

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

CHILDREN & YOUTH COMMITTEE
PUBLIC HEARING

MONTGOMERY TOWNSHIP COMMUNITY CENTER
1030 HORSHAM RD.
MONTGOMERYVILLE, PENNSYLVANIA

WEDNESDAY, AUGUST 18, 2021
10:00 A.M.

PRESENTATION ON
RESPECTING CONFIDENTIALITY WHILE PRESERVING ACCOUNTABILITY:
PROTECTING STUDENTS & STAFF IN OUR SCHOOLS

BEFORE:

SHERYL DELOZIER, MAJORITY CHAIRWOMAN
PAMELA DELISSIO, MINORITY CHAIRWOMAN
REPRESENTATIVE ANN FLOOD
REPRESENTATIVE BARBARA GLEIM
REPRESENTATIVE MILOU MACKENZIE
REPRESENTATIVE LESLIE ROSSI
REPRESENTATIVE JASON SILVIS
REPRESENTATIVE TODD STEPHENS
REPRESENTATIVE JAMES STRUZZI
REPRESENTATIVE WENDI THOMAS
REPRESENTATIVE K.C. TOMLINSON
REPRESENTATIVE LIZ HANBIDGE
REPRESENTATIVE NAPOLEON NELSON
REPRESENTATIVE MELISSA SHUSTERMAN

ALSO IN ATTENDANCE:

REPRESENTATIVE TIM TWARDZIK
REPRESENTATIVE JOE CIRESI

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*Pennsylvania House Of Representatives
Commonwealth of Pennsylvania*

HOUSE COMMITTEE STAFF PRESENT:

ANNA KING
MAJORITY EXECUTIVE DIRECTOR

LEZA PERKINS
DEMOCRATIC SENIOR DISTRICT OFFICE DIRECTOR

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*Pennsylvania House Of Representatives
Commonwealth of Pennsylvania*

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SUBMITTED WRITTEN TESTIMONY

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P R O C E E D I N G S

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3 MAJORITY CHAIRWOMAN DELOZIER: Good morning,
4 everybody. Thank everyone for being here and taking your
5 time to be with us. I call this meeting of the House
6 Children and Youth Committee to order. Today, we are very
7 lucky to have a lot of panelists that will give a lot of
8 information for us that will hopefully be able to start a
9 dialogue. As we have mentioned, I want to thank
10 Representative Stephens for bringing together a lot of the
11 folks that will be here and helping us to organize this on
12 an important issue down here in Montgomery County. We're
13 glad to visit down in your neck of the woods.

14 But what I wanted to do before we started also
15 was, we have a number of folks that are not only from the
16 Children and Youth Committee but also from the Education
17 Committee with the house and we're from a pretty wide
18 varied -- I appreciate everyone's attendance. The amount
19 of members that were interested in this issue and being
20 able to hear from these panelists I think speaks for the
21 importance of the issue. But I wanted to have everybody,
22 if they would, introduce themselves just so everybody's
23 aware of, A, who's here but also what committees you sit on
24 because we do have some overlap, we have some that sit on
25 both, as well as where you are from in Pennsylvania, where

1 your district is.

2 REPRESENTATIVE SMITH: Thank you, Chairwoman.
3 And good morning to everybody that's here. I'm
4 Representative Brian Smith. I represent Jefferson County
5 and Northern Indiana County, which is District 66, and I
6 sit on the Children and Youth Committee.

7 REPRESENTATIVE THOMAS: Representative Wendi
8 Thomas. I sit on Children and Youth, and I'm from nearby
9 Bucks County. Thank you.

10 UNIDENTIFIED VOICE: -- District, and I serve on
11 both the Children and Youth and Education Committees.

12 MS. PERKINS: Hi. I'm Leza Perkins. I'm the
13 Interim Executive Director of the Children and Youth
14 Committee and on staff for Pam DeLissio 194.

15 MINORITY CHAIRWOMAN DELISSIO: Good morning. I'm
16 Pam DeLissio. I'm the Minority Chair for the Children and
17 Youth Committee. Glad to be here today. And I represent
18 parts of Montgomery and Philadelphia Counties.

19 MAJORITY CHAIRWOMAN DELOZIER: I was joking. I
20 hadn't introduced myself. Sheryl Delozier. I represent
21 Cumberland County, the 88th District in Central
22 Pennsylvania. Thank you.

23 MS. KING: Hi. Anna King. Children and Youth
24 Executive Director.

25 REPRESENTATIVE STEPHENS: Todd Stephens. I'm

1 Representative from the 151st Legislative District. I'm on
2 the Children and Youth Committee. And welcome to the
3 151st, as you're all sitting in it. Thank you.

4 REPRESENTATIVE TWARDZIK: Good morning. I'm Tim
5 Twardzik. I'm with the 123rd District in Schuylkill
6 County, and I'm on the Education Committee.

7 REPRESENTATIVE GLEIM: Good morning, everyone.
8 I'm Barb Gleim from Cumberland County near Carlisle, PA.
9 I'm on Children and Youth. I'm also on Education, and I'm
10 also the Representative to the State School Safety and
11 Security Committee.

12 REPRESENTATIVE SILVIS: Hi. Jason Silvis of the
13 55th District, which is Westmoreland County, Armstrong
14 County, and Indiana County, and I sit on the Children and
15 Youth Committee.

