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Written Testimony Re: Statute of Limitations Reform in Pennsylvania

Senate Judiciary Committee

October 2, 2019

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The Pervasive History of Sexual Violence in Pennsylvania

"Those who fail to learn from history are doomed to repeat it."

In Pennsylvania, we have a complex and horrific history highlighting the epidemic of sexual violence and institutional cover-ups. We also have a history deeply rooted in the passage of many victims' rights and child protective acts. However, we have failed to learn in one area, and therefore, have seen report after report of that failure.

We have seen the various grand jury reports on the vast cover-ups in the Catholic Church; the crimes committed by Jerry Sandusky and his subsequent conviction; two grand jury reports illustrating two school districts who knowingly concealed sexual violence between students and teachers; the recent conviction of Bill Cosby and legal determination that he is, in fact, a Sexually Violent Predator; the recent conviction of pedophile pediatrician Dr. Barto; allegations against members of our own legislature, resulting in Protection from Abuse Orders, resignations, grand jury reports, independent investigations and now the arrest of a sitting member. All roads seem to lead to Pennsylvania when it comes to exemplifying the depths of sexual violence in our society and the calculated way institutions circumvent accountability. Still, Pennsylvania is not unique - we are simply illustrating the larger rape epidemic that has been identified in all of the cases just mentioned with various suggested remedies - some of which have been implemented, some of which have not and are therefore creating shadows where perpetrators continue to take solace.

This body has ensured passage of most of the legislative reforms that have come as a result of the various grand jury reports and high-profile prosecutions, and we applaud you for doing so. You have made Pennsylvania safer in many ways. There is an exception of one prevailing theme that came up in the majority of the reports and it is why we are here today- abolishment of the statute of limitations in sexual assault cases. The first three grand jury reports in 2003, 2005 and 2011 all dealt with The Roman Catholic Archdiocese of Philadelphia unveiling hundreds of cases where children were raped and exhaustive cover-ups were deployed.

In 2003, the Grand Jury recommended:

“The Legislature should eliminate the statute of limitations for all crimes involving the sexual abuse of children and the concealment of those crimes. In the alternative the Legislature should considerably lengthen the time in which a prosecution must be commenced for the sexual assault of a child to reflect the reality that many victims of child sexual assault are not psychologically able to report the crimes against them for decades after the abuse occurred.”

“I carried and still carry SO much guilt for not telling sooner. I am angry I didn't go to the police when I became an adult.... but I wasn't ready to come forward. I was still trying to sort it all out and figure it out in my own life. I didn't have words for it. I am always anxious about everything.”

In 2005, the Grand Jury recommended:

“This man stole my innocence, and my childhood.”

“Abolish the Statute of Limitations for Sexual Offenses Against Children”

“Enlarge or eliminate statutes of limitation on civil suits – we ask the legislature to consider lengthening or suspending civil statutes of limitation in cases of child sexual abuse”

In 2011, the Grand Jury recommended:

“I am almost 57 and I feel the trauma like it happened today.”

“Enact a two-year window to allow child sexual abuse victims to have their cases heard”

“Abolish the statute of limitation for sexual offenses against minors.”

Also in 2011, a Grand Jury recommended extensive criminal charges against Gerald Sandusky and exposed a massive cover-up by entities associated with Sandusky, including The Second Mile and Penn State University. The Grand Jury, in that case, made no specific recommendations; however the Pennsylvania General Assembly empaneled an 11 member Task Force on Child Protection that made several recommendations about the Child Protective Services Law, Crimes Code and Public School Code, but oddly made no recommendations on statute of limitations, even though there were many calls for - and disclosures from- survivors who were timed out of their respective statutes of limitations regarding allegations against Sandusky.

"I still, to this day, have low self-esteem and low self-worth. I have not been able to have healthy relationships. I tried to commit suicide."

"I struggle with letting people hug me or invade my personal space"

In 2014, a Dauphin County Investigative Grand Jury released a report on the Susquehanna Township School District and an assistant principal who was sexual assaulting a student. The report highlighted the school districts' failure to act on information in a timely manner.

Numerous legislative reforms came as a result of this report to tighten the protections of children and the requirements on school districts for reporting, evaluating and disclosure.

In 2016, Allegheny County issued a Grand Jury Report on the Plum Senior High School where there had been reports of ongoing sexual assaults and lack of action taken by administrators. The report illustrated that, while the school officials had reasonable cause to suspect sexual assault was occurring, they failed to act which left the school and its students vulnerable to a known child predator, while he remained employed. The grand jury recommendations echoed prior legislative changes in how internal investigations are conducted, and also recommended school districts establish policies and training around inappropriate electronic communications between student and teachers.

