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OFFICE OF VICTIM ADVOCATE

Giving Crime Victims a Voice

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OpEd: Marsy's Law **Jennifer Storm | October 29, 2019**

On November 5, Pennsylvania voters have the opportunity to determine a measure that would ensure no crime victim in our state is ever denied their own rights without recourse.

There has been a lot of discussion, as of late, about victims' rights and the rights of the accused. So let's set the record straight: rights are not a zero sum game. Elevating victims' rights will not usurp or diminish the rights of the accused. The rights of the accused are vital. They cannot and should not be infringed upon. They reside in our constitution because, as a society, we value liberty and freedom at all costs. When someone's liberty or freedom is at stake, that person should have every legal resource at their disposal to ensure fair and proper representation. Everyone knows if you are accused of a crime, you have the right to be silent, the right to an attorney- appointed to you at no cost if you cannot afford one. You have the right to be present at all proceedings pertaining to your case. You have the right to confront your accuser; you have the right to disclosure of evidence the Commonwealth has against you. You have the right to cross-examination, request continuances in your case to provide more time for defense, challenge evidence, provide a defense or not provide a defense. You have the right to your own evaluations, your own assessments, and you have the right to a variety of appeals if you do not agree with an aspect of your case handled by the Commonwealth.

Conversely, as a crime victim you have statutory rights that include the right to be informed of your legal rights; the right to be present at all proceedings involving your crime; the right to financial assistance via compensation through the state fund. You have the right to have a victim advocate walk you through the justice system. You have the right to speak - after the accused is convicted or adjudicated, at the time of sentencing or disposition. You have the right to financial restitution. You have the right to provide testimony when people are seeking release or relief of convictions. You also have the right to deny any requests of discovery or interviews from the accused or their attorney. It is important to understand that all of these rights have existed for over two decades in current statutory law with zero infringement upon the accused.

The problem that Pennsylvania is currently facing is that crime victims have no legal recourse when one of these rights is violated. Should a crime victim not be afforded the right to give their impact statement to the court at sentencing, for example, they have no standing to assert that right in court. The case is simply over. In order to remedy this, crime victims need the opportunity to petition the court, should these rights be violated. We seek to remedy this by elevating these current rights, from the statutory level, to the constitutional level; thus, creating a balance between the rights of the accused and the rights of the crime victim. This is what Marsy's Law seeks to do.

There are a number of rumors about Marsy's Law being disseminated in an effort to confuse and frighten voters. The citizenry of Pennsylvania is comprised of both crime victims and crime perpetrators, of those who have had little or no interaction with our justice system and those who know it intimately. Anyone could become a victim of crime, just as anyone could be accused of a crime. Creating equal rights in the court process for crime victims and the accused has no bearing on sentencing or incarceration rates in Pennsylvania. Pushing a narrative that furthers the gap between crime victims and offenders does nothing to bring healing to our communities.

Put simply, myself - and many survivors - wholeheartedly support criminal justice reform packages that have passed and are circulating our legislative chambers, including clean slate bills, presumptive parole for non-violent offenders, justice reinvestment, capping lengthy parole and probation tails, arduous violations that result in incarceration, and ongoing reform measures to the pardons board - to name a few.

For more than thirty years, 35 states in this country have provided constitutional rights for crime victims. There has yet to be a single court case that has illustrated that a constitutional right for a crime victim has infringed upon the right of the accused. It has never occurred.

Pennsylvania citizens deserve a justice system that is balanced - that is sensitive to both the liberty at stake for the accused and the harm endured by the victim. By elevating the rights of victims into the Pennsylvania Constitution, we make a statement that we honor and respect both of these things, separately but equally. Co-equal, respective rights can exist in our constitution while not competing against one another.

On November 5, you can vote for Marsy's Law and know that you are helping to create a more balanced and compassionate system for all.

- Jennifer Storm
Commonwealth Victim Advocate