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January 29, 2024

TO: Maine Committee on Criminal Justice And Public Safety

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

RE: Testimony in Support of LD2129

The Joyful Heart Foundation strongly supports LD2129, which would require the Department of Public Safety to establish, operate, and maintain a forensic examination kit tracking system. To date, 40 states and Washington, DC have implemented a rape kit tracking system. With LD2129, Maine is poised to join these states in addressing rape kit handling in a transparent way. The bill also requires an inventory of untested kits in law enforcement possession.

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 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 in 49 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 LD2129.

The Problem

Every 68 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 2010, over 220,000 untested rape kits have been uncovered.

Why Testing Rape Kits Matters

Joyful Heart joins experts in endorsing 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, medical professionals, prosecutors, and advocates in jurisdictions across the country.

It's important to understand that every single rape kit represents a survivor whose body has become a crime scene and has gone to a medical facility to get a forensic exam, many have 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. When survivors report to the police and have forensic evidence collected, they expect that the kit will be tested. Society expects it, too.

Testing rape kits solves and prevents future crimes, and provides survivors with a path to justice and healing. Rape kits can yield DNA evidence which can be entered into local, state, and national DNA databases containing DNA from 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. Even more, offenders who commit sexual assault often are engaged in other crimes such as burglary and homicide. DNA from rape kits can match DNA from other crime scenes and provide leads for investigators to follow. As more sexual assault cases are pursued, more offenders are apprehended, and future crimes are averted.

In Wayne County, Michigan, where Detroit is, the Prosecutor's Office uncovered 11,341 reported rape kits in 2009. The kits were in an abandoned law enforcement warehouse at the time. Some of the kits were collected back in the 1980s, which means survivors were left waiting for justice for three decades. The county ended its backlog in November 2022, and currently has ongoing investigations on 209 cases. Out of the 11,341 backlogged kits, there were 4249 CODIS eligible DNA profiles. These profiles created 3121 CODIS matches to offenders who were already in the system for all kinds of crimes committed in 40 states. Out of these CODIS matches, 842 suspected serial sexual offenders were identified. The efforts lead to 250 convictions as of November 2023. As the investigations are going on, as more states test their backlogged rape kits and all of their newly collected, reported rape kits, we estimate an increase in the number of CODIS matches, helping law enforcement solve more crimes.

By requiring every sexual assault kit to be swiftly submitted and tested, Maine can send a powerful message to survivors that they—and their cases—matter. It demonstrates a commitment to survivors to bring a path to healing and justice. Testing every kit sends a message to perpetrators that law enforcement will employ every available tool to apprehend and prosecute them. It is also the pathway to a more effective criminal justice system and safer communities across the country.

Testing rape kits 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 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, investigating every case, prosecuting offenders, and preventing them from committing future crimes.

Maine is the only state in the country that has not adopted any of Joyful Heart's six pillars of reform. These reforms were developed following a thorough review of the work in this area, which included interviews with nearly 75 trusted experts including advocates; survivors; prosecutors; investigators; crime lab personnel; and local, state, and national leaders. This was followed by a 50-state analysis of the policy opportunity landscape, which formalized the six essential pillars for states to achieve comprehensive rape kit reform: a statewide inventory of untested rape kits, testing the backlogged kits, kit handling and testing timelines, statewide rape kit tracking system, granting victims the right to know the status and location of their kits, and state funding to bring these reforms to life.

In 2018, MECASA and the Muskie School of Public Policy released the [Maine Sexual Assault Kit Study report](#), which had recommendations that included implementation of a statewide rape kit tracking system, a statewide inventory of untested rape kits, a protocol for handling and retention of rape kits by law enforcement, and state funding for lab to test backlogged rape kits and implement the tracking system. Six years after this study, it is time for Maine to pass this bill and implement a rape kit tracking system.

Inventory

A statewide inventory of untested rape kits brings transparency and accountability to rape kit testing practices in states and local communities. A thorough count of rape kits currently in the possession of medical facilities, law enforcement agencies, and crime laboratories identifies the current number of untested kits, provides a full picture of rape kit submission and testing procedures across the state, and guides legislatures as they appropriate and target resources to eliminate the backlog.

Even more, legislatively mandated inventories require all entities handling rape kits will participate, providing a complete count. In 2015, Alaska Governor Bill Walker initiated a voluntary inventory, but only 57 percent of agencies participated. In 2017, the legislature enacted a statewide inventory, and because this inventory was in statute, 94 percent of agencies submitted inventory reports in time, and the remaining agencies submitted their counts shortly thereafter. This information allowed Alaska to identify the bulk of the backlog existed in only seven agencies, and the state legislature used this information to allocate funding strategically in the state.

