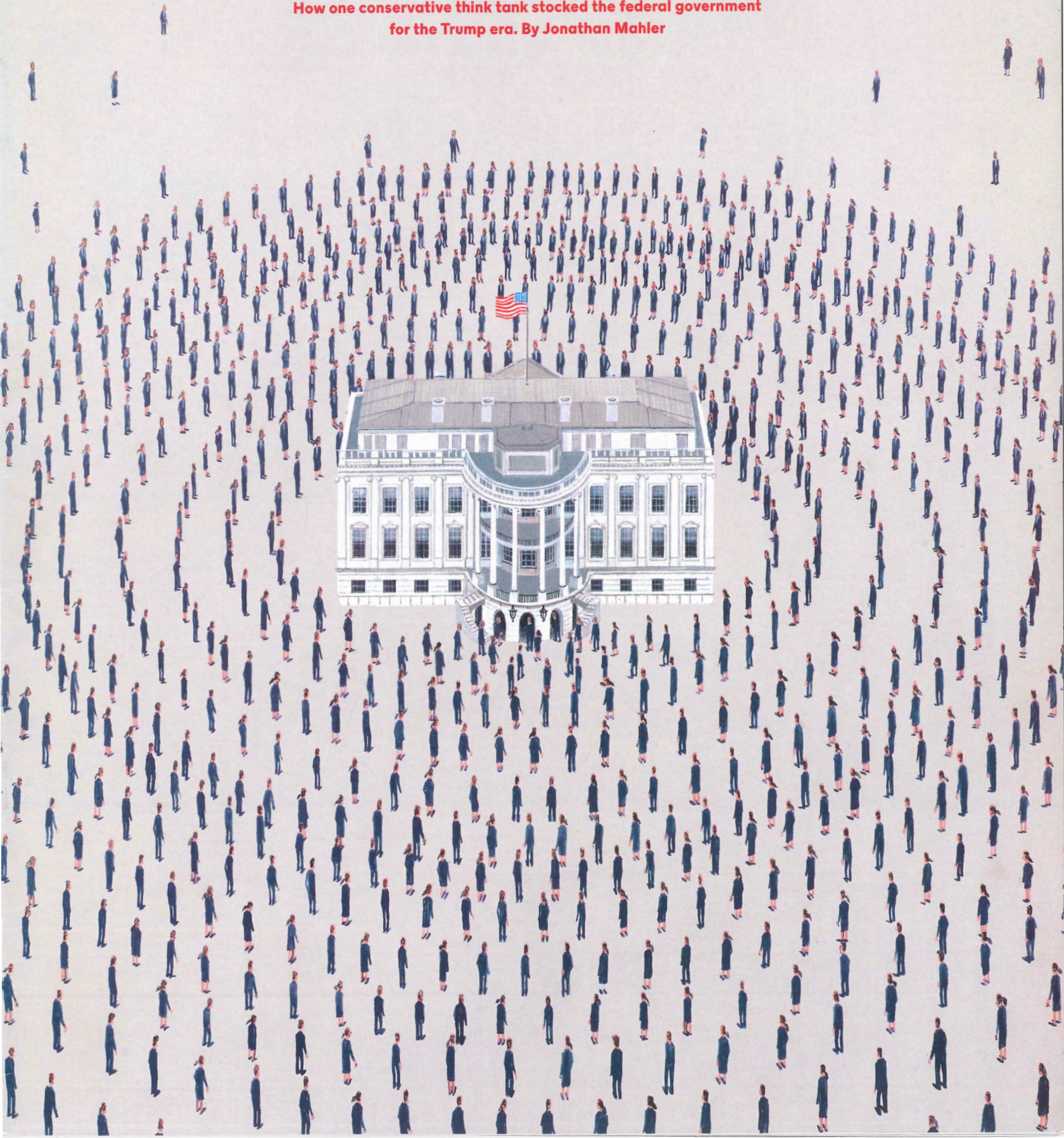


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ALL THE RIGHT PEOPLE

How one conservative think tank stocked the federal government for the Trump era. By Jonathan Mahler



FEATURE

Should Statutes of Limitations for Rape Be Abolished?

Across the country, time-limiting laws prevent scores of sexual assault cases from being prosecuted, in spite of persuasive evidence or a confession.

By Ruth Padawer

Photographs By Elinor Carucci



**VICTIMS
OF
TIME**

**AROUND 1 A.M.
ON A SATURDAY
IN 1993,**

a man sneaked into Donna and John Palomba's house in Waterbury, Conn. John was away for a long weekend, and Donna and her two young children were asleep when she awoke to the sound of heavy footsteps. She remembers seeing a masked man and screaming. An instant later, he was on her, threatening to hurt her if she didn't comply. He covered her head with a pillowcase, wrapped nylon stockings around her mouth and eyes, bound her hands behind her back, cut open her underpants and raped her. Right before he fled, she recalls him saying: "If you call the pigs, I'll come back and kill you."

Once he was gone, Palomba, who was 36, wriggled free. She ran to her children's bedrooms to make sure her 5-year-old son and 7-year-old daughter were unharmed; they were fast asleep. She grabbed the phone to call the police, but it was dead, as was the other house phone, though they had worked fine hours earlier. Like most people at the time, she had no cellphone. Panicked, she pulled on her bathrobe, checked her kids again, locked the front door behind her and searched for the nearest house with a light on, figuring someone already awake would more quickly answer the door. A few houses down, where her husband's third cousin lived, a light shone. He answered the door and immediately dialed 911. After talking to the dispatcher, Palomba ran home to be with her children. Then she went to the hospital to have forensic evidence collected and receive treatment for her wounds, among them a scratched cornea and abraded wrists.

