

Testimony of
Jayann Sepich

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PREPARED STATEMENT OF
JAYANN SEPICH

before the
COMMITTEE ON JUDICIARY
UNITED STATES SENATE

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Mr. Chairman and members of the Committee, my name is Jayann Sepich. I appreciate this opportunity to speak to you today regarding the very important matter of forensic DNA testing and related backlogs. I am here today as the mother of a murder victim, as well as a representative of the Surviving Parents Coalition. The Surviving Parents Coalition are parents of children who were abducted, sexually assaulted, murdered, recovered or are still missing. As a group, we advocate for legislation that will aid in the prevention of crimes against children and young people, especially sexual abuse, sexual assault, exploitation, abduction and murder. Forensic DNA is vital to solving many crimes committed against children, particularly as children are often not able to put the crimes committed against them into words. As such, support of DNA is a legislative priority for the Coalition.

In August 2003, my oldest daughter Katie, a vivacious 22 year old student at New Mexico State University, was brutally attacked just outside her home, which was located in a supposedly safe neighborhood. She was raped, strangled, her body set on fire, and abandoned at an old dump site. I have no doubt that it is never easy to lose a child for any reason, but the pain and horror at losing our daughter, our first child, this violently is beyond description.

No strong suspects emerged in Katie's case, but Katie had fought hard for her life. Skin and blood were found under her fingernails, leaving the attacker's DNA sample. This evidence was vital to solving her case. I know now how very lucky we were that Katie's murder was such a high-profile case. The Dona Ana County District Attorney used funds from her own account to send the evidence in Katie's case to a private DNA testing laboratory in order to get quick results. The wait on DNA analysis at the New Mexico state crime laboratory was over a year, and she was not willing to allow this case to languish. In fact, the New Mexico state laboratory suspended all DNA testing in late October when it was unable to renew its accreditation, and only resumed testing last week.

A DNA profile was generated at the private laboratory and that profile was sent to the national DNA database system (called CODIS). I cannot describe the bright hope this news gave our

family. Finally. We knew who he was by his unique DNA profile - we just needed to match this profile to a name on the database.

There are thousands of families who have found this hope for their own cases. And it pains me to think that there may be thousands more still waiting. When I read of the thousands of rape kits that have not been tested around the country, I don't see evidence. I see the faces of victimized women. These are all women who have someone who loves them. A mother. A father. A child. They deserve justice. They deserve to have the evidence in their cases tested in a timely manner. Without testing, there may be no hope for justice. And without justice a murderer or rapist will remain on the streets. Victimizing more people. Creating more backlogged evidence. This is unconscionable.

When I learned of the existence of DNA evidence in Katie's case and CODIS I thought, "A person this horrible will commit another crime and be arrested. Soon we'll know who killed Katie." But that's when I learned that, while every state takes fingerprints from individuals arrested for crimes, most state laws did not allow law enforcement to take DNA for felony arrests. I was dumbstruck. We do not allow our law enforcement to check the DNA database for a possible match before allowing people accused of the most heinous crimes in our society - murder and rape - to be released on bail. We do not bother to check the DNA database. We just release them.

This is when I began to research and study the issue of taking DNA upon arrest. Based on my research, I became a national advocate for the taking of DNA upon arrest. My husband and I started the non-profit association DNASaves in order to advocate for arrestee DNA laws nationwide. We know we cannot ever bring back Katie. But we absolutely believe that we may be able to prevent this horrible pain from being visited upon other, unsuspecting parents.

In 2006, my husband and I fought for the enactment of "Katie's Law" in New Mexico to require DNA upon arrest for felonies. Since "Katie's Law" was implemented in January 2007, New Mexico's DNA database program has registered 104 matches of unsolved crimes to 86 individual arrestee DNA profiles (several arrestees were linked to multiple unsolved crimes). In Bernalillo County, the first arrestee's DNA sample was taken from James Mussaco at 1:14 AM on January 1, 2007. It was matched to a double homicide case and Mussaco has since been convicted in that case.

Over three years after Katie was murdered, in December of 2006, the New Mexico DNA database matched the unknown DNA profile found under Katie's fingernails to a man recently included on the DNA database after a felony conviction. Gabriel Avilla had been arrested in November 2003, less than three months after Katie was killed, on aggravated burglary charges for breaking into the home of two women, while armed with a knife, after watching them through a window. The women were able to escape harm by barricading themselves in a bathroom and called police.

Avilla was convicted of the aggravated burglary in March 2004, but was released on bond before sentencing and promptly disappeared. Authorities recaptured Avilla in August 2005 and incarcerated him. His DNA was finally taken, and a match was later made to Katie's case in December of 2006. He was formally charged on December 26, 2006 -- which happened to be

Katie's 26th birthday - and eventually plead guilty to the murder. He will spend the rest of his life in prison.

If New Mexico had required a DNA sample for Avilla's felony arrest in November of 2003, Katie's murder would have been solved three years sooner, saving thousands of dollars in investigation costs and saving her friends and family years of additional pain as they sought closure and prayed for justice. More importantly, Avilla would have remained in police custody rather than being released on bond only to flee justice.

Avilla's activities are largely unaccounted for during the time he was missing. We may never know if there were other lives that he jeopardized, or other crimes that he committed.

Of the 104 matches in New Mexico, nine of these have identified suspects in unsolved murders, and 16 have identified suspects in unsolved sex-related crimes. These numbers may seem insignificant to a state like California, but with New Mexico's population of under 2 million, this is a very big deal.

But we cannot consider only one side of the database. Without a strong database of offenders and arrestees, we will necessarily limit the number of cases for which we can identify potential suspects through DNA matches. Likewise, a strong database of offenders and arrestees is useless if law enforcement if the evidence is not being submitted and/or analyzed. Through my advocacy work on DNA database expansion and funding issues, I have come to meet families of murder victims, abducted and recovered children, and surviving rape victims. We owe it to these survivors to solve their cases. We owe it to ourselves to stop these criminals in their tracks before they offend someone we know and love next. The evidence must be tested in a timely manner. We must do everything we can to make full use of this invaluable scientific tool for solving and preventing crimes. To do otherwise is criminal.