stand you have taken, but also to shine a light on the power you have to help survivors heal and reclaim their lives.

I am especially honored to be here in the year of the 15th anniversary of the Violence Against Women Act, the legislation that revolutionized the way violent crimes against women are prosecuted and prevented, and the way communities respond to survivors.

When I started on Law & Order: SVU eleven years ago, violence had never played a significant role in my life, certainly not on a daily basis, and certainly not the kinds of issues that the show addresses. And then there I was, immersed every day in some of the worst that people can do to each other.

The show is fiction, but the show's fictions are based on horrific facts.

Like the fact that in the time it will take for us to conduct this hearing, 60 individuals in the United States will be sexually assaulted.

But it wasn't statistics that pressed these issues into my consciousness.

When I started working on television in 1986, I quickly learned that fan mail came with the territory. I would read letters like: "Hi, my name is Sarah. I really like your show. Can I please have an autographed picture?" But when I started working on

SVU, I got a different kind of mail: “Hi, my name is Sarah. I’m 16 years old. My father has been raping me since I was 12, and I have never told anyone.” I remember my breath going out of me when the first letter came, and I’ve gotten thousands like it since then.

That these individuals would reveal something so intensely personal—often for the first time—to someone they knew only as a character on television demonstrated to me how desperate they were to be heard, believed, understood, comforted and healed.

Three things stood out in the survivors’ stories I was reading.

The first and most obvious was PAIN. I was struck again and again by the depth of the betrayal these women had suffered, by how devastating, perverse, wrong, and brutal sexual violence is. Though I encountered a broad spectrum among the responses survivors had to what happened to them, taken together, the letters created a landscape of intense suffering.

The second theme in the letters was ISOLATION. The word “alone” appeared again and again. Whether a survivor was writing from a farm community in Virginia or from Midtown Manhattan, whether a survivor lived in a single-parent household off the coast of Maine or she was surrounded by three generations of her extended family on a reservation in South Dakota, she was alone. She could have no one around her or everyone around her; it didn’t matter. She was isolated in the shame of what had happened to her and in the fear of the consequences of speaking out.

And lastly, I read about COURAGE. Actually, I was holding it in my hands, because the act of reaching out for help and breaking the silence that imprisons so many survivors is an act of utmost courage.

I obviously had my role to play on television, but I knew I wanted to play a role in healing survivors' PAIN, ending their ISOLATION, and honoring their COURAGE.

I started the Joyful Heart Foundation in 2004. Our mission is to heal, educate and empower survivors of sexual assault, domestic violence, and child abuse, and to shed light into the darkness that surrounds these issues.

More than 4000 survivors have participated in our retreat and wellness programs, we have reached thousands more through life saving referrals on our website, and our participation in national educational and media awareness campaigns has planted the seeds of a changed awareness in the lives of millions.

I have seen survivors find their way back to lives of possibility, hope, and joy, and I am proud to be part of a movement that will change the way we respond to these epidemics.

I have been invited here today to talk about a crucial piece of that response—eliminating the backlog of untested rape kits in the United States. While I am not an expert, I am an advocate—in the literal sense of the word, one who calls out to you, on behalf of the thousands of survivors whose voices and whose stories, whose courage and hope for justice I am honored to bring with me into this room.

Every year in the United States, more than 200,000 individuals take the courageous step of reporting their rape to the police.

Because of what those individuals have suffered, their bodies are crime scenes—living, breathing, feeling crime scenes.

They are asked to participate in a process of evidence collection from those crime scenes that will produce a “Sexual Assault Evidence Collection Kit”, more commonly known as a “rape kit”.

A victim is typically asked to undress over a large sheet of white paper to collect hairs or fibers, then her—or his—body is examined with an ultraviolet light, photographed and thoroughly swabbed for the rapist's DNA. The process can last four to six hours.

The rape kit now holds the potential to solve the crime that has been perpetrated against a victim. Testing a rape kit can identify the assailant, confirm a suspect's contact with a victim, corroborate the victim's account of the sexual assault, and exonerate innocent defendants.

However, in too many instances, a rape kit collected by law enforcement never reaches the crime lab for testing. Or once it does, is not processed in a timely manner.

