Testimony of Jayann Sepich Mother of murder victim Katie Sepich

Mr. Chairman, Members of the Committee. Thank you for allowing me to be here today to share my story with you. I have only a few minutes to persuade you to join 27 other state legislatures and the United States Congress in the decision to use the power of the science of DNA to not only solve crimes, but also exonerate the innocent, save taxpayer dollars and most of all prevent crimes and save lives. In a very short time it is my privilege to show you that a cheek swab, a process that is less invasive than brushing one's teeth can bring victims justice sooner rather than later. My testimony will also serve to show you while a DNA profile is truly no more an invasion of privacy than a fingerprint; it has the power to prevent unbearable pain that would otherwise be visited on so many families. I know this pain. I lived through it.

On August 31, 2003, my family woke up to the promise of a beautiful day. We had a house bursting with friends and family and we were preparing to celebrate Labor Day weekend with a cookout. Then at 2:15 that afternoon the phone rang and our lives were shattered with just six words: Have you talked to Katie today?

Katie was my incredible, outspoken, vivacious, intelligent daughter. Katie, our first-born who filled every room with light and laughter. At 22 she had just entered the MBA program at New Mexico State University. She had gone to a party the night before, had a fight with her boyfriend, and stormed out to walk the five blocks home without her purse, her phone, or her keys. No one had seen her since. Her roommate was calling, hoping we knew were she was. She had called all of her friends, even the local hospitals, and there was no sign of Katie.

A few agonizing hours later our worst fears were realized. Target shooters had found Katie's partially clothed body at an old dumpsite. She had been brutally raped, sodomized, strangled, and set on fire.

Our Katie was dead. There are no words to describe the agony. No way to express the pain. We fell into a deep, black pit with no way out. There was no tomorrow. All joy was gone.

Katie's father had to go to the morgue to identify his beloved daughter. He later told me that when they pulled back the sheet and he saw her beautiful face, bruised and contorted in pain, he fell to his knees and asked God to take him too. And I will never forget the hardest moment of my life---leaving my baby at the cemetery on that cloudless September afternoon. Knowing that on this earth I would never again see her smile or hear musical laughter.

We had lost our daughter to a monster. And we needed justice. We needed to know who had done this and why. But most of all we needed to know that he would be stopped from doing this again. There were no real clues. The detective in charge of Katie's case told me that the only evidence they had was DNA. You see Katie had fought so hard for her life that the blood and skin of her killer had been found underneath her fingernails. A DNA profile had been extracted and uploaded into the national forensic database called CODIS. Detective Jones explained that once a week this evidence would be cross-referenced against the offender database to look for a match. This gave our family bright hope---we had the identity of our daughter's murderer--we just had to match it to a name. I made the offhand comment that this man was such a monster that surely he would be arrested for another crime, his cheek swabbed and put into the database and we would identify him, stop him, and bring him to justice. That's when Detective Jones said, "Oh no, Jayann, it doesn't' work that way. Here in New Mexico and in almost every other state it's illegal to take DNA when someone is arrested."

I have to tell you I was stunned. I knew that when someone was arrested they take their fingerprints, they take their photograph. But it was illegal to use the most advanced, accurate scientific tool available to identify horrible monsters that are hunting down and slaughtering our children?

So I started doing research. And what I learned was astonishing. Yes, taking DNA at the time of arrest would solve cases sooner. But I learned that the power of arrestee DNA is not in just solving crimes, it is in preventing crimes.

The City of Chicago had done a scientific study on the use of arrestee DNA that followed eight convicted felons and found that if their DNA had been taken at the time of their first felony arrest, 60 crimes, including 53 rapes and murders would have been prevented.

And then I found the case of Chester Dewayne Turner in California. Turner was arrested 21 times over a period of 15 years. He was finally convicted of rape and his DNA was taken. It matched the crime scene DNA found on 12 raped and murdered women. The first murder occurred two months after his first felony arrest. He raped and murdered Diane Johnson. Then he went on to rape and murder Annette Ernest, Anita Fishman, Regina Washington, Debra Williams, Mary Edwards, Andrea Triplett, Deserae Jones. Natalie Price, Mildred Beasley, Paula Vance and Brenda Bries.

