

Katie's Law (the Felony DNA Collection Law)

When I first sat on the House Judiciary Committee and listened to Jayann Sepich from New Mexico sit in front of us with a slide show telling us the story about her 22 year old daughter who was abducted, brutally beaten, raped, sodomized, then throw in a dump and set on fire, I wondered how in the world this woman could possibly go from state to state telling this story over and over again. It literally blew me away to listen to this story 4 years in a row (2 years I was on Judiciary, and 2 years I was a sponsor and advocate.) Katie Sepich's rapist and murderer was unknown until 3 years later when he, an illegal immigrant, was arrested for aggravated burglary. He was quickly convicted and upon conviction his DNA was taken. That DNA matched the skin under Katie's fingernails, and the fluids that were inside her body. After the DNA was matched, an investigation was launched and the offender confessed to the crime when faced with the abundance of DNA and traditional evidence. One of the sad parts is that he had been arrested several times since killing Katie, but never convicted. If Katie's Law was in effect when she was killed, it would have taken the police 3 months to link him to Katie's murder (he was arrested 3 months after killing Katie, but not convicted) - not 3 years and 3 months. No one really knows how many other victims in the US and Mexico that this man may have brutalized in the 3 years he was roaming free.

Yes - this law was very emotional for me. However, my support of this bill was not based in emotion - it was based in my research, data and statistics, and an absolute belief that this law was going to save states hundreds of thousands of dollars each year, it would exonerate hundreds of innocent people, and it would prevent violent criminals from engaging in violent crimes for years and years undetected.

The main points that made me a strong advocate for this law are that they address several areas of Law Enforcement.

- Catch repeat offenders sooner
- Prevent violent crimes by removing an offender from the population
- Exonerate the innocent (as of 2011 the 24-30 states that use this law have exonerated over 300 wrongfully convicted individuals - and many of these were NOT fully exonerated until after a DNA match was made to another offender on the database)
- Protect civil liberties
- Reduce LE and Criminal Justice costs (Cold case files are solved and the extra work put into them is eliminated, the cost of months or years investigating a crime when you could simply get a "hit" off of CODIS within 3 days of arrest, and countless other Law Enforcement struggles are eliminated as well)
- Eliminate racial bias in evidence gathering (No racial information is contained in the DNA)

How does the law work?

When an individual is arrested on a **felony** charge, a non-invasive cheek swab is taken, and the DNA is analyzed and a small amount of the data - NOT the actual DNA, is entered into the National CODIS (Combined DNA Index System) Database by the state in which it was collected. That DNA is then run through CODIS database for any matches. If there is a hit, then at that time the originating state of the sample is notified that a match has been made. The sample is retested for accuracy. The state goes to their secured and protected offline database to match the specimen ID# in the profile to an actual name. This information can only be released to law enforcement personnel to be used **ONLY** as an investigative lead. If the case proceeds to court, a warrant is issued to take another DNA sample, it is retested once again and this is the evidence that is

presented in court. A match in the CODIS system can ONLY be used as an investigative tool. In other words - it's not enough to have a CODIS match to even detain an individual beyond the current time standards. What it does do, is point law enforcement in the proper direction and that suspect is fully investigated using both old evidence collected from the original crime scene, and new evidence that the court allows to be collected in an investigation. If there is suitable evidence, then a trial can take place.

It is a federal offense to tamper with CODIS and since the inception of DNA databases there has never been a breach of CODIS.

How is the DNA used to match crimes and protect the individual's privacy?

On one standard strain of an individual's DNA there are over **3 BILLION** (3,000,000,000) "markers". The DNA analysis performed and the ONLY DNA data extracted and contains only 13 out of 3 billion of the DNA markers. These 13 markers were specifically chosen by scientists, by DNA experts, because they contain absolutely NO genetic information except gender. There is no social security number in the database, no medically predictive information etc. It was specifically designed by scientists to protect privacy—to only be used for identification. A very respected genetic scientist, Dr. Arthur Eiesenberg, offers a very good description of exactly how the system works. If we remember back to what a 33rpm or 45rpm vinyl album looks like, 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.

Can't the DNA be planted at a crime scene if the police have it on file?

No - Absolutely not. The arresting department does not keep the DNA. They simply enter the numerical value of the 13 DNA markers into a computer and discard the physical DNA. A police officer - or anyone else for that matter, cannot look you up and find out what your DNA markers are. The system works the opposite way. The markers must be "hit" on a CODIS search - the "hit" is then traced back to the state and the AG S Department that entered the markers into CODIS and only then can they do a "reverse search" by entering the markers to get the name of the individual. Markers cannot be planted, by the laws of physics that bind us to this planet it is completely impossible to plant markers.

The Law at Work;

The Commonwealth of Virginia passed this law in 2003. Since then there have been over 5,000 hits on the CODIS database with almost 700 of these matches coming directly from arrestee collected samples.

California's average number of monthly hits between offender DNA profiles and DNA profiles from unsolved crime scene samples has increased from 183 per month in 2008 (the year prior to the full implementation of arrestee DNA) to over 400 hits per month. This is an increase of over 125 percent.

Chicago, 2005 - IF THEY HAD arrestee DNA testing 22 murders and 30 rapes would have been prevented in one year.

Exonerations;

And perhaps most compelling for me was the rate of exonerations. In just 162 of the exoneration cases, the true suspects/perpetrators were discovered to have committed an additional 145 crimes, including 77 sexual

assaults, 34 murders and 34 other violent crimes while the wrongfully committed individuals sat behind bars for their wrongful convictions. The average length of stay for exonerees is 14 years, with a total of 4,510 years having been served by these wrongfully convicted individuals who were on average, 26.5 years old upon their wrongful convictions. Several exonerees were actually sitting on Death Row at the time the true perpetrator was discovered.

Why are so many people wrongfully convicted?

Eyewitness misidentification was a factor in 70% of the exonerees cases. Unvalidated or improper Forensic Science played a role in 47% of the cases. False confessions and incriminating statements were a part of 28% of the cases and Confidential Informants (criminals who help the police by giving them information on criminals in exchange for money) played a major role in 15% of the cases. There is no data on how many people have been convicted because of overzealous prosecutors, rogue LE agents, political pressure in high profile cases to get them "solved", etc.

Doesn't this law violate the 4th Amendment?

No. On 5/3/2013 the Supreme Court ruled that this does NOT violate 4th Amendment protections. Part of the decision stated "DNA is like fingerprinting and photographing, a legitimate police booking procedure that is reasonable under the Fourth Amendment." (Case No. 12-207)

Furthermore, in RI, if you are arrested on felony charges and it is proven to be a wrongful arrest or the actual perpetrator was found, the DNA entered into CODIS is removed.

For those folks who are familiar with my body of work in the General Assembly, and the issues that I stand for and fight for, I ask you to consider just one thing; "If this law was even questionably unconstitutional or dangerous to our liberty, would Representative Chippendale have supported it?" Clearly the answer is "Absolutely not."

Respectfully, and proudly at your service,



Mike Chippendale
Senior Deputy Minority Leader



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