The police officers who responded did not call a forensic team to the house, according to the case file. For days, they collected no fingerprints and took no photos or videos of the crime scene. Nor did they cordon off the area to preserve any evidence: As family and friends streamed in to console Palomba that morning, officers allowed them to move about the house freely, potentially contaminating whatever evidence the assailant may have left behind. The police did not interview neighbors to learn if they saw a suspicious vehicle or person in the area that night. They examined the phone lines that were cut — but only after the phone company had already repaired them.

A few weeks later, Doug Moran, the lieutenant in charge of the Sex Crimes Unit, met with Palomba at the police station in Waterbury. Palomba, who helped run a small marketing agency, had lived most of her life in Waterbury, and she was at ease there, grateful for the sense of community she felt in her neighborhood and her church and with the people she ran into in town. But the meeting at the police station was anything but comfortable.

Moran started out by reading Palomba her Miranda rights, and then implied that the police had evidence that she concocted the rape claim to cover up an affair. He found it suspicious that a stranger would know to choose the one weekend in the Palombas' 12-year marriage that her husband had been away. The police would later point out that there was no indication of forced entry, and note that Palomba left the pantyhose wrapped around her wrists even after officers arrived, as if it were, in the words of an officer on the scene, "a stage prop." In addition, the police claimed that a rapist wouldn't say "pigs" for cops, and that if she really thought a dangerous man was roaming about, she would not have left her small children alone to go in search of a phone. They added that a rapist would not have cut her underpants — he would have ripped them or pulled them off. Moran insinuated that she should be arrested for reporting a fake crime.

She left the police station terrified and furious. Soon after, Palomba and her husband requested a meeting with higher-ups in the department, and when that went nowhere, she sought counsel from her priest and relatives,

all of whom encouraged her to hire a lawyer to press the department to properly investigate the rape. The lawyer, a friend of Palomba's, requested an internal-affairs inquiry. The lawyer also contacted the state's attorney, who would eventually conclude that the officers bungled the case, and would order the department to assign two new, competent detectives to pursue a serious investigation of the crime. But by that time, more than six months had passed since the rape, and most clues were long gone.

Palomba eventually sued the police. The city's lawyer argued that the rape was a hoax and therefore that the police acted appropriately. But the forensic report from her hospital exam confirmed elements of her story, and experts testified about the shoddiness of the investigation. The jury found Moran and his supervisor, who happened to be Moran's brother, negligent for not investigating Palomba's rape claim properly, and awarded her \$190,000. But Moran and his brother suffered no serious consequences, and despite the best efforts of the new detectives, Palomba's case went cold.

Then one day in 2004, 11 years after the rape, the newly appointed police chief of Waterbury, Neil O'Leary, invited Donna and John to his office. The Palombas knew O'Leary — he was one of the two detectives the state's attorney assigned to investigate Palomba's claims more than a decade earlier. Once they settled in, O'Leary, who had been dogged by her case all that time, told them about a local man who had just been arrested. A 21-year-old woman had reported that the man, her boss, had attacked her, groping her breasts, shoving his hands down her pants and holding her down until she managed to break free. This man's DNA, the police learned, matched the DNA the hospital had collected during Palomba's forensic exam all those years before.

It was a huge breakthrough, but there was one very big problem. Though officials were confident they now knew who Palomba's attacker was — and even had reason to think he was a serial assailant — Connecticut's statute of limitations prohibited them from charging him for her rape.

STATUTES OF LIMITATIONS are as old as Roman law, and their goal, now as then, is to help balance two competing interests: maintaining public safety and protecting defendants from wrongful charges. After all, with the passage of time, memories fade, evidence is lost or destroyed and witnesses become unreliable or difficult to locate. Limiting how much time can elapse between a crime and its prosecution has been standard practice in America since its founding. Until the last few decades, state legislatures set the limitation period for most felonies at five years or less, though murder, considered the most heinous crime, usually had no deadline. The F.B.I. lists felony sexual assault as the second-most-serious offense, but for decades, little changed in statutes of limitations for those crimes.

That shifted significantly as child-sexual-abuse accusations against church leaders spilled into public view, especially after The Boston Globe's explosive revelations in 2002. The articles made clear that most of those victims didn't reveal the abuse until decades later, typically when they were in their 40s. Society began to reckon with the stigma, shame, intimidation and trauma that kept those victims from coming forward. They and their advocates argued that short statutes of limitations placed an overwhelming burden on victims and allowed sexual predators to evade punishment.

Since 2002, at least 29 states have amended their prosecution deadlines so victims of child sexual abuse have more time to pursue criminal cases as adults — including 15 states that now have no cutoff for prosecuting any felony sexual assault of a minor, according to Marci Hamilton, a lawyer and professor at the University of Pennsylvania who founded Child U.S.A., which researches and proposes policies to address child sexual abuse. Victims of earlier assaults can't benefit from the updated laws; the Supreme Court has ruled that it's unconstitutional to retroactively apply an updated criminal statute of limitations to resuscitate a case that already legally expired. Doing so, it said, would charge someone who had effectively been granted amnesty under the previous statute. (States are, however, allowed to retroactively apply extensions in civil cases.)