These are not merely names. They are daughters, some are mothers, all were loved. These are young women whose lives could have been spared. And two of these young women were carrying unborn children.

If Mr. Turner's DNA had been taken when he was arrested in January of 1987 it is quite probable that he would have been arrested and convicted for the murder committed in March of 1987 and thirteen lives, including two unborn babies, could have been saved And to make matters worse, a man named David Jones had been wrongfully convicted for two of these murders and had spent nine years in prison. One cheek swab taken at the time of arrest could have saved nine lives and prevented an innocent man from spending eleven years in prison. So I went to my New Mexico state legislature and in 2006 they passed "Katie's Law", which mandates that DNA be taken upon felony arrest. The first man swabbed under the law, a mere hour and fourteen minutes after it went into effect, saw his DNA match to a double homicide. New Mexico has had 530 cases matched to arrestee DNA since that time.

This is in a state with a population of around two million people. One of these matches was to the DNA found on Victoria Sandoval, an 11-yr old little girl who had been raped and murdered in her own bed. This DNA match also served to exonerate Robert Gonzales, who had been wrongfully jailed for almost three years for her murder. Arrestee DNA has exonerated three men wrongly accused of rape and murder in New Mexico and several others around the country.

Yes, arrestee DNA works. California is seeing an average of ten matches a day to their DNA database. Since adding arrestee DNA. California has aided more criminal investigations in the past four years than it had in the preceding 25 years combined when samples were collected from convicted offenders. And furthermore, since adding arrestee DNA, the rate of cases cleared and investigations aided has increased from 35% to 67.9%. This type of success is being seen in states all across the nation. And right here in Pennsylvania is an example of rapes and murders that could have prevented, and a man who would have been exonerated up front by arrestee DNA before he was terrorized by a throng of vigilantes surrounding his house. On June 4, 2010, Antonio Rodriquez was arrested for a felony drug charge. Had Pennsylvania had an arrestee DNA law at that time, his DNA would have been taken. Using the average time to analyze and upload DNA into CODIS in Pennsylvania at that time, his profile would have been in CODIS by mid-September. But because there was no law then, his cheek was not swabbed. On November 3, Elaine Goldberg, 21 years old was raped and murdered. DNA was recovered from the crime scene. Then on November 13, Nicole Piacentini was also raped and murdered. A third victim, Casey Mahoney was raped and killed on December 15, 2010. DNA evidence showed that all three women were victimized by the same man. The authorities knew there was a serial killer on the loose. The Philadelphia Police formed a "Kensington Strangler Task Force" and spent thousands of hours working to solve the case. Nothing solid emerged to move the investigation along other than a composite sketch of the attacker made from a description by one of the victims who survived. The killings were the subject of intense media coverage, even prompting the "Guardian Angles" to set up patrols in the area. Then on December 10, an angry mob of vigilantes surrounded the house of a man matching the description of the murderer. Terrified by the mob, the man called police for help and voluntarily gave a DNA sample, which cleared him.

On October 21, 2010, Rodriguez pled guilty to the felony drug charge. After his conviction, as required by Pennsylvania law, Rodriguez's cheek was swabbed to collect a sample of his DNA and in mid January Rodriquez's DNA was matched to the DNA evidence found on the three murdered women.

So what would have been different if Rodriquez's DNA had been taken at the time of his arrest? When Elaine was murdered and DNA evidence was uploaded, it is possible that a match would have been made at that time. It is possible that Rodriquez would not have been free to murder Nicole Piacentini and Casey Mahoney. And an innocent man would have not faced a violent mob of vigilantes, terrified for his life. And thousands of man-hours investigating the Kensington Strangler case would not have been needed, which saves taxpayer dollars and frees precious investigative time for other cases without DNA evidence.

You will be told reasons why Pennsylvania should not use this incredible science. You will be told that DNA is very different from fingerprints because it contains our entire genetic blueprint. That to take DNA from someone when they have merely been arrested, not convicted of a crime is a violation of privacy. This is very misleading. You see, our DNA is not private. We cannot leave a room without leaving our DNA. But furthermore, and this is extremely important, it is NOT OUR DNA that goes into CODIS. It is a DNA profile, and that is very different indeed. Our DNA strand has over 3 BILLION markers. But only 13 go into CODIS, and these markers were selected by genetic scientists because these specific thirteen markers have no potential to disclose any medical diagnostic information, nor do they disclose any physical characteristics.