16 REPRESENTATIVE FLOOD: Good morning. I'm Ann
17 Flood. I represent the 138th District in Northampton
18 County, and I serve on the Children and Youth Committee.

19 REPRESENTATIVE MACKENZIE: I'm Representative
20 Milou Mackenzie from the 131st District. I represent part
21 of Montgomery County, part of Northampton County, and part
22 of Lehigh County. And I serve on the Children and Youth
23 Committee and the Education Committee.

24 REPRESENTATIVE ROSSI: Good morning. I'm Leslie
25 Rossi, and I represent the 59th District, which is parts of

1 Westmoreland County and Somerset County. And I'm on the
2 Children and Youth Committee.

3 REPRESENTATIVE TOMLINSON: Good morning. K.C.
4 Tomlinson. I represent the 18th District in nearby Bucks
5 County, and I also serve on the Children and Youth
6 Committee.

7 MAJORITY CHAIRWOMAN DELOZIER: Thank you very
8 much. As you can see we have a lot of different areas of
9 Pennsylvania covered with the Representatives that are here
10 today, which is very good because I think all of us across
11 the board, Republican, Democrat, rural, urban all care
12 about our kids and all care about what's going on in our
13 schools. So that's a commonality that I think we all can
14 share throughout this subject matter. But to read the
15 official title of the hearing, we have Respecting
16 Confidentiality While Preserving Accountability and
17 Protecting Our Students and Staff in Our Schools.

18 The purpose of a lot of our panels is
19 multidisciplinary on purpose because there's a lot of
20 different moving parts when it comes to confidentiality and
21 protecting our kids in schools. Many of the issues that
22 we'll be addressing not necessarily always happen in the
23 school; they may happen in our community; they may happen
24 at home. But the ability for all of our moving parts to
25 work together for the benefit of the children and the

1 benefit of our families, I think that's what we will be
2 able to ask a lot of questions about as we move through
3 today. As policymakers and as parents, we all care about
4 what's going on in our schools. We all care about our
5 kids. They're our future leaders, so we want to make sure
6 that we're doing right by them and dealing with all the
7 confidentiality laws.

8 The understanding from all of our panels as to
9 where that line is or in some cases where they interpret
10 that line, we as policymakers want to better understand
11 what it is that we can do legislatively to possibly make it
12 very, very explicitly clear how we can help the kids, how
13 we can help the people that are affected by something that
14 may happen not only the victim, obviously, or somebody that
15 has had a crime perpetrated against them, but certainly the
16 ability -- obviously, with Children and Youth with have
17 juvenile justice issues in our children that perpetrate
18 crime and making -- what we can do to make sure that they
19 don't spend a lifetime in the system and finding out how we
20 can do that as well.

21 So the ability for us to ask those questions,
22 thank you for everybody to be here. And with that, I'll
23 hand it over to Chairwoman DeLissio.

24 MINORITY CHAIRWOMAN DELISSIO: Thank you, Rep.
25 Delozier. It goes without saying protection of our

1 children is paramount. I'll be looking for opportunities
2 over the next couple of hours to see how we can also
3 include trauma-informed training in this process because I
4 think that whenever we're dealing with these very traumatic
5 situations we all need support to understand that, and
6 trauma-informed training will help us better to support
7 those children and teachers and everybody in these
8 disciplines going through the process and ultimately our
9 children as well, so thank you for this opportunity. And
10 happy to be in Rep. Stephens' district.

11 MAJORITY CHAIRWOMAN DELOZIER: And Representative
12 Stephens, do you have comments?

13 REPRESENTATIVE STEPHENS: Thank you so much.
14 Good morning and welcome. Thanks to Chairwoman Delozier
15 for agreeing to hold this important hearing today. This
16 subject balancing confidentiality and transparency and
17 accountability while protecting our children, especially in
18 our schools, is critically important. I do want to also
19 thank Chairwoman DeLissio and the other members of the
20 Committee and the Education Committee. This robust
21 attendance is terrific, and it's a true testament to our
22 commitment to protecting our kids in Pennsylvania here. I
23 know many of you came from far and far away, so appreciate
24 you coming here to the 151st to join us for the hearing.

25 As many know, I was a child abuse prosecutor for

1 10 years before joining the House, and I'm proud to have
2 been part of the work this Committee did following the
3 Jerry Sandusky revelations to strengthen our child
4 protection system in Pennsylvania. So when I became aware
5 of the lawsuit filed by a student against the North Penn
6 School District alleging that district staff hid initial
7 allegations of a sexual assault on school property and that
8 the district failed to prevent further sexual assaults by
9 the same student, it raised serious concerns and questions
10 about accountability and transparency within our child
11 protection system.

12 Some of those questions I had were, how could
13 this happen? What did the district do to protect the
14 student? What actions did the district take against the
15 offending student to protect other students, including the
16 victim? Was law enforcement notified? Does the law
17 require law enforcement to be notified? If they were
18 notified, what did they do and what was the outcome? Were
19 the parents notified? Does the law require the parents to
20 be notified? Was there a report to ChildLine? If so what
21 did they do? Was the Montgomery County Office of Children
22 and Youth involved? If so what did they do, and what was
23 the outcome?

24 As I began to ask these questions, I learned that
25 for one reason or another I was barred from knowing much of

1 this information, which denied accountability for this
2 entire situation. Now, we're not here to litigate what
3 happened at the North Penn School District because that
4 litigation is still pending, and that will be, you know,
5 handled in another forum.