The drawbacks of statutes of limitations returned to public view in 2014 and 2015, when dozens of women came forward, after years of silence, to accuse Bill Cosby of sexual assault, only to discover how quickly the prosecution window had slammed shut. Once again, activists fought to lengthen or abolish time limits, regardless of the victim's age. Among the scores of Cosby's accusers, Andrea Constand was the only one able to bring a case against him — and it was filed just weeks before Pennsylvania's 12-year statute of limitations would have barred prosecution. In April, Cosby was found to have assaulted Constand after drugging her and was convicted of multiple charges of sexual assault; he faces up to 30 years in prison. Sentencing is set for the fall. Statutes of limitations have also shielded Harvey Weinstein from some of the allegations against him.

In the last year, the avalanche of #MeToo accounts has made clear just how pervasive sexual assault is and how few offenders are held accountable. In part that's because these crimes are very hard to prosecute: In 88 percent of rape cases, the accused and accuser know each other, according to the Bureau of Justice Statistics, and legal battles often come down to a dispute over whether sex between them was consensual. Only six out of every 1,000 who are accused end up in prison, according to Rainn, the nation's largest anti-sexual-violence group. This is, presumably, both a cause and effect of the fact that sexual assault is the most underreported crime in the nation, federal data shows, with less than a quarter of assaults brought to the attention of the police.

Victims' reluctance to report is an understandable response: They are often blamed, punished, ignored or dismissed by the assailant, the community or the police. Investigations by federal officials and academics have revealed chronic, systemic bias in law enforcement's response to sexual violence. In the last few years, the Justice Department has issued harsh reports citing "gender-biased policing" in New Orleans, Baltimore, Puerto Rico and Missoula, Mont. They found that police officers and prosecutors were hostile toward sexual-assault victims and that their investigations of sexual-assault claims were often "grossly inadequate." These and other reports indicate that the police too often conclude that victims are responsible for the assault because of what they wore or said or did — or that they lied about the rape, even though research indicates that only 1 to 10 percent of rape reports to the police are false.

That dismissive attitude has also contributed to the systematic neglect of evidence. Over decades, hundreds of thousands of rape kits throughout the country have never been tested. Instead they've been lost, abandoned or ignored in police storage units and crime labs. Some were destroyed or discarded even before the statute of limitations expired, as the police sought to free up space in their evidence rooms, or because no statute or protocol required Police Departments or hospitals to test or keep the kits. Besides denying victims a chance to see their cases through, this cavalier approach to rape kits has also undercut the search for repeat sexual offenders. In 2009, for example, Detroit officials discovered 11,341 untested rape kits in police storage; subsequent testing revealed that 2,616 of them matched profiles in the F.B.I.'s forensic DNA database, and identified more than 850 potential serial rapists in Michigan and around the country.



DONNA PALOMBA WITH HER HUSBAND, JOHN, AND THEIR CHILDREN IN 1995, TWO YEARS AFTER THE ATTACK. PREVIOUS PHOTOGRAPH: DONNA PALOMBA IN MAY 2018.

Advocates have pressed hard for the abolishment of statutes of limitations for felony sexual assaults. They argue that the statutes are archaic, built on outdated notions about sex crimes and the effects of trauma. Washington State, for example, has a 10-year statute of limitations for rape, but if the victim doesn't report the incident within a year of the crime, prosecution is barred three years after it. But 10 states — California, Delaware, Illinois, Kentucky, Maryland, North Carolina, South Carolina, Virginia, West Virginia and Wyoming — now have no time limit for filing charges for all or nearly all felony sexual assaults, no matter the victim's age.

When activists can't persuade lawmakers to abolish statutes of limitations, they often lobby for exceptions to the law when DNA evidence, which wasn't accessible when many statutes were written, is present. DNA, if stored properly, doesn't erode the way memories do. In the last decade and a half, the technology for testing DNA has advanced markedly, allowing law enforcement to better identify suspects — and also clear innocent defendants. DNA testing, while unable to reveal whether a sexual encounter

was consensual, can clarify if sex occurred and identify the participants. Advocates have successfully persuaded more than two dozen states to keep the prosecution window open — at the very least, in instances of first-degree sexual assault — when there is DNA evidence.

But for many activists, any limit at all threatens to create a second injustice after the original crime. California had a DNA exception to its statute, but in 2016, under pressure from activists, it abolished the prosecution limit for nearly every felony sexual assault. The author of the bill, State Senator Connie M. Leyva, credited those advocates, adding that the bill “tells every rape and sexual-assault victim in California that they matter and that, regardless of when they are ready to come forward, they will always have an opportunity to seek justice in a court of law.” Rapists, she said, “should never be able to evade legal consequences simply because an arbitrary time limit has expired.”

IN OCTOBER 2004, when Waterbury’s police chief, O’Leary, told the Palombas about the DNA match, he had a second piece of stunning news. The suspect was a man named John Regan — a good friend of John Palomba’s ever since they were in kindergarten together in Waterbury. They grew up in one of the historic parts of town, with pretty houses that date back to the early 20th century, when the city was the thriving center of the nation’s brass industry. It was a neighborhood where everybody knew one another, and where the kids, once grown, moved into homes near their parents, their siblings, their cousins.

