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OFFICE OF VICTIM ADVOCATE

Giving Crime Victims a Voice

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Written Testimony re: Parole Reform

Senate Judiciary Committee

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For every action, there is an equal and opposite reaction. - Newton's Third Law of Motion

Thank you, Chairwoman Baker and members of the Senator Judiciary Committee, for allowing the Office of Victim Advocate to submit testimony on this important topic. As citizens, justice professionals, policy influencers and decision makers, we should reform our various justice systems with a keen eye on the guiding principal that each action brings with it an equal and opposite reaction. If we change something in the overall justice system - no matter how small - it carries with it an equal and opposite impact on the victims of crime in those respective cases. We cannot have conversations about change, reform, diversion, re-entry, release, and so on, without appreciating and analyzing how this will shift the scales for crime victims.

- What are their rights in this justice moment?
- Do they have an inherent right by law? If not, should they?
- How can we be protective while being purposeful in moving concepts forward that enable our system to realize efficiencies, while equally and meaningfully understanding the role of the crime victim?

For too long in Pennsylvania these conversations were held in silos without the full appreciation, willingness or understanding of the need for inclusion of the crime victim. Today, there is a more balanced understanding of the need to ensure crime victims and their voices are at the table when having discussions about our justice processes. At the Office of Victim Advocate, we are legally responsible for articulating the concerns, needs and voices of crime victims throughout the policy and decision-making realm. We do not take this responsibility lightly; it is an honor to represent this vast and diverse population. We know crime does not discriminate- it impacts all Pennsylvanians and that effect can never be summarized in one sentence or one political stance. All crime victims/survivors experience their respective situation differently. This is why it is vital to ensure OVA represents all victims impacted, and we do so ethically and honestly. To that extent, when large reform opportunities are presented, our agency does everything we can to inform, empower and educate registered crime victims and survivors. We survey and poll for input, understanding and recommendations so that when we do take a position on policy or speak to legislation, we are doing so with the full guidance of their impact, feelings and opinions.

Parole reform discussion is dominating the system as of late for a litany of reasons, most of which, quite frankly are driven by cost reductions and budget savings. This concept does not always sit well with crime victims. Loosening the constraints of confinement and supervision on those who have committed harm for the sole purpose of a dollar savings is not a solid moral equivalent to the safety, security and justice crime victims have come to expect in the Commonwealth.

Adversely, there are other motivators that are very valid in terms of reform. For decades, our systems have not equitably dispersed justice - particularity among drug-related offenses where there are often no victims of violent crime. Our tough on crime era during the war on drugs yielded many harmful consequences under the guise of public safety. It did not result

in our public being made safer and it incarcerated an indisputable amount of otherwise non-violent men of color. This is an injustice that many crime victims identify with and support reform measures for.

What has happened, however, is that our ideals are overreaching. We are beginning to apply these principles to areas where reform begins to feel uncomfortable, uneasy and unsafe. In the instance of violent crime, the aftermath of one's criminal conduct leaves a person with emotional, physical, financial and psychological wounds for a lifetime. Violent crime not only impacts the direct victims, it carries an undulation that spills into family and children, relationships, work, education and other aspects of life. It has the ability to alter everything. Sudden and traumatic loss of life due to homicide, or the sudden and traumatic impact of abuse or sexual assault can alter the course of a person's life forever. How do we balance the need for necessary reform with the inherent need for safety, justice and – yes – retribution? Today, it seems, we want to solely focus on other R words: rehabilitation, redemption, restoration and restitution. These are all vitally important concepts in our justice system and they have a rightful place. So does retribution. However, it has become a word that we seem to feel uncomfortable applying, as though it has no defensible place in our system. What a dangerous concept that is. We cannot drive our justice system on the primary concept that the person who committed the offense is the only one who deserves support, education, and access to therapies. Our justice system in the Commonwealth has become one where we disperse a lot of funding and opportunity to rehabilitate the offender. This is important; our system should be rehabilitative, otherwise we are simply failing everyone. However,

- Put yourself in the shoes of a mother whose son was brutally murdered. To wake up every day to the reality that your beloved child is never coming home, never to be held in your arms again and never to grow up, go to college, have a family. All while the person who committed this crime is receiving a bachelor's degree from Villanova,

appearing on national television, attending Super Bowl parties, and being celebrated upon release as a celebrity of sorts. That's not a pill anyone can swallow easily.