6 But our goal today is to better understand what
7 information is available to victims of crimes in schools
8 and their families to students and parents and taxpayers,
9 and how are our three primary components of our child
10 protection system, our county offices of Children and
11 Youth, law enforcement, and our schools sharing information
12 and working together to protect our children. We need to
13 know if there are any legal barriers in place, such as
14 those we just eliminated between law enforcement and the
15 offices of Children and Youth earlier this session.

16 Most importantly, we're all here to learn how we
17 can improve our child protection system in PA to better
18 protect Pennsylvania's children in our schools. And I
19 thank everybody for their participation today. Thanks.

20 MAJORITY CHAIRWOMAN DELOZIER: Thank you very
21 much. And I'll just add if everyone can just make sure
22 they've silenced their cell phones, so we don't interrupt
23 our presenters as they share information with us.

24 So our first testifier is Mr. Brian Kent, a
25 plaintiff's attorney who has represented victims of abuse

1 in the school setting. And with that, I'll hand it over to
2 you Mr. Kent. Thank you very much.

3 MR. KENT: Thank you. You started with
4 plaintiff's lawyer, and that always gives me a chill when I
5 hear that. But thank you, ladies and gentlemen of the
6 Committee. My name is Brian Kent. I am a survivor of
7 childhood sexual abuse in the school and parish setting as
8 well as a former sex crimes prosecutor in Montgomery County
9 with Representative Stephens, as well as representing
10 survivors of sexual assault and abuse for the past 14 years
11 on the civil side.

12 A lot of what I do on a daily basis is
13 identifying failures in the system that led to abuse and
14 assault happening. And Representative Stephens asked me to
15 talk today because some of those failures that we often see
16 is a lack of communication between either agencies and
17 schools, a lack of sharing of information, whether that be
18 not having a database to identify potential dangers of
19 teachers that are going from school to school and things of
20 that nature.

21 So I'm here today to talk about what I see with
22 regards to failures of sharing information, confidentiality
23 issues that prevent schools, agencies from sharing
24 information, and some suggestions as to how we may make
25 that better. I'm also going to talk a little bit about

1 trauma-informed training, as Chairwoman DeLissio had
2 mentioned, because I really think that that is the tenet of
3 sexual abuse to sexual assault prevention in schools and in
4 any institutions in general.

5 Most of the attorneys that work with us in
6 representing survivors -- I shouldn't say most, all are
7 trauma informed. We're all former prosecutors that
8 underwent that training. And I think that we come at these
9 cases from a different perspective and really
10 understanding, like, what a child abuse survivor, whether
11 an adult or a child him or herself is going through after
12 being abused.

13 One thing that I think most people either forget
14 or don't realize is that child abuse is a brain injury, and
15 it literally affects different portions of the developing
16 brain, the cells in the brain and on a permanent basis.
17 And there are things that can be done to help heal or at
18 least treat those brain injuries, but the manifestation of
19 symptoms that you see are really manifestations of the
20 brain injury itself. And I say that because we often see
21 kids that come in to cases or making reports or allegations
22 of abuse that someone may say, they don't look like they
23 were abused or they have differentiation stories or reports
24 throughout the process, and therefore, we don't believe
25 that this actually happened, or there's no corroboration or

1 we didn't see anybody who abused them, and therefore, we
2 can't do anything about it at the end of the day.

3 So I think understanding first and foremost that
4 I think this process begins everyone involved in the
5 protection of children being trauma informed on a regular
6 and consistent basis with adequate trainers to do so. And
7 that means bringing in medical professionals to talk about
8 what are these changes in the brain and how are they going
9 to manifest themselves when a child comes and reports that
10 they were abused or assaulted.

11 And some of the complexities just to talk about
12 that that when you're dealing with a child who has been
13 abused, you could see different things with regards to
14 delayed reporting of sexual abuse. We all know that a lot
15 of survivors, like myself, did not report abuse until
16 adulthood or much, much older. And again, that's often
17 used as a reason as to not do something about a report of
18 abuse because of the delay, when that is the typical aspect
19 of these cases.

20 Disclosing only partial details of abuse
21 understanding that a child that comes forward is talking
22 about the worst thing that ever has happened to them to
23 somebody who they don't know and may be an adult of the
24 same sex as the abuser, disclosing details over the course
25 of multiple conversations, that is being used against

1 children with regards to reports being made by either
2 educators or others that have a responsibility for
3 reporting abuse as opposed to understanding that that is
4 the norm with regards to kids that report abuse, differing
5 accounts of the nature of the abuse, avoidance of reporting
6 to adults of the same gender of the abuser as I just talked
7 about, feelings of panic and anxiety, shutting off, and
8 desire to isolate. These are all things that, I think,
9 everyone needs to understand from the get-go that these
10 kids are going through when they come forward about a
11 report of an allegation of abuse.

12 The other thing that -- and I'm going to talk a
13 little bit about the confidentiality aspect of things and
14 how that might be improved, but we see on a regular basis
15 just a lack of adequate training with regards to educators
16 and those responsible for child protection and a continued
17 refusal or avoidance of reporting because of numerous of
18 different factors. And those factors may be they -- you
19 know, schools are very close communities, and these people
20 are friends with each other.