Regan and John attended Waterbury’s Holy Cross High School, then all-boys, where they were on the same football and wrestling teams and were part of a tight group of a dozen or so school friends who stayed close for decades. They and the other guys from their neighborhood went to one another’s weddings, joined the same local men’s softball league, played weekly basketball together and gathered for poker every couple of months. Most of them remain tight today.

But though Regan and John were close, their families were not, so Donna Palomba rarely spent time with Regan. When she did see him — at the neighborhood New Year’s Eve party, for instance — he never struck her as creepy or inappropriate.

As O’Leary’s news sunk in, Palomba began to hyperventilate, and everything in her head felt jumbled. She saw the color drain from her husband’s face and his hands and body tremble as fury and disbelief collided. In the months that followed, John Palomba couldn’t understand how a man he thought he knew so well could be capable of committing such an evil act and betraying a friend so ruthlessly. “I had a lot of rage, a lot of rage,” John told me. “A lot of thoughts went through my mind, including killing him. He had everybody fooled.”

Yet the notion that Regan could be the perpetrator did seem to jibe with certain facts. The night Donna was attacked, Regan’s first cousin held a stag party for his friends. Regan was in attendance, as was one of John’s brothers, and it was no secret that John was missing because he was in Colorado at a friend’s wedding, and that his wife had stayed home with the kids. Regan — a branch manager at a building-and-roofing-supply company — had been a roofer, and on the evening of Palomba’s rape, she left a second-floor window open to let in the balmy night air. Reaching that window from the outside required stepping on the stair rail by the back door, scrambling onto the portico, grabbing the vent pipe and then climbing into the second-floor window, something an officer was later able to do with relative ease. Not long before Palomba was attacked, Regan helped John put a new roof on the Palombas’ garage. He’d also socialized in John’s mother’s house, where a key to John and Donna’s

house, labeled clearly, hung on the wall and went missing a few weeks before the assault. It later reappeared.

The state’s attorney general told the Palombas that although he couldn’t charge Regan for rape, he could charge him with kidnapping in the first degree, as the state had no statute of limitations for that crime. In Connecticut, as in some other states, the definition of kidnapping includes restraining someone with intent to inflict physical injury or sexual abuse, even if the assailant never moves the victim.

The day after Regan was charged, The Waterbury Republican-American ran his photo below a banner headline across the front page of its local section: “DNA Leads to Arrest in ‘93 Rape Case.” The article also revealed that he was arrested a month earlier for unlawful restraint when he reportedly tried to sexually assault the 21-year-old woman who worked for him.

“Every one of us were shocked when we opened up the newspaper that day and saw his picture,” said one of Regan and John Palomba’s close school buddies, who asked not to be named because he is still friends with some of Regan’s relatives. “It was like reading someone close to us had died — except it was worse than that. We were just blown away. We’re *still* blown away.”

Regan, after all, was a churchgoing family man and a devoted father to his three sons. He was considered hardworking and affable, the kind of man who coached his kids’ sports teams and helped out his elderly neighbors



LEFT: LISE-LOTTE LUBLIN, WHO CLAIMED BILL COSBY SEXUALLY ASSAULTED HER, HELPED PERSUADE NEVADA TO INCREASE THE TIME LIMIT FOR ADULT RAPE PROSECUTION. RIGHT: BETH FERRIER, A COSBY ACCUSER WHO HELPED WAGE A SUCCESSFUL CAMPAIGN IN COLORADO TO DOUBLE THE STATUTE OF LIMITATIONS.

and others who needed him. He came from a prominent, very well liked family. A local school was named after his grandfather, who was a principal there for decades. Regan’s father was a well-known dentist. Regan’s wife, who was his high school sweetheart, was a local teacher.

Around Waterbury, people tried to make sense of the incomprehensible. Many people speculated that it was really an affair: One theory had it that the Palombas’ young son or daughter had walked in as Regan and Palomba were having sex, and that to cover her tracks, Palomba screamed rape.

“People who knew the Regan family had a really hard time believing he could have done this, because that family was really admired in the community,” O’Leary, who is now mayor of Waterbury, told me. “Obviously, some people did believe Donna was the victim of sexual assault, but there were a lot of doubting Thomases who were sure it was consensual. From the beginning, a lot of rumors were going around. I’d be out in restaurants or at social events, and people would come up to me and say: ‘Oh, come on now. What *really* happened?’”

Donna Palomba heard those rumors too and could feel the town’s doubts as well. In the local Stop & Shop, she noticed that acquaintances would steal a glance at her, whisper and look away. A previously friendly neighbor a few doors down suddenly stopped talking to her.

“Instead of believing me,” she says, “people chose to believe that I concocted that rape — that I scratched my own cornea, cut my own phone lines,

left my small children alone, ran to a neighbor in the middle of the night and banged on the door in a state of panic — all of that to cover an affair.”

Regan’s family hired an eminent defense attorney, one who successfully appealed the murder conviction of Michael Skakel, Ethel Kennedy’s nephew, and worked on the appeal of the rape conviction of Alex Kelly, the teenager from Darien, Conn., who fled to Europe after he was charged.