Last year, newspapers reported that Los Angeles had 12,000 untested rape kits in crime labs and law enforcement storage facilities. Houston has 4,000. 10,000 in Detroit. 5,000 in Illinois. 2,500 in San Diego. And these are just the backlogs we know about. Experts estimate that there are hundreds of thousands—*hundreds of thousands*—of untested rape kits in police and crime lab storage facilities throughout the country.

We have real-world examples that testing all rape kits brings results. More than a decade ago, New York City tested sixteen thousand kits and eliminated its backlog. The City implemented a new policy of testing every booked rape kit. The arrest rate for rape skyrocketed from 40% to 70% of reported cases—the highest rate in the nation.

Yet the benefit of testing rape kits goes beyond providing prosecutors with investigative tools to bring offenders to justice. It goes beyond introducing the

clarity of DNA evidence into the arena of rape and sexual assault, the crimes with the lowest reporting, arrest, and prosecution rates in the United States.

These kits represent human beings who have suffered greatly. Testing their rape kits sends victims the fundamental and crucial message that they and their cases matter.

Nicholas Kristof quoted Polly Poskin, Executive Director of the Illinois Coalition Against Sexual Assault, in a 2009 New York Times editorial about the rape kit backlog:

“If you’ve got stacks of physical evidence of a crime, and you’re not doing everything you can with the evidence, then you must be making a decision that this isn’t a very serious crime.”

That decision has the power to traumatize rape victims further as they are seeking recovery and healing.

Take the example of a survivor we have worked with at Joyful Heart, a woman named Helena from Los Angeles.

When Helena was seventeen, she was abducted at knifepoint from a car wash and raped repeatedly. Afterwards, at a hospital, she submitted a rape kit. It was not tested for thirteen years. Helena lived every day of those thirteen years in fear of a rapist who had vowed to kill her family if she reported the crime, who had vowed to return and take her as his own. When the kit was finally tested, as a result of advocacy by a number of organizations, including Joyful Heart, the results revealed that her rapist was serving a twenty-five year sentence in Ohio. He was known to have raped two other women while Helena’s kit sat untested. The statute of limitations on Helena’s rape had run out, but prosecutors are currently pursuing a life-sentence for the abduction charge.

In response to the testing of the kit, Helena said: “Finally, my nightmares have stopped almost altogether. I have a sense of security that I haven't felt in over a decade. My home is my own. My family is safe.”

In another example, an advocate we work with tells of a rape victim who found out from police that her rape kit would not be tested. Her response? “It was so stupid of me to hope for justice, wasn't it?”

In addition to the spectrum of ways a rape survivor may feel—afraid, ashamed, betrayed—“stupid” shouldn't be one of them.

We must urge law enforcement, after a victim has given her consent, to send in rape kits for testing. Findings in a 2007 study by the National Institute of Justice revealed that one in five unsolved rape cases involved forensic evidence that had never been sent to a forensic laboratory for processing.

We must provide law enforcement and prosecutors with the training, tools and resources they need to investigate and prosecute sexual assault cases.

We must provide our inundated crime labs with funding to build the capacity that will enable them to prevent backlogs.

We need better technology to document the number of rape kits police and crime lab storage facilities across the country. The same 2007 study revealed that less than half of law enforcement agencies have information systems capable of tracking forensic evidence.

We need strong oversight of our grant programs meant to eliminate the rape kit backlog.

We need to engage in public awareness and education efforts to address attitudes and bias about rape victims.

And, most importantly, we need to keep the victim at the center of any reforms.

That means creating systems whereby victims can receive information about the status of their case; creating programs to help with victim notification of rape kit results and testing decisions; providing short-term and long-term supportive services to victims at the local level; and ensuring that policy decisions incorporate the needs and concerns of culturally specific community groups.

I would also like to use my time with you today to address broader aspects of the response to victims of rape and sexual assault that represent a significant barrier to justice and healing.

We hear constantly from sexual assault survivors that they are met with a dismayingly uneven response in hospital emergency rooms across this country.

Linda Fairstein, one of America's foremost legal experts on sexual assault and domestic violence, led the Sex Crimes Unit of the District Attorney's Office in Manhattan for twenty-five years. She is also the Vice Chair of the Joyful Heart Foundation Board.