21 And I think that time and time again what we see
22 is that somebody may suspect there may be abuse that's
23 happening, but they don't want to make a report based on a
24 suspicion, even though that's what the law says you're
25 required to do. So they choose not to report that

1 suspicion of abuse and then that individual is either
2 abusing a child or may go on to abuse somebody else without
3 that report being made. So I think we need to encourage
4 better and more consistent training on reporting
5 requirements and what is required in that respect.

6 The other thing is -- and I talked with
7 Representative Stephens about this when we spoke briefly
8 about this talk today. The laws can be better. What I
9 mean by that is that the definitions to alert individuals
10 who are responsible for the protection of children need to
11 be crystal clear with regards to requirements but also,
12 like, what is abuse that needs to be reported?

13 And I'll give you an example, we see cases of
14 hazing a decent amount in what we do. And what I mean by
15 hazing is, you know, physical or sexual abuse, emotional
16 abuse, peer-on-peer most of the time, and we often see that
17 it goes on for decades even though it may even be to the
18 point of sodomy of kids happening without any report. And
19 educators either suspect or know that this hazing is
20 occurring. But time and time again, when we talk to these
21 educators, they say we didn't know we were required to
22 report a peer-on-peer assault or that hazing would fall
23 under the definition of child abuse that is required to be
24 reporting on a mandatory basis.

25 So I think that -- and as well, some of the

1 definitions in the laws say that child abuse is an adult on
2 a child as opposed to a child on a child. And that can
3 just leave confusion for the districts and their employees
4 as to what is required with regards to the time of
5 reporting and things of that nature.

6 The other thing that we see a lot, and I think
7 this would speak to Representative Stephens' statement is
8 an inability to share records and documentation as it
9 relates to not only dangerous students that may be going
10 from school to school but also dangerous employees or
11 teachers or applicants at a new school district. There are
12 oftentimes -- FERPA, the Family Educational Rights and
13 Privacy Act, is cited as a reason that there can't be
14 sharing of information between schools about a potential
15 dangerous student.

16 However, there are exclusions to FERPA and
17 specifically with regards to sexually violent crimes or
18 certain crimes that would fall under the exception to FERPA
19 to allow individuals at another school district or school
20 to obtain certain records regarding that potential
21 dangerous student so that they can make accommodations if
22 accommodations need to be made. And that may have been an
23 issue with regards to this North Penn case that
24 Representative Stephens was talking about.

25 The same goes for juvenile criminal records. If

1 there is a criminal investigation or a criminal case
2 against a juvenile, those records are confidential. And no
3 one can basically get them at the end of the day, even
4 though you may have an individual who has committed
5 multiple assaults who is going to a new school or at an
6 existing school and the school doesn't know about that to
7 make accommodations to protect the students at the end of
8 the day. I think there needs to be some sort of exception
9 to allow the obtaining of information in that regard and
10 documents.

11 The other thing that we see constantly is a
12 failure to monitor where students and employees in a school
13 and a school district are. I can't tell you how many
14 cases, even recently, we are seeing where a teacher is
15 taking a student outside of the classroom during a class
16 period alone or with a student after hours alone, and
17 there's no documentation system, logs, whatever you want to
18 call it to ensure that the school and the school district
19 knows exactly where the teachers are at all times and
20 exactly where the students are at all times.

21 And I bring that up more from a discussion
22 standpoint. I don't know what the answer to that is per
23 se. What that system is, it may have to be specific to the
24 school itself. But there has to be a system to ensure that
25 kids are being protected on school property at all times.

1 The other thing that we see a lot of is violation
2 of communication between abusers that are in the school
3 setting and students. And there are computer policies and
4 things of that nature that exist in school districts, but
5 those policies aren't worth the paper their written on if
6 they're not enforced. And oftentimes, they're not either
7 enforced, but there's no monitoring to determine whether or
8 not a teacher may be violating the communication policies
9 with a student.

10 The other aspect is there needs to be harsh
11 penalties for any teacher or administrator who makes any
12 private communication with a student either on a cell phone
13 or in social media. I think that's the answer to ensuring
14 that this never happens. There are a ton of cases that we
15 have where communication started via either social medial
16 or private cell communication or private email
17 communication. And oftentimes, the teacher or
18 administrator or employee is utilizing either a school
19 computer to communicate or a school-issued cell phone at
20 the end of the day.

21 And obviously, the school district can require
22 that if you do have a social media account, disclose that
23 to the school district and give us access to it to ensure
24 that this isn't happening. You have that threat to the
25 teacher or the employee and most times they're not going to

1 use that as a way to communicate privately with kids.

2 So the other thing that I talked about in terms
3 of sharing information is with regards to potential
4 dangerous employees. We have a case involving a Lehigh
5 County school district and a Bucks County school district
6 where an individual was able to go from one school where
7 they were terminated for suspected abuse and then go to
8 another school and be hired there regardless of being
9 terminated for that abuse. He has been convicted of
10 abusing our clients who were five minor females at the
11 time. But there's no system in place statewide to ensure
12 that individuals who are going from school to school are
13 identified as potential dangers.

14 And I don't know whether that is a database that
15 can happen with regards to the Commonwealth and having a
16 sharing system with regards to at least these employment
17 history records with regards to applicants that come from
18 school to school, but there needs to be something. Whether
19 that's accountability for the school district that does not
20 do the proper vetting, whether that is mandatory vetting
21 procedures with regards to applicants from school district
22 to school district, or whether that's a database to
23 identify any potential dangers such as making sure that
24 somebody who's terminated for suspected abuse that may not
25 even be substantiated that there's an indication of that

1 somewhere in a public record that a school where he or she
2 is applying to can identify that.