Regan maintained that he and Palomba did have sex but that it was consensual. The court freed him on \$350,000 bail and issued a restraining order barring Regan from going near Palomba and Regan’s co-worker. Even so, Palomba remained unnerved. Knowing he was free, she found herself startled by any unexpected sound. She frequently scanned her surroundings and had difficulty sleeping. “I never knew if I’d run into him in town, and I kept remembering his threat to kill me,” she said. “I also worried that he’d run into my husband and that my husband would actually kill him. John really, really, really struggled with that, and I was afraid he’d follow through. He became preoccupied with it, and though he took out a lot of aggression on his punching bag, his rage was huge and was always there.”

On Halloween 2005, while out on bail a year after being charged for the Connecticut attacks, Regan was once again arrested, this time in Saratoga Springs, N.Y., 140 miles from his home. He had waited in a high school parking lot and then grabbed a 17-year-old runner after her

Still, some of Regan’s relatives and family friends wrote to the Saratoga County judge and district attorney, asking for leniency for Regan. They referred to him as an “exemplary neighbor,” a “gentle man” and someone they could not imagine was “capable of any crime.” Regan pleaded guilty to second-degree kidnapping of the high school student, and New York sentenced him to 12 years.

Prosecuting his Connecticut crimes wasn’t as straightforward. In theory, Regan was potentially facing a 35-year sentence — which did not include the 20 additional years he could have faced had the statute of limitations not barred rape prosecution. But without the ability to charge Regan with rape, the state’s attorney, John Connelly, was reluctant to go to trial in Palomba’s case and had limited leverage as he worked on the plea bargain. Sexual assault is hard enough to prove when the suspect says the encounter was consensual, and in this case, it would be even harder because there was no evidence of forced entry into Palomba’s home. The other hurdle was trying first to persuade a jury that Palomba was raped and then explain that Regan couldn’t actually be charged for that crime, even though the sexual assault was the very basis for the kidnapping charge. Plus, there was the challenge of persuading a jury that Palomba had been kidnapped (by Connecticut’s definition), even though Regan never moved her from the bed.

“When you have a rape case and charge kidnapping but not rape, jurors — especially jurors who don’t trust police or the state attorney’s office — sometimes think you’re overreaching, or that the prosecutor is trying to force a charge that doesn’t apply,” says Maureen Norris Wilkas, Palomba’s attorney, who served as her liaison to the state’s attorney. Connelly, Wilkas says, “didn’t want to roll the dice on this. He knew it would be a stretch. And he didn’t want to risk Regan being found not guilty.” (Connelly has since died.)

And so the two sides settled on a plea deal for Regan’s Connecticut crimes: Regan would plead under the Alford doctrine, which allows a defendant to assert his innocence while simultaneously pleading guilty and acknowledging that the state has enough evidence for conviction. The sentence would be five years for unlawful restraint of his co-worker, two years for stalking that co-worker and 15 years for kidnapping Palomba. But the three sentences

would be served concurrently not only with one another but also with the 12 years for the New York case.

For Palomba, Regan’s sentence was yet another devastating offense. How was it possible that the law allowed him to effectively serve only three years in prison for his violent attack on her?

DEFENSE ATTORNEYS AND civil liberties advocates understand the anger and resentment assault victims have about statutes of limitations, but they argue that those laws are an essential protection that reduces the likelihood of a wrongful conviction. Imagine a case of mistaken identity, in which you were accused of a crime from 20 years earlier that you didn’t commit. Because you are innocent, that day long ago was most likely unremarkable, so how could you remember whom you were with, what you were doing, who might have seen you, what conversations you had? How could you obtain the evidence that once existed — including the ephemeral memories of witnesses regarding what they saw and heard — which you’d need to disprove the claims against you?

“Where you come down on statutes of limitations depends in large part on whose perspective you take,” says E. G. Morris, former president of the National Association of Criminal Defense Lawyers, who opposes abolishing statutes of limitations. “There’s simply no way to come to a consensus on what resolution is just. We’ve had an evolution in society’s



LEFT: JENNY WENDT, WHO LOBBIED POLITICIANS IN INDIANA AFTER A MAN SHE DATED CONFESSED TO RAPING HER BUT COULD NOT BE PROSECUTED. RIGHT: BRENDA TRACY, A GANG-RAPE VICTIM AND ADVOCATE OF LEGAL REFORMS IN OREGON.

track practice. He tried to shove her into his van while restraining her and covering her mouth. She kicked and struggled and was able to free herself enough to scream. Her coaches, hearing her terror, ran over and chased Regan until the police arrived. Officers arrested him for attempted kidnapping. Inside the van, the police found a rope with slipknots, a pitchfork, a tarp, a syringe and a large dose of liquid antihistamine — a combination that the police said indicated he was prepared to “perpetrate unimaginable horror on his young victim.” In the van, the police also found hundreds of photos of apparently unsuspecting young women in miniskirts, shorts and athletic tops as they jogged, walked or biked, or got in or out of their cars — shots that zoomed in on their breasts, legs and backsides. Among them were photos of the 21-year-old co-worker, taken more than a year after she reported his assault, which Connecticut prosecutors considered evidence of stalking.

After learning of Regan’s Connecticut arrests, New York State officials denied him bail. Once again, Regan’s photo was in *The Republican-American*, this time accompanied by the headline, “Kidnap Suspect Nabbed Trying to Seize Teen Girl.”

