

**Statement of**  
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**Before the**  
**United States Senate**  
Committee on the Judiciary  
July 18, 2018

**Hearing Titled**  
**“Promoting Justice for Victims of Crime:**  
**Examining the Federal Investment in DNA Analysis”**

Thank you, Chairman Grassley, Ranking Member Feinstein, and members of the Committee. I appreciate the opportunity to participate in this important hearing, “Promoting Justice for Victims of Crime: Examining the Federal Investment in DNA Analysis,” and consider it an honor to testify before you today alongside Debbie Smith, who is a hero in the fight for justice for victims of sexual assault. I am here today on behalf of the one-half-million members of Concerned Women for America (CWA) around the country. They, and I, stand with you as you fight violence against women.

The issues of rape and sexual assault are not abstract concepts for me. Sexual exploitation is one of CWA’s seven core issues, and many of our supporters have shared their personal and emotional stories of sexual assault with me. And, unfortunately, this topic always brings back my own painful memories of attempted rape. In 1996 while pregnant with my first child, I was assaulted on my morning run near my home in Northern Virginia by a stranger who was a serial predator. His intent was to rape me, but thanks to a good Samaritan who heard my screams and came quickly to assist me, I was spared the pain so many of the women we are fighting for today have endured.

Many of you have seen the 2017 HBO documentary by Mariska Hargitay titled, “I Am Evidence.” In this film, one woman recounts how she was violently raped in a person’s home. During her rape, she screamed for help, but although people were upstairs, no one came to help her. While watching this documentary, this woman in particular stood out to me; I realized but for God’s mercy, and a good Samaritan named “Mary,” that this could have been my experience.

In this documentary, survivors of sexual assault reiterate what so many victims say — that their body is a crime scene. I can certainly relate to this, and it is a terrifying concept to consider. Imagine, when something terrible happens in your neighborhood or community, if necessary, you can leave the community or even the state. However, you can never leave your own body. This is why sexual assault is especially egregious and uniquely invasive to a woman’s dignity.

Unfortunately, the numbers of victims of sexual assault continue to rise. According to the Centers for Disease Control’s National Intimate Partner and Sexual Violence Survey, the number of women who reported rape or attempted rape rose from 1.3 million in 2010 to 1.5 million in 2015.

That is why I am here today, to urge you to continue to improve the support that the Debbie Smith Act gives to victims of sexual assault. Each time the reauthorization comes up, we should do the hard work necessary to reevaluate our approach and raise the bar. We must push ourselves until each sexual assault kit is accounted for and every last one is processed — because every kit represents a brave woman waiting for justice. For some of these women, the clock is running out as the statute of limitations for rape approaches.

It is for these reasons, on behalf of the women I represent, that I urge you to improve this authorization of the Debbie Smith Act in two very critical ways: First, require accountability in the reporting of existing backlogs and in the progress of backlog cleanup; and second, prioritize the processing of rape kits over other crimes.

I know that there has been a lot of hard work since the Debbie Smith Act was enacted in 1994, and I want to applaud *all* your efforts. Concerned Women for America and I have worked with you from the beginning.

In 2004, I personally urged then-Senate Majority Leader Frist to fight to pass the Debbie Smith Act, telling him that this was the *least* we could do for victims of assault. In 2015, trying to determine the magnitude of the problem, CWA submitted “Freedom of Information Act” requests to the state attorneys general around the country. To our complete dismay, most state offices were not able to give us even basic information about their backlog or their efforts to clear it up. Since that time, we have worked, alongside many others, to draw attention to and solve this problem. We’ve seen much progress in states like Texas, Ohio, and Arizona.

Perhaps the greatest improvement at the federal level was the passage of SAFER (Sexual Assault and Forensic Evidence Reporting Act), introduced by Sen. Cornyn and Sen. Klobuchar. We were proud to stand with you on SAFER as we advocated for its passage in Congress and the national media.

However, there is still much to be done, and I’d like to suggest a few areas where I think we could improve:

## **I. Accountability**

First, we must require accountability in the reporting of existing backlogs and in the progress of backlog cleanup.

To begin, we must determine the magnitude of the rape-kit backlog by requiring states to report their existing backlog and the progress they have made in cleaning up the backlog, in order to continue receiving Debbie Smith Act funds. This should be a priority.

We should never forget the picture of that deteriorating, abandoned warehouse in Detroit where some 11,000 rape kits were stockpiled, unopened and unprocessed for decades. Reports from the *Detroit Free Press* say that some kits dated back to 1984 when they were discovered in 2009. For 25 years, these kits lay wasting! We cannot afford another uncovering decades from now; we must have accountability.

The National Institute for Justice’s (NIJ) SAFE-ITR (Sexual Assault Forensic Evidence-Inventory, Tracking, and Reporting) program is a good example. SAFE-ITR specifically requires grant recipients to “use their own website to publicly report information ... every 60 days,” including the number of rape kits in their possession, the number they have determined will not undergo testing, the number that have been submitted to their laboratory, and the number of rape kits that have already been tested.

