February 18, 2020

Thank you State Senator Nicki Antonio for asking me to provide expert testimony before the State Senate Judiciary Committee for your bill to get rid of the Statute of Limitations and seek Justice for Women and Children of Sexual Assault.

I have been a prosecutor since 1990 and have been prosecuting sexual assaults for 28 of those years. During this period of time I have personally reviewed over 20,000 sexual assault reports made by victims and investigated by the police. Some are made by men but most are made by women and children.

The SOL for Rape used to be 6 years until March 8th of 1999 when the SOL was expanded to 20 years. Of course it was not applied retroactively. Only those cases that were still viable within the 6 year statute of limitations benefitted from the change. In other words we could only go back to 1993 (1999 minus 6 years) for victims to receive any benefit. For those who had been raped before March 8th 1993 for the most part we would not be able to charge their perpetrators.

During my career as a prosecutor I have been the Supervisor of the Major Trial Unit from 2,001 to 2,008—As the Supervisor of that Unit I oversaw all of the Murders and Rape prosecutions in Cuyahoga County. During that time period, specifically in 2002, I lead the Investigation into the Cleveland Catholic Diocese Child Sexual Abuse Crisis. The diocese stretches over an 8 county area in North Eastern Ohio. I had a 28 person team and it took us 7 and a half months to review over 50,000 pages of records from the Diocese itself, medical records, Children and Family Services records, police reports and Civil cases filed by some of the victims. We uncovered over 1,200 victims who reported they had been sexually assaulted by 500 perpetrators. It was heartbreaking to speak with hundreds of these victims to tell them their case could not be prosecuted because it was barred by the Statute of Limitations. 116 of these perpetrators were priests but the children’s cases could not be prosecuted. Anecdotally many of the victims did not report until their mid to late 30s and 40s after the statute had already expired.

The SOL was extended to 25 years in July of 2015 with the possibility of a 5 year extension if a DNA match was determined after the 25 years, or if the match is within the 25 years prosecution may commence within 25 years of the offense or 5 years after the DNA match, whichever is later.

Two summers ago I testified before the US Congress’ Bi Partisan Committee Task Force to End Sexual Violence Against Women. We offered testimony that we have been testing and investigating all rape kits from March 9th of 1993 through 2011. This is called the “Rape Kit Backlog.” In Cuyahoga County there are 7,020 Sexual Assault Kits during that time period. They have all been tested by our partner the Ohio Attorney General’s Office and there are less than 800 investigations to complete before the project is finished.

The Ohio Attorney General’s Office has tested over 14,000 backlog sexual assault forensic kits Statewide for this period 1993 through 2011.

In 2013, just before the 20 year Statute of Limitations was about to run on these 1993 cases, we had to mobilize quickly. The Sexual Assault Forensic Kits testing results were coming back matching to criminal offenders from the CODIS database. Victims had to be interviewed and charges filed before the statute ran out. Some cases we had to file an indictment against a John Doe profile just to toll the Statute of Limitations. We have indicted 780 RAPISTS. 150 of these have been John Doe defendants. 13 of those have been identified since because they committed another offense that placed them in CODIS. We swab them once they have been identified by CODIS and arrested to run a final confirmation DNA test.

A better solution would be to not have to file an indictment to commence prosecution before the statute runs out of time.

Example of one of our recent cases--a man was a named suspect in a police report but he was beat up by people who caught him in the act. He was unconscious so his DNA was never taken from him back then at that time until recently an investigator found him in a nursing home and swabbed him. His DNA then matched to 6 other womens’ rapes. If the State hadn’t indicted the 1993 and 1994 rapes as a John Doe rapist then those 6 women’s cases could possibly be lost to the statute when they were abused.

There will continue to be advances in DNA and other technology that will solve these cold case crimes.

DNA is not always necessary to prosecute older crimes. We have taken statements from victims and prosecuted cases without DNA. One DNA homicide case led to another police report of a man caught by the police in the act of raping a woman. The case was not followed up on as the police could not locate the victim so the case went unprosecuted and because he was caught in the act there was no DNA. However because the rapist also committed a homicide a few years later and we recently solved the identity of the murderer with DNA testing we noticed this murderer had been the named suspect in this earlier ‘caught in the act’ rape. Luckily the statute had not quite run out of time. Murderers who have a sexual motivation often have raped other women. Having the ability to prosecute them for their rapes as well assists the prosecution of the homicide case.

Just as in the Diocesan Priest abuse investigations, during the course of these backlogged Sexual Assault Forensic Kit investigations we have interviewed adults who were children when they were raped. Even when there is no DNA we can still prosecute based on their testimony. Often the parents did not follow through with the police to investigate the cases. The child victims, now adults were left in the dark and welcomed a prosecution of their offender.

Also sexual abusers often have multiple victims and often these crimes do not get reported immediately so there is no DNA. Families hide abuse under the rug and victims come forward after a 25 year statute has run. I have handled cases where offenders have abused generations in their family and we cannot prosecute some of the victims’ cases. A man who rapes his grandchildren often has raped his own children.

It has been very difficult to speak with victims who were sexually assaulted before the 1993 date to explain to them that their cases will never be prosecuted because our State’s statute denies them a chance to seek Justice. I have had hundreds of these conversations. Cleveland Police have a Department of Justice grant to inventory forensic kits prior to 1993 and to outsource them for testing. —There are over 6,000 of these kits. Some of these kits will yield perpetrator DNA but earlier legislation will preclude any prosecution. These will be very difficult conversations.

Two weeks ago I was speaking with an Ohio resident, she was raised in Ohio and went to Tulane University in Louisiana in 1975. She rented an apartment and moved in. She was raped in her apartment by 3 masked men. Evidence was collected on her rape. The case went cold and the police could not solve the crime. The victim went on to become a US Ambassador of Moldova. I made a phone call to our sister Sexual Assault Kit Initiative (SAKI) city of New Orleans and they have located the documents that there is evidence to be tested. 3 masked men had raped another woman only 3 weeks earlier at that location and they are looking for that evidence to test as well. I am happy for this Ohio citizen that the State of Louisiana does not have a Statute of Limitations that will prevent them from prosecuting her case.