“Once he was caught attacking that girl, that was the end of speculation and rumor in Waterbury,” O’Leary says. “That’s when most of the naysayers said, ‘Oh, my God, Donna really was the victim of a sexual assault.’ The Saratoga Springs case really jolted everyone.”

thinking about sexual assault recently, and it's clear women were marginalized in the past, and sexual assault wasn't viewed as the serious offense it is. But there's no bright line we can draw where a policy can protect everybody — giving the defendant the fairest chance at defending himself and the victim's fairest chance for justice too."

To the dismay of civil liberties advocates, prosecutors have sometimes managed to circumvent statutes of limitations when DNA has been collected in a rape case but there is no match in the forensic DNA database. Some states that lack a DNA exception allow district attorneys to issue a "John Doe" DNA indictment that identifies the presumed assailant simply by his genetic profile. If the DNA database eventually identifies a match, the warrant is amended with the suspect's name, even if that occurs far beyond the time the statute of limitations would otherwise permit. Those opposing John Doe warrants and DNA exceptions point out that DNA evidence isn't infallible. It must be collected, identified and analyzed precisely; safeguarded through the chain of custody; and kept free of contamination. Even with protocols now in place, environmental or human errors can still occur. Nevertheless, courts have generally upheld the tactic as a way to get around the statute of limitations until a DNA hit appears.

The battle over statutes of limitations for sexual assault is so fraught that it has upended traditional political alliances. Women's rights activists typically partner with progressives on political issues, including reducing aggressive policing and incarceration, particularly given the role played by race and class. But sexual assaults and domestic violence — both of which usually involve a female victim — have long had the opposite problem; their prosecution has been utterly anemic. And those activists focus more on justice for victims. Many progressive lawmakers have endorsed extending

'WHERE YOU COME DOWN ON STATUTES OF LIMITATIONS DEPENDS IN LARGE PART ON WHOSE PERSPECTIVE YOU TAKE. THERE'S SIMPLY NO WAY TO COME TO A CONSENSUS ON WHAT RESOLUTION IS JUST.'

prosecution time limits somewhat for sex crimes, but support fades when it comes to long extensions or elimination. As a result, those who advocate abolishing the limits find their staunchest allies in conservative lawmakers.

Activists who strongly champion the rights of both women and defendants can find themselves caught in the middle when considering what length of time is fair. "Where to set the statute of limitations is a really complicated and very painful decision," says Deborah Tuerkheimer, a former Manhattan prosecutor who is an author of a book on feminist jurisprudence and teaches at Northwestern University's law school. "You have to struggle with the question: How important is it to pull back from the carceral approach, and on the other hand, how important is it to see that women receive equal protection under the law, that they're treated as equal citizens and that their injuries matter? However you come out on that question, you should probably feel a little uneasy."

Other feminists say the emphasis on statutes of limitations is misplaced, and that significantly lengthening time limits ignores deeper and more important problems. "The biggest barrier to victims' coming forward isn't the statute of limitations, but what victims face when they do report," says Sandra Park, senior attorney with the national A.C.L.U. Women's Rights Project. Park is devoted to improving victims' access to justice, but not by eliminating criminal statutory limits. "On a daily

basis, sexual-assault survivors are completely dismissed by law enforcement, especially if the survivors are low income or women of color." If the police treated victims sensitively, Park says, more would be likely to report, and if the police pursued those claims more seriously, the conviction rate would be likely to increase — all without

DONNA PALOMBA WITH HER DAUGHTER, SARAH. DONNA NOW STAYS WITH SARAH WHEN JOHN IS AWAY, SO SHE WON'T HAVE TO SLEEP AT HOME ALONE.

undercutting the point of the statutes: to discourage convictions based on faded memories and eroded evidence.

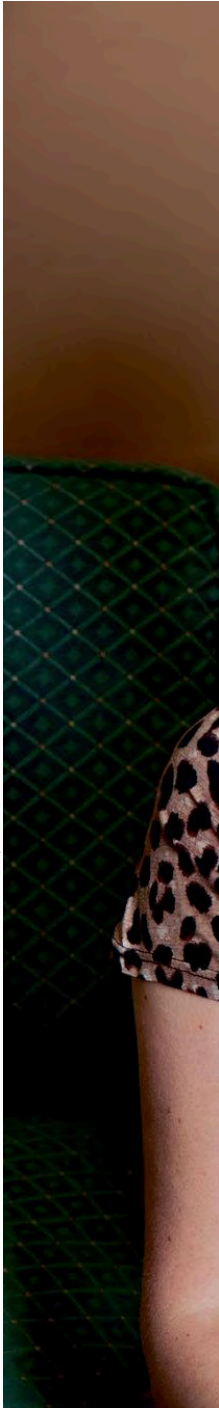
Pressed by the A.C.L.U. and others, the Department of Justice under Attorney General Loretta Lynch issued a guidance in 2015 urging law enforcement nationwide to identify and prevent gender bias in its response to sexual assault. Noting that bias can constitute unlawful discrimination, it called for changes in policy and practice — including respectfully interviewing victims and investigating sexual assault as vigorously as other crimes of similar significance. The department also provided grants for research and training on best practices and to increase accountability for meeting the Justice Department's guidelines. Additionally, federal funding has helped address the many untested rape kits and create protocols and teams to investigate and prosecute rape cases more sensitively and aggressively.

