



Help • Hope • Healing

Governor Wolf Reprieve in Light of COVID 19

Testimony before the Pennsylvania Senate Judiciary Committee

Presented by Donna Greco, policy director of the Pennsylvania Coalition Against Rape

May 13, 2020

Thank you Chairwoman Baker, Chairman Farnese, and members of the Senate Judiciary Committee, for convening this hearing and inviting the Pennsylvania Coalition Against Rape (PCAR) to testify. My name is Donna Greco. I am the policy director at PCAR and have been with the Coalition for 16 years. I am here today representing the network of rape crisis centers that provide counseling and therapy to sexual assault victims and work to prevent sexual violence in all 67 counties of the Commonwealth.

First, I would like to express our gratitude to this Committee for advancing numerous bills that will help victims of sexual harassment, abuse, and assault during this legislative session. We express our gratitude to the stakeholders represented here today for their partnership and leadership during this unprecedented time. PCAR thanks all of you for continuing to support the needs of victims and survivors as we now navigate COVID-19 together.

We are all experiencing a lack of control over our lives right now to different degrees—whether we can travel, see family and friends, access what we need for ourselves and our families, keep our kids on track with school, keep our jobs, pay our bills, stay healthy and pray that the people we love stay healthy and safe. Imagine being a victim of sexual assault and abuse during this time. This public health crisis has triggered trauma responses for so many survivors of past abuse, who need services now more than ever. Imagine being sexually assaulted during this pandemic, while in quarantine, not knowing where to turn and being too afraid to go to the hospital for a forensic rape exam because you don't want to contract the virus.

Victims of sexual harassment, abuse, and assault are in need of help, now more than ever. Together, we are learning how to reach survivors remotely during this time and how to think outside of the box of traditional service provision. PCAR and rape crisis centers are essential service providers and continue to operate during the pandemic. Counselors and advocates continue to support children, families, and adult survivors through phone and video tele-counseling, while prevention educators are working to develop and deliver prevention programs in an online environment.

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These efforts are of utmost importance and even more so now, as we see risk factors for the perpetration of sexual violence increase during the pandemic. Research consistently links stress, economic insecurity, lack of basic needs and supports, and isolation with the perpetration of sexual abuse and assault. Meanwhile, protective factors such as active bystanders and sources of support—such as those found at school, work, in our neighborhoods, and social groups—that can help prevent sexual violence, are greatly diminished during quarantine. Access to reliable and affordable internet, equipment, phones, and software remain a barrier. Even in households with such resources, privacy and safety can obstruct a victim’s ability to safely disclose abuse and access services.

PCAR was invited to participate in today’s hearing to share information related to victim impact in the context of the early reprieve of prisoners due to COVID-19. Thank you for this opportunity to share insight from the network of rape crisis centers and the Coalition.

Prior to the Governor’s executive order, PCAR joined the Office of the Victim Advocate, Pennsylvania Coalition Against Domestic Violence, Crime Victims Alliance of Pennsylvania, and Center for Children’s Justice in filing letters to the Pennsylvania Supreme Court, in response to the petition filed by the ACLU, asking the Supreme Court to use its King’s Bench powers to order the county-level release of individuals at risk of contracting COVID-19. Those letters are included in my testimony. We joined other victim advocates in expressing strong opposition, concerned about the safety of victims, families, and communities. We were grateful to see the PA Supreme Court’s decision, denying the petition and instructing courts to engage stakeholders locally to determine appropriate releases that protect the safety of victims.

In the week preceding this petition, PCAR learned from the Blair county rape crisis center, Family Services, that an individual with over 50 counts of child sexual abuse, including rape of a child, had been released on \$1,000 bail, down from the \$500,000 amount that had been set. Neither the rape crisis center nor the victim had been notified bail would be considered that day. Typically, the rape crisis center is present to support the victim. Thankfully the district attorney notified them promptly to ensure they were made aware the offender was being released. The offender was released to his girlfriend’s home, where children reside—children around the same ages as the victims he had previously sexually abused and raped. The rape crisis center talked with the family members of the victim, who were understandably upset, related to this news. But this did not only impact individual victims. It impacted the entire community. This release sent a message to the community that people who commit child sexual abuse may not always be held accountable. In Blair County, like other counties throughout the state, providers have worked hard over the years, to come together as a multidisciplinary team to improve services and hold perpetrators of child sexual abuse accountable. They feel this decision set them back, weakening the trust they were building among the community—that justice for children is possible and that perpetrators will be held accountable.

While this was a county-level decision—not at all connected to the state reprieve program—the general public does not always know the difference. Victims do not always know the difference either. They see headlines and worry the person who offended against them will be next on the list to be released.

Shortly after the PA Supreme Court decision, we learned from the Governor’s office and the Office of the Victim Advocate, that the Governor would issue an order allowing the early release of individuals from state prisons. We are grateful for the updates from these offices and the assurance we were given that no violent offenders would be eligible for reprieve. We commend efforts to help the most vulnerable populations among us. In fact, many individuals who are incarcerated are victims of sexual violence themselves, having committed crimes amid the lifelong ripple effects of trauma and a life without supports, options, resources, and safety. Incarcerated survivors are often forgotten in this conversation, yet they too are deserving of care and support during this pandemic.