3 By the way, if I start talking too much let me
4 know. And let me just talk about a couple of last aspects,
5 and I'll wrap up here and open up for questions.

6 REPRESENTATIVE STEPHENS: You're not billing us
7 for this time, are you?

8 MR. KENT: No. I'm not. No. So you know, we
9 deal with some federal statutes in our cases a decent
10 amount. The Clery Act is one. Title IX is another and
11 those are I think sort of backbones for at least a starting
12 point for maybe a Commonwealth similar act to prevent child
13 abuse in the school setting. And what I mean by that is
14 the Clery Act requires reporting of incidents of violence,
15 including sexual violence along with a mandated publication
16 of policies and procedures to deal with same.

17 And with the Clery Act, universities and schools
18 are required to produce information with regards to the
19 crimes that are happening on campus. I think parents want
20 to see that, and I think school districts should want to
21 publish that information at the same time to show parents
22 and the community as to what is happening in response to
23 crimes that are either alleged or have been committed.

24 Now, nobody wants to put information out that may
25 be damaging to the school district in terms of crimes and

1 things of that nature, but this is all about
2 accountability. And I can't stress enough, everything has
3 to be about the protection of kids. And if that's what it
4 starts with, then we got to find a way to do something
5 similar in terms of accountability and having a system like
6 the Clery Act set up in the Commonwealth.

7 Title IX is also something that -- even though
8 there may be a Title IX coordinator at a specific school,
9 there's just no enforcement of it. So that means if a
10 child is -- if there is either a potential dangerous
11 student there or there is a child who is alleged that they
12 were abused or assaulted, accommodations aren't being made
13 for them pursuant to Title IX and Title IX requirements are
14 not being met. And I don't know if there's something on
15 the Commonwealth side that in terms of a statute that could
16 be set up similar to Title IX with added requirements as to
17 what a school district is required to do at the end of the
18 day, specifically delineating and laying out what needs to
19 be done if there is a violation.

20 And then finally, let me just talk about Criminal
21 History Record Information Act, obviously, with
22 Representative Stephens amendment, the statute definitely
23 has gotten better. But we deal with the statute on a
24 regular basis because oftentimes in our cases we are trying
25 to get investigative documents on the criminal side for

1 prosecuting the civil case, and we can't get them.

2 So what that means is a victim that cooperates
3 with the police or law enforcement is prevented from
4 getting their records despite their cooperation in any
5 other setting whether that is for mental health reasonings,
6 for school reasons, that if they need an IEP about abuse or
7 assault or something of that nature allowing the school
8 employees or the district employees to obtain those records
9 to take that into account in evaluating and determining
10 what's needed for an IEP.

11 And I think also with regards to just the sharing
12 of information in general amongst school districts and
13 things like that, whether that be for a teacher or a
14 potential dangerous employee or for a student as I just
15 talked about, there has to be some better exception with
16 regards to the sharing of information under the Criminal
17 History Record Information Act. I know what it was
18 designed to do, and it's a great idea. I just think the
19 use of it is not obtaining the purpose of it at this point,
20 especially with regards to the protection of children. I
21 think it's actually hindering it at the end of the day.

22 So I appreciate giving me the time to talk today.
23 I truly believe that besides being trauma informed as a
24 tenet to protecting kids that the rule really has to be
25 believe and support first and foremost among anything

1 because that's how we're going to protect these kids at the
2 end of the day if we're believing them and supporting them
3 and putting them in a safe environment to feel comfortable
4 coming forward. So thank you very much for your time.

5 MAJORITY CHAIRWOMAN DELOZIER: Thank you very
6 much for your information. And yes, we will try to stay on
7 a time, so I apologize if I do have to give a signal of
8 some sort to wrap up because there's a lot of information.
9 I'm sure we could be here for much longer than we have
10 today. But have a couple questions. I figure we'll do
11 questions as the panel so that -- as we go. I know
12 Representative Gleim has a question.

13 REPRESENTATIVE GLEIM: Yeah. Just for
14 clarification. And thank you for being here. When you're
15 talking children, you're taking 18 and under or 17 and
16 under? Because once they are seniors and turn 18, then
17 they're adults.

18 MR. KENT: Sure. Yeah. That's a good question.
19 I think from wall to wall it has to be specific. And for
20 example, I'll give you a perfect example, child pornography
21 laws are 18 and under regardless at the end of the day.
22 But I think it -- when we're talking about kids I would say
23 18 and under because at the end of the day those 18-year-
24 olds are still in the school setting. And I mean, just
25 from talking about being trauma informed, a developing

1 brain doesn't stop developing until the age of 25. So
2 really an 18-year-old is a kid at the end of the day. So
3 if we're talking about the protection of them, we should
4 include that age 18 and under.

5 REPRESENTATIVE GLEIM: Okay. Because some of the
6 kids that are special needs that are on IEPs actually are
7 allowed to go to school after the age of 18. So I was just
8 wondering would you even go even a little bit further than
9 that, or would you in statute or in the law say any child
10 that is in a high school setting or something --

11 MR. KENT: Yeah.

12 REPRESENTATIVE GLEIM: -- like that instead of
13 age?

14 MR. KENT: Sure. I think if you were to look at
15 some of the criminal statutes that -- let's just use sexual
16 assault or abuse cases that deal with either a child under
17 the age of 18 or somebody who has developmental
18 disabilities and things of that nature, it's kind of the
19 same thing. So I think you could have somebody below the
20 age of -- 18 and below or somebody who may be above that
21 age but is -- you know, has a developmental disability or
22 something in that nature that they should be included in
23 that class.