A very respected genetic scientist, Dr. Arthur Eiesenberg, gave me a very good description of exactly how the system works. He asked if I remember what a 33rpm vinyl record album looks like. I do. He said that the DNA strand could be compared to a very large record album. Each band on the album corresponds to one of the markers, or locations. You can see on the album the bands where the music can be played. And you can see the spaces between the songs where there is no music. The 13 markers are from the blank spaces. No genetic information. But those 13 markers are so uniquely spaced that when all of

those 13 markers match to crime scene DNA it is virtually impossible that two individuals---with the exception of identical twin—could have the same DNA.

DNA in the database can be used ONLY for criminal identification. It has no potential to reveal any genetic or medical information.

This January nine of the most revered genetic scientists in the world submitted an amicus brief to the United States Supreme Court on a case concerning arrestee DNA. Their conclusion said, "The Court should recognize that CODIS profiling is not the type of genetic testing that supplies significant information on disease risk or other physical or behavioral genetic traits."

Here is the actual information that goes into CODIS. A number identifying the lab where the analysis was done, the numbers, and only numbers, which identify the thirteen markers, and the DNA analyst's initials. You can see there are no names, no social security numbers, just a specimen ID number. As a matter of fact, this is MY DNA PROFILE. Nothing private about me can be disclosed from this. I am so certain of it that my DNA Profile is printed on the back of my business card. Now I wouldn't give you my social security number, or even my home address---but you can have my DNA Profile.

When and only when a match is made to a DNA offender profile to crime scene evidence, the originating state is notified and the DNA profile is reanalyzed for verification. After that verification, the specimen ID number is matched through a separate secure database to the name of the offender. This information is released only to law enforcement investigating the crime to which the match was made. And that DNA match, just like fingerprints, DMV records, or mug shots is merely an investigative lead that must be followed up with confirmatory tests and analysis of other investigative information before an arrest is even contemplated.

It is a federal offense to tamper with CODIS, which carries a fine of \$250,000 and federal prison time of one year. Since the inception of DNA databases there has never been a misuse or a breach of CODIS.

Furthermore, Congress enacted the Genetic Information Nondiscrimination Act of 2008, which makes it a crime for employers or health insurers to acquire genetic information or to use it in employment or health coverage decisions.

It is important that you know that when we say that DNA would be taken upon arrest, under this bill it is only taken for felony arrests, and it is not taken until the arrestee is actually booked for a crime, as part of the booking process---at the same time fingerprints and mug shots are taken. Fingerprints are attached to the permanent arrest record, DNA profiles are not. Mug shots are available for distribution, even for printing in a newspaper---DNA profiles are not available outside of CODIS, period. When a person is booked for a crime, they have lost an expectation of freedom and privacy. They can be held against their will. They can be strip-searched. Everything on their person can be searched---including the contents of their smart phones and tablet devices. My DNA profile is printed on the back of my business card, but I am so uncomfortable in the thought of my smart phone contents being disclosed that I have access to a program that will allow me to remotely erase all of its contents. But our government has said that it is legal for the contents of my smart phone to be searched upon arrest. I would submit to you that my smart phone contains more private information than my DNA profile.

CODIS is a closed system, not online, not available to the public, nor law enforcement, nor employers interested in background checks. It is also interesting to note that although there have been errors in processing DNA crime scene evidence, there has never been an error on the database, and as a matter of fact, it is the DNA database that has uncovered and helped to correct errors in evidence processing.

So what happens if someone is not found guilty of the crime for which they have been arrested? The federal government requires that states have a provision for expungement or DNA profiles cannot be uploaded to the national database. DNA profiles only exist in two places—on the state and national database. These databases are offline and secured by FBI firewalls and security systems. There has never been a breach. Federal regulations (42USC 14123(d)(2) require that expungements be absolutely thorough and there are penalties for not doing so. The Office of the Inspector General of the USDOJ conducts periodic and random audits to insure the regulations are being followed. These audit reports are available for inspection, if you are interested. One additional fact---since CODIS began over twenty years ago, there have been zero instances of DNA being manipulated or queried for other information beyond basic identification. ZERO.