When she handled her first rape case in 1973, evidence collection kits did not exist and DNA had never been applied to forensic investigative use. A victim was "lucky" if she was treated in a hospital that took steps to preserve samples and swabs, and even more fortunate if those findings made their way to a police laboratory for analysis, usually in a shoebox or a makeshift package carried by a creative detective.

It is shocking that, more than 30 years later, we still hear stories like this, especially in rural areas, Indian Country and the territories.

One of the reason these stories still abound is the lack of specially trained Sexual Assault Nurse Examiners (SANE's) in communities nationwide.

Extreme care is required in the collection of rape kit DNA, both because the victim desperately needs compassion and expertise and because the role the evidence can play in prosecuting the crime. Although emergency room physicians and nurses are asked to fulfill both clinical and legal responsibilities in responding to a sexual assault, they typically have little or no training on the medical treatment of rape victims, or on how to conduct a forensic rape kit exam. It is noteworthy that national studies have shown that rape kits collected by Sexual Assault Nurse Examiners were not only more thorough and contained fewer errors, but that the corresponding rape cases were more likely to be prosecuted successfully.

Only 500 SANE programs exist across the country. Continued funding to those training programs is essential, as well as a commitment to create new programs. Hospitals need the opportunity and encouragement to send their medical professionals for SANE training, and trainees need the logistical and financial support to become SANE nurses.

While SANE funding has been authorized as part of the landmark Debbie Smith Act, I strongly support efforts to allocate these funds in the appropriations process as well.

I am also working in partnership with the New York State Division of Criminal Justice Services and sexual assault advocates to educate medical professionals to ensure that they are trained and prepared before a sexual assault victim comes through the emergency room doors. We have heard too many stories

about doctors reading rape-kit collection instructions—out loud and for the first time—when the victim is lying on the table.

Rape Crisis Centers represent yet another aspect of the frontline response to rape victims, ensuring they get the legal, medical, and psychological support they need. These centers are used to working on shoestring budgets, but this most recent financial crisis has significantly reduced their ability to operate. In a recent survey of 644 rape crisis centers, 72% of the centers reported experiencing funding losses in the past year; 56% have been forced to reduce staff; and 66% have had to reduce their outreach, prevention education and public awareness efforts.

Perhaps most significantly, 25% of rape crisis centers have a waiting list for services. That means one in four victims is waiting for basic crisis services. We know that the words “crisis” and “wait” cannot co-exist. We also know that without services, victims are more likely to end up homeless, jobless, abusing substances, suffering from mental health issues—and attempting suicide.

The President's budget includes a request to increase the Sexual Assault Services Program funding in the Department of Justice's budget for their Office on Violence Against Women from \$15 million to \$30 million. These funds can help significantly in addressing the urgent need for services—and seizing the opportunity to change lives, in many cases even to save them.

At Joyful Heart, we envision a community that says to a survivor:

“We are not impervious to your suffering. We will give you our ears if you wish to speak of your anguish, we will lend you our voices if you cannot find yours, we will give you our most courageous and informed action to advocate on your behalf before those who have the ability to bring about an end to your plight. We

will hold you within our hearts and our minds. You have suffered enough, and your healing is our priority.”

You are all a shining example of the community that can embrace and sustain survivors as they find their way back to lives of hope, possibility and joy—elected officials, medical professionals, members of law enforcement, crime lab personnel, government leaders, staffers and the media.

For all those communities represented in this room, and for all the others around the country, you strengthen the possibility of healing for a survivor because you are acknowledging, responding to, and taking action to end the suffering.

I also especially want to acknowledge the leadership of the Obama Administration, Vice President Biden and White House Advisor on Violence Against Women Lynn Rosenthal, as well as Attorney General Eric Holder and the Justice Department. I look forward to my ongoing work with them and with Congress.

You have my fierce commitment to use my voice, commit my resources, and do whatever it takes to bring safety, compassion, healing, and justice to victims and survivors of sexual violence.

Thank you for the opportunity to be here with you and among you. I am honored, nourished, and best of all, greatly encouraged.