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In Case You Missed It

The truth about the Baby Brianna bill

"It's a shame that Garcia is now distorting the facts about what happened."

The truth about the Baby Brianna bill

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State Sen. [Mary Jane Garcia](#) recently accused Republican gubernatorial candidate [Susana Martinez](#) of misrepresenting her role in the passage of a bill that resulted in tougher penalties for child abuse resulting in death. But the reality is that it's Garcia – not Martinez – who is misrepresenting the facts.

The criticism from Garcia came last week in [a letter](#) she sent to media outlets across the state. It was in response to this campaign ad from Martinez:

<http://www.youtube.com/watch?v=xetSs6apl-o>



“Baby Brianna was five months old when she died. She had many broken bones, over 30 bite marks, and she was beat to death,” Martinez says in the ad. “We had to fight for those kids that were killed this way, so we went to the Legislature and fought for three years to make it a life sentence, and we succeeded.”

Garcia’s most egregious claim – in a letter she sent to media outlets across the state last week – is this statement:

“Martinez claims she had worked for three years on the legislation; however, it was only in 2005 (the year the bill was passed) that I remember her in Santa Fe, merely observing in a house committee and senate committee as SB 166 was debated.”

She implies that Martinez’s only role was “observing” a couple of legislative committees. The reality is well documented and directly contradicts Garcia’s claim.

But first the context: Baby Brianna was one of seven children killed by family members in Doña Ana County in a span of 3.5 years. The circumstances surrounding Brianna’s 2002 death made it the most shocking to the community, which rallied around efforts by Garcia and Martinez to toughen the penalties for child abuse resulting in death.

Brianna’s death became well known beyond New Mexico. I was the crime and courts reporter at the Las Cruces Sun-News at the time and was contacted by people from around

the country who work to combat child abuse. Many told me it was one of the worst cases they'd ever seen.

Garcia sponsors legislation

In that context, Garcia sponsored [Senate Bill 326](#), which would have toughened the penalties for child abuse resulting in death, in 2003. Martinez was among those who traveled to Santa Fe for a committee hearing on the bill. The bill didn't make it out of the Senate that year.

What Garcia and Martinez both seem to have forgotten is that the bill wasn't introduced in 2004 because it was a 30-day session and the bill wasn't on the call.

Then came 2005. There was a much more intentional effort to pass [Senate Bill 166](#). To bring attention to the issue, I did a series of articles for the Sun-News on the child abuse deaths. Martinez's office took portions of a graphic that accompanied one of my articles – images of each child who had died and info about their cases – and enlarged them to make posters to take to Santa Fe for committee hearings.

Lawmakers didn't allow the posters into hearings. Some of the photos were autopsy photos that offended some legislators.

A private donor funded a Martinez-coordinated effort to bus dozens of people from Las Cruces to Santa Fe to attend the hearings. Martinez and other employees of the district attorney's office took the lead in inviting people and driving them to and from Santa Fe.

On Feb. 17, 2005, an article I wrote documented one of those trips, in which Deputy District Attorney Amy Orlando bussed 60 Las Cruces north. Here's what Garcia said at the time about those people who came from Las Cruces:

“I appreciate very much what they're doing. I want to thank them all.”

Martinez made about half a dozen trips to Santa Fe for hearings on the bill. She spoke at more than one. The Sun-News' Walt Rubel, [writing last weekend](#) about Garcia's new attack on Martinez, pointed out that in a 2005 article he wrote, he quoted Martinez as telling the Senate Public Affairs Committee, “Almost everyone in this room comes from Las Cruces. We came by bus, we were escorted by law enforcement. Medical personnel, La Pi on Battered Women's Shelter ... everyone that we could load in a bus we brought today. And we are here in very strong support of this bill.”

Martinez also helped organize and spoke at a news conference about the bill in the Roundhouse on that day.

Michael Sanchez's untruths

The bill made it all the way to the Senate floor before Majority Leader [Michael Sanchez](#) butchered it with statements that weren't true. A Feb. 19, 2005 article from Rubel documented what happened. Essentially, Sanchez "pushed through a floor amendment" that changed the bill so that it still strengthened the penalties for child abuse resulting in death, but also weakened the penalties for intentional and negligent child abuse resulting in permanent injury.

Even though he proposed weakened penalties for both negligent and intentional child abuse resulting in permanent injury, Sanchez said his goal was to distinguish between intentional and negligent acts. He argued that parents could be prosecuted under the negligence law if a child died in an accident or was abused without their knowledge.

"There but for the grace of God go I," Sen. [Dede Feldman](#) was quoted by Rubel as saying in announcing she would support the bill with the weakened penalties.

Martinez was livid. In an interview with me, she was highly critical of senators who amended the bill, saying the weakened penalties would allow parents who permanently injure their children to return home in time to abuse children again before they become adults.

Where was Garcia when all this was happening? She agreed to support Sanchez's floor amendment.