"I suffer from anxiety and depression. I trust nobody."

The year 2016 brought yet another Grand Jury Report against the Roman Catholic Diocese of Altoona-Johnstown which illustrated decades of abuse and cover ups by the priests and religious leadership. Recommendations speaking to statute of limitations were as follows:

“The rejection from my family members has been very emotionally draining on me.”

“Abolish the statute of limitation for sexual offenses against minors”

“Open a window to allow child sexual abuse victims to have their civil actions heard”

In 2017, the Solebury School Grand Jury Report was released which highlighted a campus culture of wide spread abuse among teachers and students and a culture of concealment around the school’s administration.

The school failed in its duty to report and protect children. They prioritized their institutional reputation and, despite an emphasis on how the statute of

“The nightmares are the worst because I scream in my sleep.”

limitations proved problematic, the grand jury offered no recommendations to Pennsylvania’s General Assembly urging reforms to criminal and civil statute of limitations. It should be noted that this was a problematic theme among all three grand jury reports involving school districts where, in the absence of criminal or civil accountability, the schools remained unchecked in their liability and culpability.

“This abuse has taken an enormous emotional toll. At times, it feels as though I have been through a war. My trust has been shattered and it has taken years of therapy to rebuild that and to restore my faith in people and I still struggle”

In 2018, the 40th Grand Jury Report detailed the largest amount of pedophile priests, victims without any legal remedies, and massive amounts of evidence that showed beyond a shadow of a doubt the systematic and institutional cover-ups of child sexual abuse in our history. The evidence proved that every single diocese in the state of Pennsylvania actively sought to cover-up sexual abuse by concealing evidence, threatening victims

and their families, and often intentionally waiting out the expiration of the statute of limitations to avoid accountability. Massive amounts of records revealed the largest and most well documented cover-up in our history - a cover-up that lead all the way up to the Vatican itself. Unfortunately, in almost every single case of uncovered child rape and abuse, the statute of limitations had expired, leaving the Office of Attorney General without the ability to prosecute.

The 40th Grand Jury recommended the following regarding statute of limitations in 2018:

“Eliminate the criminal state of limitations for sexually abusing children.”

“Create a two-year civil window for child sexual abuse victims who couldn’t file lawsuits before.”

“...sleepless nights, emotional trust fears, avoiding being touched or loved by a loved one, drug and alcohol abuse, fear of being profiled as gay.”

Since the release of that report, thousands of survivors have bravely come forward and exposed their worst nightmares with the hope that they will help usher Pennsylvania into the final and most vital change we need – an abolishment of all statutes of limitations on sexual violence. Period.

“It seems like there are more rights for the people that assault. I feel, because I am in law enforcement, I am supposed to be strong for others.”

Additionally, several of our neighboring states have not only done just that, they have also opened retroactive windows allowing for previously time-barred cases to be brought forth in order to allow for discovery, deposition,

exposure of truth, and protection of additional citizens by identifying offenders who are still living and working with zero regard for the harm they caused and the access they still have to harm others.

Even now, there is an unreleased Franklin County Investigative Grand Jury regarding a well-known scout leader in the Boy Scouts of America (Chambersburg) where the Grand Jury estimates, based upon testimony, that there are 16-18 victims of sexual abuse by one offender who cannot be brought to justice due to the statute of limitations. According to an [article in the York Daily Record](#), the purpose of the investigation, court documents state, was to examine allegations of prior sexual abuse “upon numerous children over the past 40 years, and potential attempts to influence victims from disclosing the crimes over that time frame.” The offender

“The pain never goes away”

has filed a motion with the Pennsylvania Supreme Court barring its public release after President Judge Carol L. Van Horn, who supervised the grand jury, ordered that the report be publicly released. “Here we have an admission from the unindicted person who is protected by the statute of limitations from criminal prosecution after he was afforded all the protections of due process,” Van Horn wrote in a 19-page opinion. The case is scheduled for arguments soon.

"I was victimized by a magnanimous wolf in sheep's clothing."

Pennsylvania is a war zone right now and I refuse to believe we are losing our battle. Each year we make progress. The very exposure is progress. The conversation is progress. Today is significant progress.

We have heard from hundreds of survivors who have wanted this hearing for years; they are grateful to finally see this day come to fruition.

