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Senate Judiciary Committee

Subcommittee on Crime and Drugs Hearing:

Rape in the United States: The Chronic Failure to
Report and Investigate Rape Cases

Oral testimony given by Scott Berkowitz

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Good afternoon, Mr. Chairman and members of the committee. Thank you for inviting me today.

My name is Scott Berkowitz, and I am the founder and president of the Rape, Abuse & Incest National Network. RAINN, the nation's largest anti-sexual violence organization, founded and operates the National Sexual Assault Hotline and Online Hotline, and has helped more than 1.4 million victims of sexual violence.

In the U.S. today, rape is a crime without consequence — except for the victim. The Justice Department estimates that 60% of victims never report their rape to police. And since many reports don't lead to an arrest, and many arrests don't lead to a conviction or prison time, the bottom line is that only one out of every 16 rapists will ever spend a single day in jail. *Just one.*

And as long as rapists have a 94% chance of escaping punishment, they're not likely to be deterred.

Putting more rapists in prison is the single most effective rape-prevention tool that has ever existed. To accomplish that will require a sustained and focused effort to increase both reporting and conviction rates.

Reporting

A generation ago, the reasons victims gave for not reporting spoke vividly of the way society viewed this crime. They feared not being believed. They feared being interrogated about — and blamed for — their



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own behavior, from what they were wearing to why they gave the perpetrator the opportunity to commit the crime. In short, they feared that they would be the one on trial.

Today, the perception of many victims has evolved along with greater public understanding of the crime. Now, common reasons cited for not reporting are: they don't want their loved ones to know what happened. They're ashamed. Or they just want to put the whole thing behind them. Fear, or at least skepticism, of how they might be treated by police does still exist, but it has moved down the list of reasons for not reporting. So while we need more training for law enforcement on how to treat victims appropriately we also need efforts that speak to — and educate — victims about the importance of reporting.

Research also indicates that victims of sexual violence who receive counseling are significantly more likely to report the crime to police. The National Sexual Assault Hotline and local rape crisis centers answer the questions of thousands of victims each day, helping to demystify the criminal justice system and increase the victims' willingness to report their attack.

Convicting

Now, I want to talk about law enforcement and prosecution. The good news is: many police agencies have dramatically improved their handling of sex crimes in recent years.



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But problems remain. One problem is that many agencies deal with so few sexual assault cases each year, which makes it difficult to establish the specialized skills required to investigate rape cases. One of the most important things Congress can do is to help local law enforcement tap into the expertise they need to successfully investigate and prosecute these cases.

Skilled investigators operate to a great extent on instinct and perception. Most of the time, that's a good thing. But it can cause problems when it's based on misinformation or false impressions. Impressions like: a large percentage of rape reports are false. The FBI tells us that's just not true.

Or — and this is a big one — that DNA doesn't matter unless the attacker was a stranger or unless you have a suspect identified. In fact, as the best district attorneys will tell you, having DNA evidence in hand is crucial for any prosecution these days. Juries expect it. It can corroborate a victim's story. And, increasingly, it helps identify patterns of serial rapists, even acquaintance rapists.

However, the data we have is insufficient for our needs and impedes our ability to understand the barriers to reporting, and why so few rapists end up in prison. For example, we would like to see DOJ and states better track rape cases, from initial report to ultimate disposition.

Based on what we do know, here are a few things Congress can do now:



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Congress can pass the SAFER Act, which would create a national registry of forensic evidence from sexual assault cases. The SAFER Act would provide crucial information to policymakers and rape victims, and allow us to track the status of evidence testing by jurisdiction. It would help us eliminate the DNA testing backlog once and for all.

In the upcoming reauthorization of the Justice For All Act, Congress should increase the percentage of Debbie Smith Act funds that are spent on DNA testing and analysis; incorporate the registry requirement of the SAFER Act; and set best practices standards for the prompt testing of all sexual assault crime scene evidence.

We also need Congress' support to gather real, solid, in-depth data about the problems I've discussed today. Then we need your support to help fix them.

Overall, as Congress moves forward with the Violence Against Women Act and other crime legislation, we would like to see the overarching question be: what will this do to improve the reporting and conviction rates of rape cases? At the moment, 94% of rapists are escaping any form of punishment. This should be the main focus of policymakers.

Because, today, violent criminals will sexually assault another 657 Americans. And if history is any guide, 616 of those criminals will wake up tomorrow morning — and every morning thereafter — free to start all over again.