24 REPRESENTATIVE GLEIM: All right. Thank you.

25 MR. KENT: Thank you.

1 MAJORITY CHAIRWOMAN DELOZIER: Representative
2 Shusterman?

3 REPRESENTATIVE SHUSTERMAN: Yes. Thank you. My
4 question is about technology. I love the idea of believing
5 and supporting first, but there's something that's going
6 on, obviously, there's social media and the new lab that a
7 teacher could have a very clean Facebook or LinkedIn and be
8 on TikTok or Snapchat, and every day that -- sorry. Thank
9 you. I thought I was being loud. Every, you know, day
10 there's a new way that predators can contact teenagers.
11 And then I was also thinking of trying to get everyone
12 involved behind the idea that you're going to look at
13 everything I have on my phone or -- and this is a really
14 difficult challenge. Because even if you know where
15 teachers and students are going and you see very healthy
16 behavior on campus, let's say, they could be doing
17 unhealthy behavior digitally.

18 MR. KENT: Uh-huh (affirmative).

19 REPRESENTATIVE SHUSTERMAN: So it's more of a
20 comment, but --

21 MR. KENT: Yeah. No. And I do a lot of work
22 with the National Center on Sexual Exploitation. We have
23 been working with the social media providers to ensure that
24 the default setting -- or not even a default setting that
25 anyone below the age of 18 cannot have direct messaging on

1 their social media accounts. So I think TikTok has
2 actually agreed just recently to do that and institute that
3 as well as Twitter, if I'm correct. Yeah.

4 REPRESENTATIVE SHUSTERMAN: Thank you.

5 MAJORITY CHAIRWOMAN DELOZIER: Representative
6 Thomas?

7 REPRESENTATIVE THOMAS: I'll get to my question,
8 but just as a follow up on that. Having sat on a school
9 board, you can do all you want with social media apps.
10 Texting is texting.

11 MR. KENT: Yeah.

12 REPRESENTATIVE THOMAS: And I would say that's
13 probably the single biggest issue that we couldn't get our
14 arms around. So I applaud the efforts, but I think we've
15 got to still admit that texting is texting and that
16 communication's a problem.

17 MR. KENT: Yeah.

18 REPRESENTATIVE THOMAS: My question is
19 percentage-wise -- because in some ways they're different.
20 I think a lot of recommendations you gave probably apply to
21 both, but do you see more peer-to-peer or more adult-to-
22 child abuse? And again, I'm just trying to get my arms
23 around how much --

24 MR. KENT: Sure.

25 REPRESENTATIVE THOMAS: -- and where to focus.

1 MR. KENT: Yeah. That's a good question. I have
2 never evaluated that, but I mean, we have hundreds of cases
3 that we handle. So I would say that the majority of those
4 are either adult-on-adult sexual assault or adult-on-child
5 sexual assault. But we have plenty of peer-on-peer sexual
6 assault cases, and most of the time that is a failure to
7 report situation --

8 REPRESENTATIVE THOMAS: Okay.

9 MR. KENT: -- because people don't know that a
10 peer-on-peer sexual assault is something that falls under
11 mandatory reporting. So that is the biggest thing that we
12 see with regards to peer-on-peer in addition to the hazing
13 aspect --

14 REPRESENTATIVE THOMAS: Yeah.

15 MR. KENT: -- of things that I talked about as
16 well. People just don't know that peer-on-peer hazing,
17 even though if it's of a sexual nature like we've seen a
18 lot, that that falls under mandatory reporting laws. And
19 sometimes there's just a culture that you'll see in an
20 educational institution or whatever institutional setting
21 that hazing is hazing, right? It's a rite of passage and
22 not abuse, but hazing is abuse. So I think that needs to
23 be crystal clear with regards to definitions and things of
24 that nature.

25 REPRESENTATIVE THOMAS: Thank you.

1 MR. KENT: Thank you.

2 MAJORITY CHAIRWOMAN DELOZIER: Representative
3 Struzzi?

4 REPRESENTATIVE STRUZZI: Thank you very much.
5 And thank you for coming here and testifying and telling us
6 about your history and -- that takes a lot, so I appreciate
7 it. So as a former school board member, grooming is a big
8 issue, but the law is not in favor of the school districts
9 when it comes to prosecution of grooming. And there's also
10 a concern with where is the fine line between grooming and
11 a coach, a director. There's a lot of one-on-one for that.

12 So we had a situation and we almost lost as a
13 school district, but this was many years ago. So my
14 question to you is, what do we do about grooming? Because
15 when the child -- nothing happens in the school but post-
16 graduation when they're 18, there's a fine line that went
17 on there. And how do we delineate who broke the law or if
18 they didn't break the law?

19 MR. KENT: Sure. I think first and foremost,
20 with regards to the training aspect that I talked about
21 just pounding people in the head with regards to what is
22 grooming and looking at the red flags and things of that
23 nature to identify that. I agree with you. Most of the
24 cases that we see with regards to grooming are in the
25 athletic setting, and there is a lot of one-on-one.