It is interesting to note the issue of backlogs. Some say that we should not begin to take DNA from arrestees if there are any backlogs of any kind at the crime lab. But when states have implemented arrestee DNA they have experienced a reduction in backlogs. Although this may seem counterintuitive, lab officials have told me it is because of the streamlining of the system. We have seen this happen in many states.

Opponents have argued that arrestee DNA violates the 4th Amendment of the Constitution, which protects against unreasonable search and seizure. In February of this year the US Supreme Court heard oral arguments in Maryland v King. A legal brief was submitted on behalf of the states, and all fifty Attorneys General signed the brief in support of arrestee DNA

testing. Our family traveled to Washington DC to be present for oral arguments. It was an incredible experience, and we were gratified to hear Justice Alito say that this case was "perhaps the most important criminal procedure case this Court has heard in decades". And on June 3<sup>rd</sup> the court ruled that arrestee DNA does not violate the 4<sup>th</sup> amendment rights, stating that "DNA is, like fingerprinting, a legitimate police booking procedure that is reasonable under the fourth Amendment".

And what do the voters think? California passed its arrestee DNA law through a voter's initiative, where 62% of those casting their vote said that DNA should be taken at the time of arrest for all felony crimes.

You will be told that taking DNA upon arrest is just too expensive. But arrestee DNA testing actually saves money.

Ironically, Katie's case is a perfect example of how arrestee DNA saves money. Katie's killer was arrested for an unrelated burglary less than three months after she was murdered. But arrestee DNA was not legal in New Mexico at that time, his DNA profile was not taken. Consequently it was over three years later when Gabriel Avila was convicted and incarcerated for an unrelated crime, his DNA was taken and matched the profile extracted from Katie's fingernails. That match was used as an investigative lead and Avila confessed, and pled guilty to Katie's rape and murder, and was sentenced to 69 years without possibility of parole. That justice, that resolution could have been brought to our family three years sooner. And during those three years, over \$200,000 was spent investigating Katie's case. \$200,000 that would have been saved with a \$30 cheek swab.

Study after study, one as recent as done by the University of Virginia and released January 10<sup>th</sup> of this year, has concluded that DNA databases save taxpayers many times more than they cost. The Virginia study found that each DNA profile which averages in cost at \$30 inclusive, resulted in a cost savings of approximately \$27,500.

Another study done by the City of Denver, under the auspices of the United States Department of Justice concluded that for every dollar invested in DNA, the taxpayer saves \$90.

To help states implement arrestee DNA programs the United States Congress has authorized grants which will pay for the first year of costs for a state's arrestee DNA program. "The Katie Sepich Enhanced DNA Collection Act" was signed into law by President Obama on January 10<sup>th</sup> of this year. It is important to note that this law was passed in the US Senate by unanimous consent and by a 2/3 majority of the House of Representatives. Congress said that they believed so strongly in arrestee DNA that they were willing to provide funds to states to implement their programs. These grants, which are authorized to pay for the entire first years cost of implementing an arrestee DNA program, are only available through 2015. Financially it makes sense for the state of Pennsylvania to pass and implement this legislation now in order to receive the authorized federal grant money.

We know, we have seen what happens when a state begins to take DNA upon felony arrest. Cold cases are solved, crimes are prevented, lives are saved and the innocent are exonerated and taxpayer dollars are saved. But what happens when a state chooses NOT to collect arrestee DNA?

Innocent Lives are lost.

The time to act is now---before another life is needlessly lost. Before another rape is committed that could have been stopped.

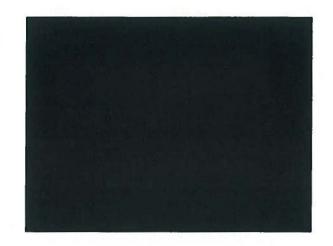
If you cast your vote for the lifesaving power of arrestee DNA, you will be joining 100 US Senators, over 2/3 of the United States House of Representatives, fifty Attorneys General, and the President of the United States who have all gone on record as supporting arrestee DNA.

