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Executive Director,  
Hawai'i Region

February 24, 2016

TO: Senator Jill N. Tokuda, Chair  
Senator Donovan M. Dela Cruz, Vice Chair  
Members of the Senate Committee on Ways and Means

FROM: Kata Issari  
Executive Director, Hawai'i  
Joyful Heart Foundation

RE: Testimony in Support, SB 2309, Relating to Sexual Assault

Thank you for this opportunity to submit testimony in support of SB 2309, which would establish a sexual assault evidence kit tracking program.

**About the Joyful Heart Foundation**

The Joyful Heart Foundation was founded in Kailua-Kona in 2004 by *Law & Order: Special Victim's Unit* actress and advocate, Mariska Hargitay. Since that time, Joyful Heart has worked locally and nationally to fulfill our mission 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.

Over the last 11 years, Joyful Heart has grown from it's Hawai'i roots into a statewide and national organization that is paving the way for innovative approaches to treating trauma, igniting shifts in the way the public responds to sexual assault, domestic violence, and child abuse, while advancing policies and legislation at local, regional and federal levels to ensure justice for survivors.

Since 2010, Joyful Heart has made the elimination of the national rape kit backlog its a top advocacy priority. Our advocacy team, along with survivors, board members, researchers and advocates, is at the forefront of identifying backlogs in cities across the country; advocating for federal and regional 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 in the development and implementation of survivor-centered policy reforms.

Our work advocating for national comprehensive sexual assault evidence kit reform is driven by the ambitious goal of bringing the possibility of healing and increased access to justice to hundreds of thousands of survivors across the country. Through partnerships with federal, state and local government, non-profit organizations, law enforcement, advocates and survivors, we are working to bring attention, critical funding, and reforms to improve the criminal justice response to sexual assault.

The stakes could not be higher. In this country, one in three women experience physical or sexual abuse by an intimate partner in her lifetime, and one in four girls and one in six boys are sexually abused before the age of 18. In Hawai'i , one in seven women have been raped; that's 67,000 women.

### **The Rape Kit Backlog**

DNA evidence can be a powerful tool to solve and prevent crime, yet the federal government estimates that there are hundreds of thousands of untested rape kits sitting in police and crime lab storage facilities across the country. The reality is that because most jurisdictions do not have systems for tracking or counting rape kits, we cannot be sure of the total number of untested kits. This lack of transparency and accountability means that thousands of backlogs remain hidden in jurisdictions across the country and violent offenders remain free.

What matters most is that every single untested rape kit represents a survivor who has taken the courageous step of reporting the crime to the police—a step that more than two-thirds of rape survivors never take. Yet when survivors report and have a rape kit conducted, they are doing everything society asks them to do. When a survivor does report an assault, he or she undergoes an exhaustive, invasive and often re-traumatizing forensic examination that can take four to six hours to complete.

Survivors and the public rightfully assume that the evidence from the crime will be handled carefully and be tested for DNA evidence. However, in too many cases, the decision is made not to test the evidence. Instead, all too often, rape kits end up in a police evidence room or storage facility and never make it to the crime lab. Each of these kits represents a lost opportunity to bring healing and justice to survivors of sexual assault and accountability for perpetrators.

### **Resources**

Jurisdictions across the country often cite a lack of resources, and personnel as the largest barrier to processing more rape kits. Another—rarely acknowledged—cause of the national backlog is the unwillingness among many law enforcement agencies to prioritize and dedicate sufficient resources to sexual assault cases. More than with any other crime, law enforcement frequently disbelieve or even blame victims of sexual assault.

Clearly committing to testing every rape kit requires resources. That's why the Joyful Heart Foundation has worked with allies in the federal government for resources and research to fix this problem. For example, for the first time in 2014 President Obama requested and Congress approved dedicated grant funding through the U.S. Department of Justice to provide communities across the country with vital resources to develop and implement comprehensive, multi-disciplinary rape kit reform. These are funds to: test backlogged kits in police storage facilities that never made it to a crime lab; create multi-disciplinary teams to investigate and prosecute cases connected to a backlog; and address the need for victim notification and re-engagement with the criminal justice system.

Mandating the testing of every sexual assault kit sends a powerful message to survivors that they—and their cases—matter. It sends a message to perpetrators that they will be held accountable for their crimes. It demonstrates a commitment to survivors to do everything possible to bring healing and justice. When jurisdictions test every kit, they solve crimes, bring answers and an opportunity for justice to survivors, exonerate the wrongly convicted and take dangerous criminals off the streets. Consider the experiences of Cleveland and Detroit. Through their backlog reduction programs, they have identified serial offenders who have been acting

with impunity for years, and in some cases decades. Detroit has identified more than 650 serial rapists; Cleveland almost 300. Testing every rape kit is crucial to keeping the men, women and children of Hawai'i safe from dangerous predators.

With the passage of Senate Bill 2309, Hawai'i joins the growing list of states that are taking legislative action to end the backlog. This bill would create a tracking program that ensures that law enforcement sends rape kits are sent to the lab for testing within 10 days of collection, the lab analyzes the kit within six months of receiving it and enters the results into CODIS, and directs law enforcement agencies to conduct an annual report to the Attorney General about the number of untested kits in their custody. The bill also addressed the backlog of untested kits by mandating the Attorney General to ensure that all rape kits collected prior to July 1, 2016 are tested and entered into the DNA database.

