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ONE HUNDRED FIFTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
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MEMORANDUM**December 10, 2018**

To: Subcommittee on Oversight and Investigations Democratic Members and Staff

Fr: Committee on Energy and Commerce Democratic Staff

Re: Hearing on “Examining the Availability of SAFE Kits at Hospitals in the United States”

On **Wednesday, December 12, 2018, at 10:00 a.m. in room 2123 of the Rayburn House Office Building**, the Subcommittee on Oversight and Investigations will hold a hearing entitled, “Examining the Availability of SAFE Kits at Hospitals in the United States.”

I. BACKGROUND

Rape and sexual assault remains a pervasive, under-reported, and under-prosecuted violent crime. According to the Centers for Disease Control and Prevention, nearly 23 million women and 1.7 million men have been the victims of rape or attempted rape, and about one in three women and nearly one in six men were victims of contact sexual violence at some point in their lives.¹ Despite the pervasiveness of rape and sexual violence – as well as the prevalence of intimate partner violence² – most survivors of sexual assault do not report to law enforcement,³ and of those reported incidents, most are not prosecuted.⁴

¹ Centers for Disease Control and Prevention, Violence Prevention, National Intimate Partner and Sexual Violence Survey, *Facts Everyone Should Know About Intimate Partner Violence, Sexual Violence, & Stalking* (Apr. 2017) (www.cdc.gov/violenceprevention/nisvs/infographic.html).

² *Id.*

³ Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Criminal Victimization, 2016* (Dec. 2017).

⁴ *Harvey Weinstein is the exception: Most accused of rape aren't charged*, USA Today (May 25, 2018).

Beginning in the 1970s, communities started implementing programs to address under-reporting and under-prosecution of sexual assault and to improve health care coordination and services for survivors.⁵ Specialized programs make sexual assault evidence kits, often referred to as “rape kits,” available at hospitals and other health care facilities, whereby trained medical professionals and sexual assault nurse examiners (SANEs) conduct sexual assault forensic examinations (SAFEs) and collect evidence.⁶ Studies have shown that SANE programs have multiple benefits, including addressing patients’ psychological and medical needs, preserving evidence, and increasing sexual assault reporting and conviction rates.⁷

For instance, studies continue to show that SANE programs have a “positive impact on sexual assault case progression in the criminal justice system.”⁸ According to the Rape, Abuse & Incest National Network, DNA evidence can increase the likelihoods of identifying a perpetrator, holding a perpetrator accountable, and preventing future assaults from occurring by helping to identify serial perpetrators.⁹ Research suggests that testing SAFE kits can avert roughly 26 sexual assaults per kit tested.¹⁰

II. RECENT DEVELOPMENTS

A. GAO Found That Sexual Assault Forensic Exams Are Not Widely Available

In a recent study, the Government Accountability Office (GAO) found that exams performed by sexual assault forensic examiners “may result in better physical and mental health care for victims, better evidence collection, and higher prosecution rates,” yet GAO raised concerns about the availability of examiners.¹¹ The states that GAO surveyed reported that “the

⁵ Department of Justice, Office of Justice Programs, Office for Victims of Crime, *SANE Program Development and Operation Guide, History and Development of SANE Programs* (<https://www.ovcttac.gov/saneguide/introduction/history-and-development-of-sane-programs/>).

⁶ Government Accountability Office, *Sexual Assault: Information on Training, Funding, and the Availability of Forensic Examiners* (Mar. 2016) (GAO-16-334).

⁷ Department of Justice, Office of Justice Programs, Office for Victims of Crime, *Sane Program Development and Operation Guide, Are Sane Programs Effective?* (www.ovcttac.gov/saneguide/introduction/are-sane-programs-effective/).

⁸ Rebecca Campbell, et al., *The Impact of Sexual Assault Nurse Examiner Programs on Criminal Justice Case Outcomes: A Multisite Replication Study*, *Violence Against Women*, Vol. 20 No. 5 (May 28, 2014).

⁹ RAINN, *The Importance of DNA in Sexual Assault Cases*, (<https://rainn.org/articles/importance-dna-sexual-assault-cases>).

¹⁰ Can Wang and Lawrence Wein, *Analyzing Approaches to the Backlog of Untested Sexual Assault Kits in the U.S.A.*, *Journal of Forensic Sciences*, Vol. 63, No. 4 (Mar. 5, 2018).

¹¹ See note 6 at 1.

number of examiners available does not meet the need for exams within their states.”¹² According to GAO, communities faced several challenges in making these services available, including: (1) limited opportunities to train examiners, (2) weak support from stakeholders, and (3) low examiner retention rates.¹³

B. Committee Members Have Asked Hospitals to Describe Challenges in Making Sexual Assault Forensic Exams Available

In 2018, some Committee members sent letters to a selection of hospitals and state hospital associations, noting that “victims of sexual assault often have trouble obtaining a rape kit,” and inquiring about the availability of sexual assault forensic exams in hospitals.¹⁴ Among other things, the Committee members asked the hospital associations what steps, if any, they have taken to increase access to SAFE kits in hospitals.¹⁵

C. The Violence Against Women Act Is Set To Expire December 21st

The Violence Against Women Act (VAWA), which is due for reauthorization, contains several provisions and programs that address health issues associated with sexual violence. In particular, VAWA authorizes three key Department of Justice grant programs – known as the STOP Grant Program, the Arrest Grant Program, and the Rural Grant Program. These programs have helped to fund and train sexual assault forensic examiners.¹⁶ In addition, the VAWA reauthorization of 2005 added a health care title to address the public health response to abuse.¹⁷ VAWA, which Congress enacted in 1994 and has reauthorized several times with bipartisan support, is set to expire on December 21, 2018, after receiving a three-month extension as part of a continuing resolution and an additional two-week extension under the current continuing resolution.¹⁸

¹² See note 6 at 23.

¹³ See note 6 at 26-31.

¹⁴ Letter from Rep. Greg Walden, Chairman, House Committee on Energy and Commerce and Rep. Gregg Harper, Chairman, Subcommittee on Oversight and Investigation, House Committee on Energy and Commerce, to Mr. W. Russell Tyner, *et al.* (Mar. 13, 2018); Letter from Rep. Greg Walden, Chairman, House Committee on Energy and Commerce and Rep. Gregg Harper, Chairman, Subcommittee on Oversight and Investigation, House Committee on Energy and Commerce, to Dr. Donald E. Williamson, *et al.* (June 21, 2018).

¹⁵ *Id.*

¹⁶ See note 6 at 9.

¹⁷ Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-162.

¹⁸ *Pelosi calls on Ryan to bring long-term Violence Against Women Act to floor*, The Hill (Sept. 17, 2018); *Violence Against Women Act Extension Included in Stopgap Spending Deal*, Roll Call (Sept. 13, 2018); Colby Itkowitz, *The Health 202: In #MeToo era, Congress isn't*

III. WITNESSES

The following witnesses have been invited to testify:

A. Nicole Clowers

Managing Director, Health Care
U.S. Government Accountability Office

Sara Jennings, DNP, RN, SANE-A, SANE-P, AFN-BC

President-elect
International Association of Forensic Nurses

Lynn M. Frederick Hawley, MA

Executive Director
SAVI Program
Mt. Sinai Health System

Kiersten Stewart

Director of Public Policy and the Washington Office
Futures Without Violence

prioritizing Violence Against Women programs, Washington Post (Sept. 21, 2018); *Violence Against Women Act Extension Included in Latest Spending Proposal*, The Hill (Dec. 3, 2018).