Remember these names---the names of those who could have been saved. And in Pennsylvania, we already have a list of names as well. If you choose not to pass this law now, in the months and years to come, there will be names added to this list of Pennsylvania names---a list of those who could have been saved, but were not. When you are told that arrestee DNA violates rights, violates civil liberties, I want you to think about the victims---about their rights. My daughter Katie, and so many others--- lovely young women were robbed of their most basic constitutional right---the right to live. And I strongly believe, as should you, that their right to live trumps the right of an arrestee to hide his identity, to hide acts he has committed.

If you do pass this law, and join the 27 other states that have done so, crimes will be solved, crimes will be prevented, lives will be saved, and families, like mine, will be spared horrific pain. So you have the unique opportunity of not only sparing these families this pain, you can give them the chance to have a photo album complete with all of the photographs that I can only wish that I could have. Please pass Senate Bill 150.

Senate Bill 150

November 12, 2103

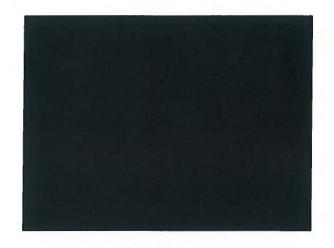








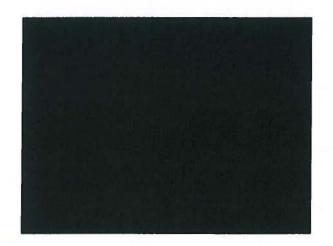












City of Chicago
53
Rapes & Murders
prevented
8 convicted felons

Chester Dewayne Turner Turner was arrested

21 times

Over 15 years

Chester Turner's DNA was found on twelve

12

rape and murder victims

First victim was murdered two months

after the first arrest

Annette Ernest – October 29, 1987
Annette Ernest – October 29, 1987
Anita Fishman – January 20, 1989
Regina Washington – September 23, 1989
Debra Williams – November 16, 1992
Mary Edwards – December 16, 1992
Andrea Triplett – April 2, 1993
Desarae Jones – May 16, 1993
Natalie Price – February 12, 1995
Mildred Beasley – November 6, 1996
Paula Vance – February 3, 1998
Brenda Bries – April 6, 1998

Thirteen Lives
Spared

David Jones
served
9 years in prison
wrongfully
convicted

One DNA sample taken upon arrest

Eleven women saved

Prevented an innocent man spending 9 years in prison



Matched a double homicide

530
crimes matched to arrestee DNA

Matched rape and murder of 11-year old Victoria Sandoval

Robert Gonzalez exonerated

Arrestee DNA exonerates the innocent

California

DNA database matching an average of

10

crimes per day

California:

more matches with arrestee DNA in

 $4_{
m years}$ 

than last

25 years

with convicted DNA alone

California:

rate of cases cleared and investigations aided increased from

35%

to

67.9%

since adding arrestee DNA

June 4, 2010 Antonio Rodriquez arrested for a felony June 4, 2010 Antonio Rodriquez arrested for a felony

DNA would have been taken

June 4, 2010 Antonio Rodriquez arrested for a felony

DNA would have been taken

Profile in CODIS by mid-September

November 3, 2010 Elaine Goldberg November 3, 2010 Elaine Goldberg

November 13, 2010 Nicole Piacentini

November 3, 2010 Elaine Goldberg

November 13, 2010 Nicole Piacentini

December 15, 2010 Casey Mahoney DNA shows all three victimized by the same man October 21, 2010 Rodriquez pleads guilty October 21, 2010 Rodriquez pleads guilty

DNA sample taken

October 21, 2010 Rodriquez pleads guilty

DNA sample taken

DNA matched mid-January to evidence on three murder cases

Nicole Piacentini and Casey Mahoney's lives saved

Nicole Piacentini and Casey Mahoney's lives saved

Innocent man spared vigilante mob

Nicole Piacentini and Casey Mahoney's lives saved

Innocent man spared vigilante mob

Saved thousands of hours of investigation

DNA
Does not go into
CODIS

A DNA Profile goes into CODIS

The DNA strand has over 3 billion markers

The DNA strand has over 3 billion markers
Only 13
go into CODIS

These

13

markers have no potential to disclose any medical diagnostic information or physical characteristics 33 RPM Vinyl Record Album DNA in the database can be used ONLY for criminal identification. It has no potential to reveal any genetic or medical information.

"The Court should recognize that CODIS profiling is not the type of genetic testing that supplies significant information on disease risk or other physical or behavioral genetic traits."