1 I think there can be rules and regulations that
2 prevent one-on-one communication, whether that be, you
3 know, on school property or elsewhere in the athletic
4 setting. Just have another coach there or something of
5 that nature. And I know that from a district standpoint
6 and from a practicality standpoint that may seem
7 impossible, but I think at least evaluating what are the
8 ways that we can ensure that somebody who has the potential
9 for grooming is not able to do that in the athletic or
10 school setting at the end of the day?

11 I don't know that there is a, you know, concrete
12 answer, but I do know that -- I believe that it starts with
13 adequate training and then just evaluating with regards to
14 the people that know how to prevent this from happening in
15 the athletic or school setting and talking to them to come
16 up with the best ways, this is how we need to do this.

17 REPRESENTATIVE STRUZZI: Thank you.

18 MAJORITY CHAIRWOMAN DELOZIER: Thank you very
19 much. And I have a few more questions and I just put out
20 there -- because we have a -- we're getting off time here
21 just to respect everybody's time. Just if you can keep it
22 short and sweet that'd be awesome. Representative
23 Hanbidge?

24 REPRESENTATIVE HANBIDGE: A comment and a
25 question. As a long-time child advocate, one of the things

1 that I think that we lose in the concept of communication
2 is so many good teachers aren't abusers, and for so many
3 children they're also a huge resource. I've had enumerable
4 cases where it was reported by a teacher who was in
5 communication with a student because that's that person's
6 go-to person.

7 MR. KENT: Uh-huh (affirmative).

8 REPRESENTATIVE HANBIDGE: And we don't want to
9 lose the benefit of that mentorship and relationship in
10 education, so as we're defining these laws and as we're
11 talking about communications and making sure that we're
12 being stringent about ensuring that children aren't subject
13 to abuse, we realize the benefit of that relationship for
14 many, many children. What is your number one tip for
15 parents?

16 MR. KENT: I guess I'm biased with regards to my
17 kids for numerous reasons, but to be overprotective. Know
18 your kids passwords on their social media, have access to
19 it. I mean, I think that's -- where we're seeing the
20 number one start of the grooming aspect of things is in a
21 social media context. You know, we talked about the
22 difficulty with regards to regulating social media as it
23 relates to teachers and employees and things of that
24 nature, but the parents have the ability to do that without
25 any hesitation whatsoever. So I think that would be my

1 number one tip at least with regards to protecting your
2 kids is know exactly where they are at all times and know
3 exactly what they're doing online, on their cell phone, on
4 these social media apps and things of that nature.

5 REPRESENTATIVE HANBIDGE: Great. Thank you for
6 the work you do.

7 MR. KENT: Thank you.

8 MAJORITY CHAIRWOMAN DELOZIER: Thank you very
9 much. Representative Stephens?

10 REPRESENTATIVE STEPHENS: Thanks. Brian, thank
11 you so much for your testimony. It's really, really
12 helpful. I wanted to just follow up a little bit. Do you
13 bring most of your claims in federal court or in state
14 court, and why, and does that matter?

15 MR. KENT: Sure. We do bring cases in federal
16 court typically when it is a public institution because of
17 Title IX and things of that nature. Especially if it's an
18 accommodation issue where there hasn't been an educational
19 accommodation for a victim or survivor or sexual abuse or
20 assault.

21 REPRESENTATIVE HANBIDGE: And what do you mean by
22 accommodation issues?

23 MR. KENT: Accommodation meaning an educational
24 accommodation where they are -- so we often see times where
25 alleged abusers are still in the same homeroom or class as

1 the individual that alleged that they were abused, which
2 obviously, we know from being trauma-informed is re-
3 traumatizing all over again. So they can't learn, they
4 can't function because they're sitting right across from
5 their abuser at the end of the day, or alleged abuser. So
6 in that sort of aspect of things, that would be under a
7 Title IX federal claim.

8 Obviously, there has been a change in the law as
9 of late 2019 whereby public school districts can be sued in
10 the state courts for negligence and things of that nature
11 if it falls under some of the criteria for minors that are
12 sexually abused in the criminal aspect of things. So we
13 are seeing an onslaught now of state-filed cases because of
14 that no-exception with regards to being able to do that,
15 including some federal claims.

16 And you know, at the end of the day, I don't know
17 whether it's more beneficial to be in federal court as it
18 relates to those cases and statutes and laws and things of
19 that nature. But it used to be mostly all federal court
20 with regards to public institutions, and now you're seeing
21 a big wave of cases with regards to state-filed.

22 REPRESENTATIVE STEPHENS: Okay. Thank you.

23 MAJORITY CHAIRWOMAN DELOZIER: And last but
24 certainly not least, Chairwoman DeLissio.

25 MINORITY CHAIRWOMAN DELISSIO: Thank you. Really

1 quickly -- and I have so many questions.

2 MR. KENT: That's all right.

3 MINORITY CHAIRWOMAN DELISSIO: But if I had to
4 pick one, I'm going to pick this one. You had mentioned
5 early on in your testimony brain injury, traumatic brain
6 injury. Have you seen any of these survivors actually
7 diagnosed with TBI?

8 MR. KENT: So we have seen them -- yes. The
9 answer is yes. We have seen them undergo brain imaging by
10 neuropsychologists where you can literally identify parts
11 of the brain that have been affected as a result of abuse
12 or assault. Most of the time that's a prolonged exposure
13 to abuse or assault, but it's becoming more and more --
14 especially in the pediatric setting, more and more of a
15 diagnosis and an evaluation so that the medical providers
16 can, at the end of the day, identify exactly what areas of
17 the brain were affected if it does come up on a scan, which
18 it does most of the times in those longer exposure abuse
19 situations or neglect situations. But really from a
20 clinical standpoint allowing medical providers to address
21 the needs of the survivor based on the understanding of the
22 fact that it's trauma to the brain.