Implementing a sexual assault evidence kit tracking and accountability program in Hawai'i will take a coordinated effort and deep commitment at all levels of our state. Sufficient funding must be dedicated to not only to processing untested rape kits, but also to investigate leads and move cases forward to prosecution. Law enforcement must keep track of every kit booked into evidence and process those kits in a timely way. They must allocate the resources—money, staff, time and technology—to make these reforms happen.

On behalf of survivors across Hawai'i —many of whom have been re-traumatized by the experience of waiting for the investigation and prosecution of their case —I thank you for the attention you have paid to this issue and reiterate our support of SB 2309. Survivors deserve nothing less.



# THE SEX ABUSE TREATMENT CENTER

*A Program of Kapi'olani Medical Center for Women & Children*

*Executive Director*  
Adriana Ramelli

DATE: February 25, 2015

*Advisory Board*

TO: The Honorable Jill Tokuda, Chair  
The Honorable Donovan Dela Cruz, Vice Chair  
Senate Committee on Ways and Means

*President*  
Mimi Beams

*Vice President*  
Peter Van Zile

FROM: The Sex Abuse Treatment Center  
A Program of Kapi'olani Medical Center for Women & Children

Joanne H. Arizumi

Mark J. Bennett

Andre Bisquera

RE: Testimony in Supporting the Intent of S.B. 2309 S.D. 1  
Relating to Sexual Assault

Marilyn Carlsmith

Dawn Ching

Good afternoon Chair Tokuda, Vice Chair Dela Cruz, and members of the Senate Committee on Ways and Means.

Senator

Suzanne Chun Oakland

Monica Cobb-Adams

Donne Dawson

Dennis Dunn

Councilmember  
Carol Fukunaga

David I. Haverly

Linda Jameson

The Sex Abuse Treatment Center (SATC) supports the intent of S.B. 2309 S.D. 1, which would establish a sexual assault kit tracking program, with requirements for the handling and processing of kits for DNA analysis and inclusion in state and federal DNA databases. It would further require that law enforcement agencies and the county prosecutors of each county produce reports concerning the number of sexual assault kits that have not been submitted for analysis. However, we would like to offer the following comments.

Michael P. Matsumoto

Robert H. Pantell, MD

Joshua A. Wisch

While we support the intent of S.B. 2309 S.D. 1 to ensure timely processing of new untested kits and the reduction of Hawai'i's backlog, we prefer to proceed with S.B. 2366 as the legislative vehicle to address this issue.

The SATC agrees that untested sexual assault evidence collection kits should be submitted for DNA analysis. However, it is critically important that such testing and its outcomes are handled in a manner that is responsible and victim-centered.

The experiences of other jurisdictions that have engaged in the reduction of untested kits are instructive. Pilot jurisdictions that were partially funded by research grants from the National Institutes of Justice (NIJ) found that careful review and planning must occur both before and during backlog reduction in order to successfully meet the goals of those efforts.

Careful review and planning are needed for various reasons. Chief amongst these is the potential for an unintended cascading effect that can negatively impact the criminal justice system, as reported by prosecutors in Houston and Detroit, two NIJ pilot jurisdictions. While it is critically important to test kits, it is as important to recognize the investigatory and prosecutorial processes that need to respond for justice to be served. The testing of all backlogged kits, without a thoughtful strategy to enable all

systems to respond responsibly could inadvertently result in additional trauma for survivors.

Analysis of previously untested kits will also result in survivor notifications, and as noted in the Detroit study, a substantial portion of these notifications will likely have immediately harmful effects on victims (14%), while the long term negative emotional and psychological consequences of triggering prior trauma, no matter what the survivors' initial reaction, is unknown. Therefore, the process for survivor notifications and engagement must be carefully designed to limit such harm, and victim service providers must be prepared with adequate resources to help survivors.

As a Center that works directly with survivors of sexual assault, we understand trauma, as well as the impact of the criminal justice system on survivors. The dialogue that is taking place on this issue as a result of legislative attention is extremely positive. How we move forward is now the key.

We note that the Honolulu Police Department (HPD) and its Crime Lab, has identified the number of untested kits. In response, the Department of the Attorney General, the Honolulu Prosecutor's Office, HPD, the HPD Crime Lab, and the SATC met to discuss further actions. Recognizing the importance of a multidisciplinary, coordinated response that is victim-centered, this group will continue to collaborate in order to set timelines for the processing of untested kits; seek needed resources for the analysis of previously untested kits and future kits; and ensure that consideration of the survivors' needs are central in Hawai'i's strategy to address this issue.

Embracing a comprehensive reporting process under an amended S.B. 2366 is the best way to support these efforts. This will allow the requisite review and planning to take place with a high level of accountability and transparency as the stakeholders proceed with reducing the number of untested kits and addressing any resulting investigations and prosecutions in a responsible, victim-centered manner and with all due haste.

Thank you for this opportunity to testify.