Governor Wolf’s executive order specifies that individuals who have committed violent crimes or who pose a risk to public safety will not be released. This has been echoed in PCAR’s conversations with the Governor’s Office and the Office of the Victim Advocate. We have learned there is a thorough vetting process in place, with layers of cross-referencing of data and information to make the best possible decisions about temporary releases. We have been assured that any defendants named in an active Protection from Abuse (PFA), Sexual Violence Protection (SVP), and Protection from Intimidation (PFI) orders are automatically screened out.

Since the enactment of the SVP Act in 2015, according to the Administrative Offices of Pennsylvania Courts, 1,439 sexual violence protection orders have been issued to victims in the state. These are orders to protect victims who are sexually assaulted by non-intimate or “non-domestic” partners—such as neighbors, roommates, classmates, coworkers, acquaintances/friends, and others. SVP and PFI orders are critical components to be reviewed in the context of reprieve decisions—they include behaviors and acts that may not have resulted in criminal charges or convictions, and therefore will not inform which people are considered for reprieve, help paint a picture of a person’s conduct and propensity to commit sexual violence. We have learned that SVP and PFI orders are tracked in the Protection from Abuse Database (PFAD), which also houses PFAs. However, there seems to be some inconsistency in county-level filings—some counties report “zero.” Further, reporting to PFAD is not mandatory, leaving us without a full picture of active orders at the state level. Therefore, PCAR recommends a multi-level analysis before granting temporary reprieve to individuals—one that both reviews state-level registries associated with orders of protection and county-level data and information available through prothonotaries’ offices, court records, and district attorneys’ offices.

PCAR also learned, in conversations with child advocates, including the Center for Children’s Justice, that another possible loophole existed in the reprieve program review—pertaining to the Endangering the Welfare of Children (EWOC) charge. EWOC is not considered a violent offense and would not automatically make a person ineligible for release. However, we learned that often, there are more egregious acts and factors at play under the surface of this charge, and that any potential release should be cross-referenced with Child Protective Services and with child safety in mind. For example, just because a drug crime on the surface did not classify as “violent,” if children and firearms were present, one could argue that an early release without adequate safety planning and provisions could pose a risk to the family receiving that offender. We are also working with partners in child abuse prevention on the link between animal abuse and child abuse and pose that link as another critical factor to consider in temporary reprieve program decision-making.

In the context of the reprieve program, PCAR also continued to raise questions about the degree to which adequate supports are in place to wrap around individuals, families, and community impacted by the reprieve program—such as housing, supervision, treatment, safety planning, and systems of referral for services.

What safety and assessment measures are in place when offenders are returning to homes with children, older adults, or people with disabilities?

How are treatment providers, probation/parole officers, and others able to reach individuals on reprieve to prevent recidivism and support the individual and family?

We recognize the extreme challenges our leaders face in making decisions that balance public health and the safety of incarcerated populations with community safety and the needs of crime victims and their families. There is no existing blueprint for this. We trust that the agencies involved in determining who is eligible for release are committed to protecting victims and communities. We trust these decisions are being made using a victim-centered lens with much care and coordination.

Yet, despite all this, headlines and misinformation affect victims and their sense of safety as they worry the person who offended against them are next to be released. Rape crisis centers continue to hear from victims who are in crisis and needing reassurance that their offender is not next on the list for release. Much of PCAR’s work has been to assure rape crisis centers—so they may assure victims and survivors—that these releases are being done carefully and thoughtfully and that services are available.

We ask for this Committee's help in getting this message out more widely with your constituents and colleagues.

We also offer the following recommendations as we continue forward together:

- 1.) Cross-reference Child Protective Services data and case files before releasing any individual to maximize the safety and well-being of children and families. Ensure appropriate decision-makers have access to necessary information.
- 2.) Cross-reference Protection From Abuse Database for all orders of protection, including PFA, SVP, and PFI orders and collaborate locally with stakeholders such as prothonotaries and district attorneys, to ensure the safety and well-being of victims of sexual and domestic violence. Consider legislation related to protection order reporting, making it mandatory and addressing inconsistencies throughout the state.
- 3.) Develop and disseminate public statements and resources, reminding constituents and victims about state and county victim notification programs and counseling services available through rape crisis, domestic violence, and other agencies.
- 4.) Support funding and infrastructure to address the digital divide in Pennsylvania—especially among the rural parts of the state and within families that may lack the economic means to afford internet/data plans and devices. Your zip code and wallet should not stand in the way of your ability to stay safe and access help.
- 5.) Engage diverse victim services stakeholders to share expertise and develop best practices related to community re-entry, should this occur in the future during emergencies or additional phases of COVID – 19 infections and treatment. Best practices should center children, older adults, individuals with disabilities, and existing victims of sexual and domestic violence in the context of reprieve and community re-entry.

Thank you for your time, consideration, and partnership.

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