CWA has tracked the progress of this program, and the results are encouraging. For example, the Nevada Office of Attorney General received just \$523,268 through SAFE-ITR, and they were able to establish the “End Nevada’s Backlog” website (<http://endnevadasbacklog.ag.nv.gov/Home/Home/>) where they are letting women know the status of the kits, DNA matches, and even the number of arrests made as a result.

HOME	FOR SURVIVORS	RESOURCES	LEGISLATION & REPORTS	IN THE NEWS
Kits Inventoried	Kits Sent For Testing	Kits Completed Testing	DNA Matches	Arrests Made
7583	6108	3811	356	10

That is the sort of accountability that has always been needed and that now we know is possible.

Unfortunately, in 2017, NIJ only awarded 11 grants to eight states, totaling \$5,205,513 under its SAFE-ITR program. By contrast, awards through the DNA Capacity Enhancement and Backlog Reduction (CEBR) Program, which does not have that same requirement of tracking and posting the backlog problem, totaled \$61,127,804 in 131 grants that went to 49 states, D.C.,

and Puerto Rico. Without an accountability measure, we are not able to assess whether these grants are successful in clearing up backlogs in these states.

I speak to women all over our country, and the one constant question I hear on this issue is, “How many kits are still waiting to be processed? And, how big is the backlog in my state?” I am sure you get the same questions. It is incredibly frustrating that, in the majority of jurisdictions, with all the awareness of the #MeToo movement, the answer *still* today is that we do not know. It is literally a billion-dollar question.

After all our efforts for nearly a decade-and-a-half since the passage of the Debbie Smith Act, and more than a billion dollars invested, we should be further along in answering that most basic question, “How many kits are backlogged?” Information is power. If women are informed of the scope of the problem, they will demand action from their states.

Senator Ted Cruz recently asked Dr. Howard Spivak, Principal Deputy Director at NIJ this direct question: “Where do we stand in terms of the quantity of untested kits?” The answer the committee heard is the same answer we heard in 2004. “It’s difficult — many of these kits are in storage ...” Undeterred, Sen. Cruz asked for just an estimate. Dr. Spivak then candidly admitted, “I don’t have the capacity to give you those numbers.” Well, I do appreciate Dr. Spivak’s honesty, because he spoke the truth. We don’t know.

Senators, the women I represent are disgusted. They understand the many challenges associated with accounting for the backlog. It is not a simple issue. It is both a state and federal issue. But we have proof now, through the examples of states like Ohio, Kentucky, Arizona, and South Dakota, and through the results NIJ is seeing through the SAFE-ITR program, that backlog accounting can be done. The Debbie Smith Act should press states harder towards that basic goal.

### **Definition of Backlog Needed for Accountability**

As a subpoint: One thing we believe is necessary to accomplish the goal of accountability is a uniform, nationwide definition of “backlog.” Right now, there is none — definitions vary according to states or agencies. NIJ’s definition accounts only for kits after they have been submitted to a laboratory.

We recommend that a uniform definition of “backlog” should include a timeline beginning with the date of collection, not the date of submission to the lab. No kit should be forgotten and left to waste away in a warehouse or sit on a shelf. Every woman, after going through the arduous, invasive process of data collection, deserves accountability and the assurance her case and her kit will not fall through the cracks.

If we start requiring grant recipients to account for existing backlogs and for their progress in cleaning up the backlogs, we will never be in the dark again with regards to the magnitude of the backlog problem, and the needs of any potential programs and grantees could be assessed much more effectively.

## II. Priority

Secondly, we must prioritize the DNA processing of sexual assault kits of rape victims. We understand that processing other types of crimes can increase the chance of getting DNA hits for perpetrators of sexual assault through CODIS (the Combined DNA Index System), and we fully support those efforts. But let's not forget that the first priority should be for the victims who have been waiting for justice for many years, often while enduring significant physical and psychological trauma. Justice demands that every woman represented in each of those forgotten rape kits be accounted for and their evidence processed.

Prioritization of sexual assault investigations is desperately needed. You heard it from Amanda Nguyen, the founder of Rise, in her recent testimony before this committee. When Sen. Klobuchar inquired about the slow processing of rape kits, she said, "It comes down to the criminal justice system prioritizing this crime." Senators, I cannot agree more. Let's make rape victims the priority in the language of the Debbie Smith Act and prioritize the processing of rape kits. As I said to Majority Leader Frist in 2004, "It's the least we can do for these women."

In closing, Debbie Smith's story is about sexual assault, but the Debbie Smith Act is not focused enough on sexual assault. Let's get back to the original intent and objectives of this Act by improving accountability and prioritizing rape kits. At a time when our country is fractured on many issues, promoting justice for victims of sexual assault is an issue we can and should continue working on together in a bipartisan manner. I look forward to moving forward in that spirit.

Thank you for this opportunity. I want to assure you Concerned Women for America is at your service to help with this in any way we can.

Thank you.