To date, 36 states and Washington D.C. have passed legislation calling for statewide inventories of kits. Annual inventories are particularly helpful to stakeholders and the general public because they provide consistent updates on the progress to eliminate the backlog. An annual inventory brings transparency about rape kit handling and increases accountability. Joyful Heart recommends requiring the annual report in this bill to be presented to the relevant legislative committees, Attorney General's and Governor's offices, and to be publicly available online.

Tracking System

Tracking systems follow rape kits from collection to testing and final disposition, bringing accountability and transparency to the rape kit handling process. In addition to all newly collected kits, backlogged kits should be entered into the tracking system to ensure that all survivors, regardless of how long it's been since their assault, can know what happened to their kit and those kits are fully accounted for. North Carolina implemented a tracking system in 2018, and added its 15,160 backlogged kits found in the statewide inventory the same year.

Our [research on victim notification](#) in cold cases found that survivors of sexual assault feel strongly that the information about their kits belongs to them, and they want to determine how and when to receive information about their rape kits. A rape kit tracking system with a secure victim access portal and information about backlogged kits allows survivors to control when they obtain critical information about the status and location of their kits. In 40 states

and Washington, D.C., survivors have access to transparent handling of their rape kits. Sexual assault survivors in Maine deserve it too.

Codifying the system and mandating participation into law ensures that all the relevant agencies that handle rape kits comply with the law, helping the state achieve a fully-functioning tracking system. In addition, establishing the system in statute ensures stability when leadership or priorities shift from year to year.

Funding

Doing an inventory of all untested kits in the state and implementing a statewide tracking system will take a coordinated effort and deep commitment throughout the state. This work takes political will, but it also takes significant resources. The cost of implementing and maintaining a tracking system varies from state to state. For some systems, like Track-Kit, the cost depends on the population of the states. Texas, which uses Track-Kit, has allocated \$1,465,761 for the creation and annual costs of its tracking system. It is estimated that Michigan's system, which also uses Track-Kit, has a cost of about \$700,000 annually. Similarly, Washington State, which uses the same system, spends \$771,922.47. Virginia uses a system developed by Forensic Advantage, and reports say it will ultimately cost about \$100,000. Other states have spent anywhere from \$100,000 to 350,000 to implement their system and \$30,000 to \$125,000 for yearly maintenance. Given Maine's size, the implementation of a system would cost \$90,000 at most, with an ongoing maintenance fee at a much lower rate.

Lack of essential funding at multiple levels is often a factor in why law enforcement make the decision to put a rape kit on the shelf. 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. Public safety is a principal government responsibility. Fully funding rape kit reform, including a tracking system, is a critical step toward rape kit reform.

Implementation of state rape kit reform laws often depends on whether law enforcement, crime labs, and prosecutors receive additional resources and funding dedicated to clearing the backlog and pursuing leads that come from testing. As jurisdictions enact legislation and policies to reform law enforcement practices around rape kit testing, the need for funding to implement a multi-disciplinary response will increase. These laws will expand our knowledge about the true extent of the number of untested rape kits, and they will also result in thousands of additional cases for law enforcement to investigate and prosecute. The Joyful Heart Foundation calls for sufficient funding throughout the criminal justice system to ensure survivors are engaged and supported; and law enforcement, prosecutors, and victim advocates have the resources necessary to investigate cases, support survivors, and prosecute offenders.

In 2019, Dr. Paul J. Speaker of West Virginia University conducted a study 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. Testing backlogged rape kits can produce an astounding **65,000% return on investment**.

Since 2013, 33 states and Washington, D.C. passed bills that grant state funds towards ending the backlog. These states allocated \$238 million in total to end the backlog and test more than 200,000 kits, averaging at \$7.2 million per state and ranging from \$94,250 in Georgia to \$72 million in Texas. Texas had 20,000 untested kits in 2013 and have been allocating recurring state funding for inventory, collection, tracking and testing. 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 Maine for all.

Additionally, agencies should consider applying for federal funds such as the U.S. Department of Justice's Sexual Assault Kit Initiative (SAKI) to supplement state funding for testing kits and creating a tracking system.

The Road Ahead

To achieve comprehensive rape kit reform and to align with national best practices, Maine should adopt laws and policies that mandate an annual inventory of rape kits; the testing of all backlogged and newly collected kits within certain timeframes; the development of a statewide tracking system for kits; victims' rights to know the status and location of their kit and case; and the funding necessary to implement these changes. We encourage the legislature, in consultation with advocates, practitioners, agency leaders, and most importantly, survivors of sexual assault, to push forward with survivor-centered legislative action.

We urge you to enact this important legislation. The Joyful Heart Foundation thanks you for your efforts and leadership on this issue. We stand ready to assist you in creating safer communities and offering a path to healing and justice to all sexual assault survivors in Maine.

With Gratitude,

Ilse Knecht

A handwritten signature in black ink that reads "Ilse Knecht". The signature is written in a cursive, flowing style.

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