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DHL Initials of the Lab Analyst

NO
Names or
Social Security
Numbers
In
CODIS

13,14,29,31.2,11,12,10,16,18,7,9,11,11 12,17,24,14,15,9,11,16,19,9,12,21,26 Match is Made:

Match is Made:

Originating State Reanalyzes to verify accuracy

Match is Made:

Originating State Reanalyzes to verify accuracy

Name is Identified

Match is Made:

Originating State Reanalyzes to verify accuracy

Name is Identified

Name Released ONLY to Law Enforcement DNA Match only an investigative lead

Federal offense to tamper with CODIS

There has
NEVER been a
misuse of breach
of
CODIS

Genetic Non-discrimination Act of 2008:

Genetic Non-discrimination Act of 2008:

Makes it a crime for employers or health insurers to acquire or use genetic information for hiring or health coverage decisions

Only for FELONY arrests

Only for FELONY arrests

DNA Taken during formal booking process

Only for FELONY arrests

DNA Taken during formal booking process

Taken when fingerprints and mug shots are taken

DNA profiles are not available outside of CODIS

When Booked for A Crime Can Be:

When Booked for A Crime Can Be:

Held Against Will

. .

When Booked for A Crime Can Be:

Held Against Will

Strip Searched

When Booked for A Crime Can Be:

Held Against Will

Strip Searched

Everything on person can be searched

CODIS
is a
CLOSED
SECURE
SYSTEM

CODIS is NOT available:

CODIS is NOT available:

Online

CODIS is NOT available:

Online

To the public

CODIS is NOT available:

Online

To the public

To law enforcement for queries

CODIS is NOT available:

Online

To the public

To law enforcement for queries

To employers for background checks

There has NEVER been an error on the database

Federal Law
REQUIRES
a provision for
expungement if there
is no conviction

There has NEVER been a breach of the database

Federal regulations (42USC 14123(d)(2):

require that expungements be absolutely thorough and there are penalties for not doing Office of the Inspector General of the United States conducts audits to insure expungement is thorough and complete

instances of DNA being manipulated or

Arrestee DNA Has resulted in backlog

REDUCTION

Maryland v. King

queried for other purposes

The Attorneys General
of
all 50 states
joined by
Puerto Rico and
the District of Columbia

signed a brief in support

"perhaps the most important criminal procedure case this Court has heard in decades"

Justice Samuel Alito

Arrestee DNA does not violate the 4<sup>th</sup> Amendment "DNA is, like fingerprinting and photographing, a legitimate police booking procedure that is reasonable under the fourth

Amendment"

Maryland v. King, No. 12-207

California voters supported arrestee DNA

62% in favor

Arrestee DNA SAVES MONEY

Sentenced 69 years with no parole

Over Three Years Sooner

\$200,000 could have been saved

Every

\$30 cheek swab results in savings of

\$27,000

For every \$1 invested in DNA \$90 is saved

Congress has
authorized grants to
pay for the first year of
an
Arrestee DNA
Testing Program

"The Katie Sepich Enhanced DNA Collection Act"

100 United States Senators 100 United States Senators 2/3 United States House of Representatives Federal Grant money 100 United States Senators for implementation of 2/3 United States House of arrestee DNA programs Representatives is available through Funded Implementation of 2015 arrestee DNA Cold Cases Solved Cold Cases Solved Crimes Prevented

Cold Cases Solved

Crimes Prevented

Lives Saved

Cold Cases Solved

**Crimes Prevented** 

Lives Saved

Innocent Exonerated

Cold Cases Solved

Crimes Prevented

Lives Saved

Innocent Exonerated

Taxpayers Dollars Saved

Innocent Lives are Lost

100 United States Senators

100 United States Senators

2/3 of the US House of Representatives

100 United States Senators

2/3 of the US House of Representatives

Fifty States' Attorneys General

100 United States Senators

2/3 of the US House of Representatives

Fifty States' Attorneys General

President Barack Obama

Diane Johnson
Annette Ernest
Anita Fishman
Regina Washington
Debra Williams
Mary Edwards
Andrea Triplett
Desarae Jones
Natalie Price
Mildred Beasley
Paula Vance

Elaine Goldberg

Nicole Piacentini

Casey Mahoney