"The intent is to put the perpetrator in jail. I don't want to put an innocent bystander in jail," Garcia was quoted by Rubel as saying.

Martinez challenges Sanchez's claim

Martinez started working behind the scenes to combat Sanchez's amendment. She called me and told me she wanted me to quote her as saying Sanchez's claim was false, and told me she'd spoken with the AG's office, and if I called them they'd tell me the same thing.

I did, and on March 13, 2005, the Sun-News published my article quoting Martinez and AG spokesman Paul Nixon as saying Sanchez's claim that parents who accidentally kill their children could be prosecuted under the bill was false. Specific wording in the bill, Nixon told me, prevented that.

Sanchez, I noted at the time, is a criminal defense attorney. Martinez accused him and Sen. [Cisco McSorley](#) – another lawyer and legislator who argued for the weakened penalties – of manipulating colleagues who weren't lawyers and didn't know any better. She questioned whether the two were working for their constituents or clients.

Many believed the bill was dead, because support evaporated when it was amended to weaken penalties for some types of child abuse. Gov. [Bill Richardson](#) said he wouldn't sign it in its amended form.

But Martinez hadn't given up. Copies of my article quoting Martinez and Nixon were left on lawmakers desks as the weakened bill headed to the House.

Cervantes breathes new life into legislation

Enter state Rep. [Joseph Cervantes](#), D-Las Cruces, who worked behind the scenes to fix the bill. He spoke with the governor and worked with his colleagues on the House Judiciary Committee to restore the bill to its original version and clear the way for it to pass the House and Senate. And it did.

And there was Garcia, being quoted by Rubel as saying she was pleased with the changes that restored the bill.

"My intent has always been to put the perpetrator away for life," she said at the time.

Martinez was at the House Judiciary hearing. It was the first hearing, according to Rubel's article, that wasn't attended by dozens of Las Cruces bussed by Martinez's office. That was due to bad weather and the late scheduling of the bill.

With Sanchez having been called out by Martinez and the AG's office, the bill in its original, toughened form easily made it through the House and, on the second try, through the Senate. Martinez publicly thanked Cervantes and House Majority Leader [Ken Martinez](#) for making it happen.

Bill enacted; lots of people share credit

The governor said he'd sign the bill. And he did just that at a ceremony in Las Cruces. A March 31, 2005 article by Sun-News reporter Diana Alba states that, at the ceremony, the governor "credited legislators, the community of Las Cruces and 3rd Judicial District Attorney Susana Martinez, who pushed for the passage of the legislation. 'They did it by persisting,' he said."

I want to be clear on something: Garcia was the heart behind this bill. She sponsored it and pushed it. But she alone didn't pass it. Cervantes, Ken Martinez and others in the House, along with the governor, brought the bill back to life and carried it to passage.

And you can't discount the effect Susana Martinez had, through speaking at committee meetings and a news conference, bussing people from Las Cruces, and working behind the scenes with the AG to combat Sanchez's shenanigans.

No one person gets credit for this. Garcia, Cervantes, Richardson, Susana Martinez and Ken Martinez all played huge roles, as did Edgar Lopez, the Las Cruces who paid for the busses to take people to Santa Fe.

The people who gave their time to travel to Santa Fe from Las Cruces to stand and speak in support of the bill were also critical.

Garcia and others have called it the ‘Baby Brianna bill’

One more point: Garcia wrote in her letter to the media last week that the bill was titled “Life Sentences for Deadly Child Abuse.”

“The name of Briana Lopez or baby Briana Act does not exist in the statute,” Garcia wrote. “It was never my intention to put the name of any child on the bill because it was done for all children in New Mexico.”

Brianna’s name does not exist in the statute. But lots of people called it the “Baby Brianna Bill” – including Garcia.

In fact, Garcia did it as recently as July of this year, when she authored [a guest column](#) on this site and elsewhere about a new child abuse death in Anthony. Here’s what she wrote:

“I remember back to 2002 when something unimaginable occurred in my very own community of Las Cruces. In 2002 baby Briana Lopez, a six-month old infant, was found horrifically beaten and raped countless times by her family members, bitten by her own mother, bruised throughout her entire body, and thrown hitting the ceiling and dropping to the floor. Briana Lopez [died July 19, 2002](#) from the brutal abuse.

“In 2005 I passed [SB166](#) – a bill known as the ‘Baby Briana Bill’ that created life sentences for child abuse resulting in death. Baby Briana’s death was the impetus for this piece of legislation...”

It’s a shame that Garcia is distorting the facts

It’s no secret that Garcia and Susana Martinez don’t like each other. Martinez once prosecuted Garcia’s brother-in-law and nephew, [Miguel O. “Mike” Gonzales and his son, Michael Gonzales Jr.](#) Garcia has told me in the past that she doesn’t like Martinez for that reason.

I’m glad they were able to come together in spite of that in 2005 to get this bill passed. It’s a shame that Garcia is now distorting the facts about what happened.

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