Because of the growing consciousness about the unjust handling of sexual-assault cases, some states are now addressing the complexity of statutes of limitations. In Oregon, for example, lawmakers moved by the challenge of balancing victims' and defendants' rights have finessed a compromise related to their 12-year statute of limitations for first-degree sexual assault. In 2016, the state added several pioneering exceptions. Charges can now be filed at any time if DNA evidence points to a suspect, and also under the following circumstances: if audio, video or other electronic recordings, text messages, phone recordings or photographs provide incriminating evidence; if the victim told or wrote to someone about the assault soon after it occurred; if the suspect confesses; or if the police receive a report from another victim of a similar crime by the same suspect.

"For a long time, the concerns about statutes of limitations in sexual-assault cases were not taken seriously," says Suzanne B. Goldberg, who directs Columbia University's Center for Gender and Sexuality Law. But things are shifting now, and in this new reckoning with how we've dealt with sexual assault, culturally and legally, Goldberg says tensions are inevitable as states sort out the best legal framework for a troubling crime with a troubling history. She added, "We do better as a society when we engage in these questions instead of ignoring them."

IN 2006, DONNA Palomba joined an effort to expand Connecticut's statute of limitations for rape. She met with legislator after legislator, telling her story and explaining why she felt the state's short time limit should have an exception: If police have DNA evidence of the suspected crime, she argued, prosecution should be permitted no matter how long it takes to find a DNA match. The next year, the legislature voted for that exception with the stipulation that it apply only if the victim reports the assault within five years.

Gov. Jodi Rell, a Republican, held the ceremonial bill signing at the Waterbury Police Department, the same place where Palomba was accused of





fabricating her rape years earlier. Palomba stood nearby as Rell called sexual assault “violence of the most personal and devastating kind, as brutal in its own right as murder.” Rell continued: “It deserves not only harsh punishment but our very best — and unswerving — effort to bring the perpetrators to justice.”

In the years after Palomba helped win the DNA exception in Connecticut, other victims of sexual assault lobbied their own legislators. In Indiana, political change occurred after a strange series of events. In 2014, a 39-year-old molecular biologist walked into a sheriff’s office in Indianapolis and confessed to raping a nursing-school student named Jenny Wendt nearly a decade earlier. He told a detective he had been haunted ever since and wanted to go to prison for what he did. The detective contacted Wendt and asked if she had been ever sexually assaulted.

Wendt explained that she had briefly gone out with her former physiology-lab teaching assistant, who was also a martial-arts instructor. He seemed sweet and respectful throughout until after their third outing, when he suddenly pinned her arms behind her, raped her vaginally and anally and then wordlessly left. As a nursing student, Wendt had learned the importance of prompt forensic

exams, but she didn’t go to the police or a hospital, certain that no one would believe she was raped, because she and her assailant had dated.

The detective asked Wendt if she wanted to press charges, and Wendt said absolutely. But a few days later, the detective informed her that the case was closed; Indiana, like nearly half the states at that time, had a five-year statute of limitations for most rapes. Once that deadline passed, no one could be charged for the crime — even with an unsolicited confession, and even if the perpetrator begged for it.

Appalled, Wendt went on to lobby and persuade Indiana lawmakers to provide some exceptions to the state’s narrow window, including if an assailant confesses or if DNA reveals an apparent match. Mike Pence, then Indiana’s governor, signed the bill in 2015.

Inspired by Wendt’s early efforts, a Florida woman, Danielle Sullivan, began lobbying that same year to extend her state’s time limits. She was raped on a business trip to Orlando in 2010, and four years and 43 days after the incident, she mustered the courage to report it to the police. When she did, the police said she was 43 days too late. Florida legislators agreed to

double the time frame for prosecuting first- and second-degree adult rape to eight years.

Wendt also testified in Oregon, where several victims of sexual assault were working to change the law. One of them, Brenda Tracy, had been gang-raped by several college football players, but authorities tossed out her rape kit even before the statute of limitations expired. Another woman, Danielle Tudor, reported her assault — by a serial rapist — after the six-year limit had run out. Although she was the only one of his victims to see his face, and the only one who could help the police compile the composite sketch that led to his arrest, he still could not be prosecuted for her rape. In 2015, Oregon legislators agreed to double the state's prosecution deadline to 12 years for first-degree sexual assaults.

Other assault victims were spurred by what has been called the Cosby effect: Several of Cosby's accusers, frustrated by the prosecution time limits, fought for statutory change. Lise-Lotte Lublin, who said Cosby sexually assaulted her in Las Vegas in 1989, helped persuade Nevada lawmakers in 2015 to increase the limit for adult rape prosecution to 20 years from four. Two other Cosby accusers, including Beth Ferrier, a former model, successfully pressed Colorado's Legislature to double its 10-year limit. And four Cosby accusers in California worked successfully to get their lawmakers to abolish the sexual-assault statute of limitations altogether.

In Connecticut, though, the prosecution time limit for most rapes, in the absence of DNA evidence, remains five years, even though most other states have extended their statutes beyond that. Last month, the State Senate (which is split evenly between Republicans and Democrats) overwhelmingly passed a bill to abolish the prosecution window for most sexual-assault felonies and to update the state's sexual-harassment laws, a win that one of the sponsors, Senator Mae Flexer, credited to the #MeToo and #TimesUp movements.