- Imagine you are the victim of a brutal rape and attempted murder, your attacker intent on strangling every ounce of life out of you while raping you, stabbing you with a serrated blade so violently that your ribs are separated and you feel the blade hit the floor beneath you. Somehow, you survive, you fight back, you escape. Your rapist is caught, prosecuted and incarcerated. From prison he continues to taunt you, write letters, send family members to your places of employment to intimidate you. And yet, he will be released from prison. You must endure the nightmarish thoughts of him returning to your community.

Conversely,

- Imagine you are a young person, on the cusp of life and curiosity. You jump in a car with some friends for what is to be a fun-filled day of otherwise normal juvenile antics on a crisp fall morning, until something goes violently wrong. You had no idea your friend had a gun, a plan, and his actions set the course for the derailment of your entire life. In one second, someone else's actions have sealed your fate and you are sitting in a prison cell, decades later, still trying to figure out how he was released and you are still here. This is justice in Pennsylvania?

These are extreme case scenarios, but they are within our current system in Pennsylvania.

They all deserve equal attention, empathy and retribution. While the Office of Victim Advocate fully supports reform measures that make sense, we believe there is so much more work to be done to ensure justice is truly that - justice. **Within Pennsylvania, a serious imbalance of justice distribution exists alongside a uniformity that does not fully appreciate individual circumstances or the facts in each case.** While our focus has been so heavily on the back-end, release and reentry, we also wish to strongly

advocate for front-end reform as to prevent the same circumstances that bring us here today.

When the first iteration of Justice Reinvestment swept the Commonwealth, it resulted in a significant shift in how parole agents supervised offenders, as well as the authority of the PA Parole Board. It assuaged the idea of throwing offenders back in jail for lesser technical violations of parole; it also sent a shock wave into the field of parole supervision with the misunderstanding that any further incarceration would be frowned upon. This resulted in a loss of faith for accountability among the victim community. This message was conveyed by agents to our office and by victims who were witnessing their offenders on parole. That message was a deterrent to some agents to follow through on sanctioning and consequences. These are areas that impact victims and their safety. As time has progressed, this has adjusted to some degree. We now see agents sanctioning, and consequences for violations have leveled out.

Before JRI was passed, if an offender "got into trouble on the streets" that could result in an arrest and criminal proceeding; local law enforcement would acknowledge the offender was on parole and would allow parole agents to handle the consequences. JRI made that ability difficult as technical violations were limited. When an offender commits an illegal act, formal charges should be filed.

While this second wave of reform appears to be focused on the local side of county supervision, there are concepts rising that - on face value - are deeply concerning. The primary area for concern is in the payment and priority of restitution. Restitution in the Commonwealth has been studied and prioritized over the past 10 years at the state level with great success. The Office of Victim Advocate commissioned a report in 2013 that analyzed the state of restitution, and its outlook was poor. There were 47 identified

recommendations that were suggested by all aspects of our justice systems. The majority of which have been implemented, with the exception of a few necessary general assembly recommendations to improve collections at the local court level and county jail level. At the state level, however, the PA Parole Board prioritized the collection of restitution while offenders were under supervision and it resulted in over 94% of all offenders actively paying their restitution. Today, we are seeing more offenders paying their restitution in a timely manner than we ever have in our history. It is apparent that offenders can indeed pay their restitution when the agents are given the necessary authority and tools to encourage collections. These tools include tracking dockets with outstanding payments and ensuring all offenders are on a payment plan; talking about restitution at every contact with the offender; sending out dunning letters to offenders; creating wage attachments on offenders who are gainfully employed; the ability to cease a driver's license for failure to pay; and using revocations for the sole purpose of failure to pay restitution. These methods have proven highly effective. More victims have been compensated and offenders are in compliance with their supervision conditions. This is accountability. **The concept of removing an offender on supervision when they owe restitution is a dangerous one that should never be pursued.** It sends the wrong message to everyone involved. It says restitution is not a priority and that our system should not invest resources to ensure payment of restitution is made to the crime victim. It tells the offender that restitution is not worthy of supervision time, and therefore devalues the importance of compensating victims as our legislature has promised.

Regardless of approach, reform or systematic change - the crime victims must be meaningfully engaged at every single step of the way. Every action taken for an offender causes an equal and opposite reaction for the crime victim. We owe them input, notification, support, education, empowerment and opportunities to be heard, present and informed.