Considerations for Survivors and Future Generations

One of the prevailing recommendations across multiple grand jury reports and after-action reflections of cases comes down to time. *How much time do we give survivors to report?* In Pennsylvania, we have changed our statute of limitations for sexual assault a few times

with a goal of aiding more survivors. The problem that continues to arise is simply this- **each individual survivor will process their trauma differently and in a different time frame.**

Studies show that the average age to report childhood sexual violence is age 52. College age and adult age survivors often come forward decades later as well, once their minds have had the time to process their experience and cultivate the strength needed to have these conversations. The more we learn and hear about the vast and expansive impact of sexual violence in our culture, the more evident it becomes that we cannot put an arbitrary timeline on accountability and healing. A survivor and prosecutor should not need a calendar and a calculator to determine whether justice can be obtained.

"After freeing myself from that teacher, I moved frequently and usually told no one where I was."

"[My daughter] lived in fear and experienced paranoia before she died"

When we stop asking why victims don't report and start asking what we can do to create supportive reporting environments, we will land on recommendations to remove time constraints on reporting and create clear reporting processes in our workplaces and institutions.

The lottery that is our statute of limitations on all things such as criminal prosecution, allowance of a civil suit, crime victim's compensation, and filing formal complaints within the Commonwealth or General Assembly all have various timeframes - none of which are based in science or data. Statutes of limitations have never been trauma informed or placed to hold perpetrators accountable. They were created to protect the accused and the institutions who seek to cover up the abuse. In sexual assault cases specifically, they were put in place to avoid wrongful convictions based on the mistaken belief that the passage of time negatively impacts a case. However, with the advent of DNA collection and other evidence gathering abilities, changes to how we process and store rape kits, and the astounding documentation that has been uncovered in many of the grand jury reports, the courts have debunked this myth that sexual violence cases cannot be proven with the passage of time.

"All the excitement and happiness that I first felt when I met him in 7th grade turned into shame and fear. My music teacher used every tactic in his arsenal to keep me quiet"

"I have had to relocate to a different city and change most aspects of my daily routine."

Additionally, we ask that you consider crimes of homicide. We have no statute of limitations in such cases because, as a society, we have set a value that a life is to be honored and preserved. When a life is taken, we seek retribution, free of time limitations. If police can solve a case, we solve it and we prosecute - we hold the offender accountable. We value this so much that we have cold case units in our police departments dedicated to solving old homicide cases so that justice can be given, not just to the family, but to society. Clearly we have a collective value system that says murder is wrong - period. Rape culture precludes us from having this same value system when it comes to sexual violence. The survivor is left to deal with the emotional, psychological, and physical aftermath of that crime for the rest of their lives. One way we can begin to dismantle rape culture is by acknowledging this very fact.

"Afraid that I would harm my own children. Unable to go to the grocery store due to anxiety. Trouble leaving home as I fear to run into the offender."

As a society, we must become just as outraged by the act of sexual violence, as we are murder. We should pursue justice at every turn when someone is violated sexually. Removing arbitrary time lines from all sexual violence cases makes a statement that, as a society, we believe survivors

"I remember being afraid to fall asleep, because he may come in the room and rape me. When I was around men (at the age of 5 until my 40's) I was afraid of men touching me, because I was thinking they might have thoughts to rape me too."

deserve justice for these heinous acts. It does not, however, negate the need for evidence. Accusers will still need to be able prove their case beyond a reasonable doubt in criminal court and by a preponderance of evidence in civil court. Be that as it may, the removal of time constraints acknowledges that sexual violence is indeed monstrous with lifelong ramifications for victims. It creates an environment that allows survivors to heal in

their own time; it acknowledges the depths of trauma and the reality that delayed disclosure is a norm - not an outlier. It also holds perpetrators accountable. It removes incentives for protection of perpetrators and the systematic covering up of sexual violence.

Every single survivor we spoke with, as well as those who submitted testimony, are asking you today to stop the cycle of abuse and silence by creating necessary changes to our statute of limitations that give all survivors and victims access to justice and a path towards healing.

Furthermore, the large majority of those same survivors and others are asking for the greater protection of the citizenry by the opening of a two-year window to ensure any and all past offenders are exposed and taken out of their respective roles to further rape, abuse and harm.

"All this time, and over all of these years, I thought I was the only victim and was too afraid to tell my parents or siblings."

Notes

The Chair of the Senate Judiciary asked the Office of Victim Advocate to facilitate victim input for this hearing, as they were receiving an overwhelming amount of calls. OVA was honored to do this, and values that the Senate cared enough to offer a trauma informed way for all those who wished to speak to have their voices heard. In order to meet this demand, OVA created an opportunity for survivors to submit their testimonies online or via phone. We received submissions from 37 survivors, many of whom were quoted for you, in part, throughout this written statement. The charts below reflect the demographics we were able to capture from those who provided information. **Of the 37 submissions...**

Age at Time of Assault

1-17 Years of Age: 31
18-24 Years of Age: 5
25 Years & Older: 1

Gender

Male 12
Female 25