In the House, a supporter of Flexer's effort, Representative Liz Linehan, stood on the floor and for the first time told all her colleagues how she was sexually assaulted years ago at a radio station where she was an on-air personality. Though she told her boss what happened, Linehan was the one who was eventually fired, while the assailant's career continued to flourish. After she finished speaking on the House floor, she recalls, "Democrats and Republicans, friends and, honestly, foes, came up to me and said they hadn't really known anyone who'd gone through this, and that I put a face on the problem, and they understood it now. I thought that meant they'd help me fight for the bill, and some did." But the state's Division of Public Defenders lobbied hard to fight it, and so did the chief state's attorney, Kevin T. Kane, who argued that such a law would require prosecutors to search for elusive evidence for old claims, only to be unable to prove them beyond a reasonable doubt. As a result, Kane wrote in a letter to lawmakers, "many victims of assaults that occurred

decades ago would get little more than false hope." And so, in Connecticut's Democrat-led House, the bill was never even brought up for a vote.

These days, Donna Palomba stays busy with her work at the nonprofit she started a decade ago, Jane Doe No More, which supports survivors of sexual violence and provides materials and presentations to Police Departments to sensitize emergency medical workers and press the police to investigate assaults fully. She and other survivors speak at high schools, colleges, businesses, civic meetings and community events to let others know they're not alone, that the rape isn't their fault and that receiving a post-rape forensic exam is critical.

The Palombas live in the home where they moved a year after the rape, to get away from the constant reminders of those painful times. Their children are grown now, and when John goes out of town, their daughter, Sarah, who lives nearby, invites Donna to stay over, so Donna doesn't have to sleep in the house alone.

Last summer, as Regan was approaching the end of his 12-year sentence in New York, Donna was heartened that he would still spend three more years behind bars, this time in a Connecticut prison, which meant she could put off her worrying a while longer. But in August, Maureen Platt, who replaced John Connelly as the state's attorney, called Donna and said she had terrible news: The Connecticut law in effect in 1993, when Regan assaulted her, provided felons "statutory good time," a reduction in their sentence if they didn't misbehave. As a result, Platt told Palomba, Regan was able to shave more than four years off his 15-year Connecticut sentence. That meant that in late October, when Regan completed his 12-year sentence for New York, he would be a free man. It would be as if he had never even been convicted of his crimes in Connecticut.

The news shook Palomba deeply. She was sure there had been some terrible mistake. Her attorney was blindsided as well. "What John Connelly told us would happen and what happened were two different things," Maureen Norris Wilkas says. "He knew how very important it was to Donna that Regan do time for her crime, and John Connelly insisted that after Regan did his time in New York, he would come back and do three years here."

Palomba was devastated. "I was incredibly upset and felt incredibly betrayed," she says. "We'd all been told he was going to come to Connecticut to finish his sentence for those three years, and though I certainly wasn't happy that it was so short, it was one of the few things I thought I could rely on, that wouldn't change, that was under control." The Palombas installed a surveillance system around the house.

Regan was slated for release on Oct. 27, 2017, but authorities in New York had another plan. They hoped to hold Regan indefinitely using a legal maneuver called civil confinement, which allows the state to keep particularly dangerous defendants locked up even though they've completed

their sentences. While the state has recommended civil confinement for less than 5 percent of sexual assailants in the past decade, it considered Regan a "dangerous" sexual offender who was likely to reoffend, and who should therefore be confined to a psychiatric center. A civil trial, which is unlikely to take place before this fall, will determine whether Regan meets the threshold for confinement. Until then, a New York civil court has ordered that he remain in custody. (Regan's court-appointed counsel declined to comment on his behalf.)

"I was a good friend of his," John Palomba told me, still seemingly in shock nearly 14 years after Regan was arrested. "My good friends were good friends of his. He was doing stuff that none of us ever suspected. This guy was living a double life. At that trial, they ought to say to the jury, 'If you guys let him out, whoever he harms next is on you.'"

Though the civil trial will be held in upstate New York, Regan's Connecticut crimes will play a significant role in the judge or jury's decision, which is why New York officials asked Donna Palomba and the former co-worker Regan had attacked if they would testify at the proceedings. Each readily agreed.

A few months ago, I sat with Palomba at her kitchen table. On that day, she was surrounded by boxes of court testimony and newspaper clippings, fading documentation of a yearslong, not-so-faded nightmare. Weeks earlier, I heard the recording of her 911 call from the night of the rape, but I had a small question about it, so she offered to play it for me; she had obtained a copy for her lawsuit against the police years earlier. As soon as the nine-minute recording started, Palomba fled the room. Once it ended, she returned and apologized, explaining that although she has told her story hundreds of times to audiences large and small, the one thing she still can't bear is hearing her petrified voice that night. "It just takes me back there — the hyperventilating, the indescribable panic," she said.

And yet she is eager to testify for Regan's confinement, as New York makes its case that he has what the state calls a "mental abnormality" that strongly predisposes him not only to sexually assault others but also to be unable to control that urge. Mental-health professionals will do most of the testifying, but Palomba understands that she'll be asked to talk about how Regan presented himself all those years before the rape — pleasant, normal, harmless — and how he acted the night of her assault.

Palomba tries not to think about having to face Regan in court. Instead, she focuses on New York's determination to keep him locked up. She has long felt that her own state — because of statutes and attitudes — never took her rape seriously, and never took seriously Regan's capacity to do harm. "In Connecticut, I felt helpless, like I was speaking but no one was listening and nothing was happening," she said. "But with this civil action in New York, I feel like, after all these years, I'm finally being heard." ♦

Jane Doe
no more

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