

Good morning Chairwoman Baker, Chairman Santarsiero, and members of the Judiciary Committee. Thank you for the opportunity and invitation to testify before you this morning.

My name is Meghan Black and I am a Deputy District Attorney in Allegheny County. I have been with the Office of the District Attorney under the Honorable Stephen Zappala for over 22 years, and for approximately 18 of those years, I have worked in our Juvenile Unit prosecuting juvenile delinquency matters. I am grateful to work alongside five dedicated and experienced full-time attorneys, in an office that acknowledges and supports our work. I am also privileged to be in the company of diligent and resourceful juvenile probation officers and court administrators who work every day to serve and support all those who come into contact with our juvenile court. With the benefit of this experience and perspective, I was excited and pleased to be part of the tremendous initiative undertaken by the Juvenile Justice Task Force. It has been a privilege to be a member of such an accomplished, diverse and dedicated group of professionals and stakeholders in the field of juvenile justice and I appreciate the opportunity to share some thoughts and impressions of the important work the Task Force has done.

I would like to first take a moment to recognize my fellow Task Force members for all their valuable input and insight throughout our work together. I would also like to take just a moment to recognize my fellow juvenile prosecutors throughout the Commonwealth who so generously shared their time, considerable knowledge and significant experience to provide an important perspective on all the issues under consideration by the Task Force. The depth and detail of the discussion and analysis was made all the richer and more relevant because of their expertise. The diligence and hard work put forth by all the stakeholders has contributed significantly to Pennsylvania's ongoing efforts to improve the form, function and integrity of our juvenile justice system. It is vital work and it is critical that it be done with excellence.

In our role as the prosecuting attorney, we are sometimes perceived as emphasizing accountability over all else, focused on moving up on the list of graduated sanctions for infractions or noncompliance behaviors that are typical of adolescents. There may be an assumption that our primary goal is adjudication and subsequent supervision, with little concern for what happens afterwards. No system is perfect, and it is incumbent upon all of us to acknowledge that we can and in fact must improve our practices. To do otherwise fails to acknowledge the truth of the experiences of other stakeholders who generously shared their perspectives on the system.

As we take time to reflect on the work of the Task Force and begin to see how the resulting recommendations can be incorporated into the statutes and court rules governing juvenile delinquency proceedings in Pennsylvania, I would like to share another view of prosecutors. As dedicated and compassionate advocates for all the essential elements of the balanced and restorative justice model, prosecutors seek to ensure that victim voices are heard and respected and that the conditions of court supervision are appropriate and effective. Their focus is on helping young people to meet all the expectations and move forward from the experience to be a responsible, productive individual.

Reasonable minds can differ as to what is most appropriate or effective in terms of the form and function of the juvenile justice system, but the foundation of the work of the prosecutor is a commitment to serve the public interest and all its members. It is from this perspective that

prosecutors lend their support to many of the recommendations put forth by the Task Force and reflected in the various legislation under consideration. Even in those instances where prosecutors have expressed some measure of reservation, the concerns are focused and specific, and overall, there is support for the goals of the various recommendations. For example, with respect to the expungement of juvenile records, prosecutors recognized the collateral consequences of a juvenile record and expressed support for developing and implementing procedures to simplify the process of petitioning for an expungement and for consideration of earlier eligibility. The concern raised relates primarily to including misdemeanor sexual offenses in the list of enumerated offenses being considered for the criteria.

Above all else, prosecutors are deeply invested in upholding the principles of balanced and restorative justice. We seek opportunities to equip ourselves with the knowledge to do this specialized work and look forward to developing the expertise that will enable us to function most effectively in all aspects of the juvenile court process. Whether as an early assignment for new prosecutors or as a long-term career focus and area of special interest for more experienced attorneys, prosecutors want to have the tools, training and resources to excel in their work representing the interests of the Commonwealth. We welcome standards for prosecutors handling juvenile delinquency proceedings and seek out opportunities for specialized training regarding the latest in best practices, adolescent development, and case processing data. We appreciate the availability of resources for juvenile prosecutors provided by the Pennsylvania District Attorney's Association, such as the Juvenile Prosecutors Network (JPN) and the annual Juvenile Prosecutors Conference.

Prosecutors support and encourage efforts by other stakeholders to prevent system involvement when possible and limit system involvement when appropriate and in the interest of public or community safety. There is support for the development and expansion of services aimed at providing prosocial activities for youth in their communities in order to prevent contact with the system. Prosecutors are in favor of identifying and closing gaps in availability of early-intervention, community-based resources and services that may result in youth receiving disparate treatment by the juvenile justice system due to lack of appropriate alternatives to formal court involvement. Prosecutors expressed concern that appropriate diversion or informal adjustment programming was unavailable within a reasonable distance for youth and their families. Overall, there was support for efforts to divert cases from court/system involvement when appropriate and in the interest of public or community safety.

High-risk, high-need youth may require residential placement in order to address their criminogenic needs and to ensure community safety as they complete important treatment and rehabilitative services. At all times, those youth must be safe and supported so that they can fully invest in treatment. As such, prosecutors support and encourage efforts to address concerns about the health, safety, welfare and success of youth committed to residential placements, including but not limited to: developing and expanding the availability of evidenced-based, developmentally appropriate and BARJ based programming in residential placements; accountability and oversight of service providers to ensure that youth under court supervision are receiving the services and support that they need to be accountable for their behavior and to make the changes that will allow them to grow into responsible, productive adults; ensuring that youth in care and their families are aware of how to raise concerns about program conditions without fear of adverse consequences; and, in recognition that an essential

element of every commitment to a residential placement is an appropriate and timely discharge plan, supporting efforts to ensure early and comprehensive discharge planning is reviewed at each dispositional hearing.

Prosecutors recognize the impact that a juvenile adjudication of delinquency can have on subsequent efforts to be a responsible and productive member of society and support efforts to streamline the process for requesting or petitioning the courts for an expungement of juvenile records. As noted previously, one area of concern is the misdemeanor sexual offenses of Indecent Assault, 18 Pa.C.S.A. § 3126(a). Juvenile prosecutors are in court with victims, with police officers, with judges and probation officers. As a result, prosecutors have an in-depth understanding of the case and how it impacted the victim. This valuable insight informs subsequent evaluations of expungement petitions. Looking at the basis for the Indecent Assault charge in each of the subsections graded as M-1, the allegations involve manipulative, deceptive and/or exploitive behavior by the actor that demonstrates intentional effort and planning by the actor to make the victim vulnerable to conduct that the actor knows is not consented to by victim. In the case of a victim under the age of 13 (which is either an M-1 or can receive an enhanced grading of F-3 based on the specific nature of the sexual contact), the actor is taking advantage of differences in levels of social, emotional and intellectual development.

§ 3126. Indecent assault.

(a) Offense defined.--A person is guilty of indecent assault if the person has indecent contact with the complainant, causes the complainant to have indecent contact with the person or intentionally causes the complainant to come into contact with seminal fluid, urine or feces for the purpose of arousing sexual desire in the person or the complainant and:

- (1) the person does so without the complainant's consent;
- (2) the person does so by forcible compulsion;
- (3) the person does so by threat of forcible compulsion that would prevent resistance by a person of reasonable resolution;
- (4) the complainant is unconscious or the person knows that the complainant is unaware that the indecent contact is occurring;
- (5) the person has substantially impaired the complainant's power to appraise or control his or her conduct by administering or employing, without the knowledge of the complainant, drugs, intoxicants or other means for the purpose of preventing resistance;
- (6) the complainant suffers from a mental disability which renders the complainant incapable of consent;
- (7) the complainant is less than 13 years of age; or
- (8) the complainant is less than 16 years of age and the person is four or more years older than the complainant and the complainant and the person are not married to each other.

(b) Grading.--Indecent assault shall be graded as follows:

- (1) An offense under subsection (a)(1) or (8) is a misdemeanor of the second degree.
- (2) An offense under subsection (a)(2), (3), (4), (5) or (6) is a misdemeanor of the first degree.
- (3) An offense under subsection (a)(7) is a misdemeanor of the first degree unless any of the following apply, in which case it is a felony of the third degree:
  - (i) It is a second or subsequent offense.
  - (ii) There has been a course of conduct of indecent assault by the person.

- (iii) The indecent assault was committed by touching the complainant's sexual or intimate parts with sexual or intimate parts of the person.
- (iv) The indecent assault is committed by touching the person's sexual or intimate parts with the complainant's sexual or intimate parts.

Under the current framework, a petition on behalf of a juvenile offender who has successfully completed probation can be filed at any time after the case is closed and the prosecutor can consider the request and consent if/when appropriate. As juvenile prosecutors, we are in court with victims, with police officers, with judges and probation officers--we come from a place where we know how things look to the actual people involved and can consider the concerns that were raised by the victims, who were directly harmed and violated by the juvenile's behavior. If a petition is filed on behalf of a juvenile offenders who has successfully completed probation, prosecutors can consider the request, make appropriate inquiries of the interested parties, review the file and make an informed and reasoned decision about expungement. Sexual offense under Chapter 31 should remain subject to the current framework. One potential alternative may be to distinguish between the subsections of Indecent Assault graded as a misdemeanor of the first degree and those graded as a misdemeanor of the second degree. Balanced and restorative justice mandates that prosecutors seek to ensure that victim voices and concerns are considered at every stage of the proceedings and that accountability and victim awareness are an integral part of the entire court process.

Prosecutors want the high-risk, high-need youth who are charged via "direct file" with serious, violent felony offenses to have their cases resolved in an appropriate and timely manner consistent with the safety of the public and the community. Prosecutors support efforts to ensure consistent treatment of juveniles charged as adults throughout the Commonwealth and support efforts aimed at providing relevant training and information on the latest developments in juvenile justice and adolescent development to inform case processing decisions. Of particular interest to prosecutors is the timely hearing of motions to transfer of cases in order to identify cases that are appropriate for transfer to juvenile court. For those juveniles for whom treatment in the juvenile court system serves the public interest, transfer at the earliest stage allows the juvenile to begin receiving treatment, supervision and rehabilitation as soon as possible if adjudicated. Two related concerns exist regarding availability of sufficient resources for assessment and evaluation of juvenile offenders charged as adults and access to appropriate services and supports while awaiting a decision regarding transfer of jurisdiction.

Thank you for the opportunity to contribute this summary of the perspective of the prosecutor in juvenile court. In communications with my fellow prosecutors over these past months, I know that we as stakeholders in the system have appreciated all the efforts by legislative leaders to focus attention on our juvenile justice system, and promote discussion and action in a meaningful and impactful way.