23 MINORITY CHAIRWOMAN DELISSIO: Thank you. Thank
24 you, Chairwoman.

25 MAJORITY CHAIRWOMAN DELOZIER: Thank you very

1 much. Thank you very much for your time.

2 MR. KENT: Thank you, all.

3 MAJORITY CHAIRWOMAN DELOZIER: Next we will hear
4 the perspective of law enforcement through the testimony of
5 four chiefs of police all here from Montgomery County. Tim
6 Troxel, Chief of Towamencin Township Police Department. I
7 hope I got that semi-correct. Christopher Ward, Chief of
8 Whitemarsh Township Police Department. Bill Daly is the
9 chief of Horsham Township Police Department, and Scott
10 Bendig is the chief of the Montgomery Township Police
11 Department and the current president of Montgomery County
12 Chiefs of Police Association. So with that, Chief Bendig,
13 do you want to start?

14 CHIEF BENDIG: Very good. First and foremost,
15 thank you to the Committee. On behalf of our
16 association -- the Montgomery County Chiefs Association, we
17 appreciate the opportunity to speak with members of the
18 Committee regarding this very important topic. In
19 preparation today, I had an opportunity to review the 2018
20 School Safety Task Force report. I think we're doing quite
21 well, and you know, we're progressing very well from 2018
22 regarding matters of training and security. Obviously,
23 today we're going to discuss a little bit more about
24 communication issues and the importance of us all sharing
25 vital information for the benefit of those that we've been

1 sworn to protect.

2 Other areas, I think it's going to be important
3 for you as Legislators in our Commonwealth to acknowledge
4 the fact that some of the recommendations of these
5 committees recommended the integration of law enforcement
6 into our educational facilities. And obviously, in light
7 of the past year and a half, some of those things have
8 changed as well. So we do have work to be done to say the
9 least. I think it's very important, though, that we hold
10 to the ideology that every student, every student, I say,
11 deserves the right to learn in a safe, respectful, and
12 inclusive environment, much to Mr. Kent's remarks.

13 I'm very fortunate in my community here -- I
14 didn't realize this at the time when I took this position
15 many years ago, is we don't have a high school. Chief
16 Troxel is so fortunate enough to have the regional high
17 school, so he can speak to that and some of the issues and
18 concerns that he has encountered in his position as Chief
19 of Police of Towamencin.

20 One thing I would like to speak to is -- and
21 advocate for, when it comes to our roles and
22 responsibilities as chiefs of police, each year we have to
23 meet with our school districts to discuss the safe schools,
24 the ACS reports. I will tell you this, and I will leave
25 this up to my peer to speak more in depth to, we have

1 concerns there regarding the communication involving those
2 reports.

3 We are finding that these are usually presented
4 to us at the end of the school year and in many, many
5 cases, the classification of these incidents by school
6 district officials cause great concern or consternation
7 with us as law enforcement officers because in some cases
8 they are cases that should've been brought to law
9 enforcement's attention. Not to say that they've handled
10 them incorrectly, but the fact remains that these are
11 things that we need to work with our school officials on
12 and our principals and other professionals in the
13 educational system to make sure that we're dotting our I's
14 and crossing our T's and ensuring not only the protection
15 of those children that were involved but also the children
16 that are actually not involved, all the other students that
17 are actually out there existing in these, you know, school
18 environments unbeknownst to them -- you know, being
19 involved with kids that may have issues with violence or
20 other issues or concerns.

21 So again, it's very important that we perhaps
22 maybe re-examine that concept and really mandate that the
23 educational facilities meet with law enforcement in those
24 communities on a monthly basis, perhaps, just so that we
25 really can have an understanding of what issues or concerns

1 are going on in the schools and ensuring that, you know,
2 we're being informed appropriately as to what's going on
3 and if there is a law enforcement component that needs to
4 be addressed. So that is all I have. I'll turn it over to
5 Chief Daly from Horsham Township.

6 CHIEF DALY: Good morning. Thank you for
7 allowing me the opportunity to be here today.
8 Representative Stephens, thank you for inviting me
9 personally. It's a privilege to be here. It's a privilege
10 to be here to be with you ladies and gentlemen because
11 we're putting our children as the priority, their safety,
12 their education, which is what we should all be doing.
13 Children first. We have faculty, we have staff we want to
14 protect. I know you're on a time schedule. We could talk
15 for hours, days, weeks, and months about it. We have a lot
16 of things facing us.

17 I applaud you because you're in the toughest
18 position. You may be in a tougher position than law
19 enforcement because you have to hear testimony, you have to
20 hear about problems, and then you have to think about how
21 you can solve problems. No matter what decision you make
22 someone's not going to like your decision, so for that,
23 absolutely right, I applaud you.

24 Hearing testimony prior to me when you're talking
25 about texting and single person with a single student, I am

1 a graduate of Hatboro-Horsham High School. I happen to be
2 the Chief of Horsham, which has Hatboro-Horsham High
3 School, a middle school, and numerous elementary schools.
4 And I know what it was like when I went through there, and
5 it was a great experience. Teachers who reached out really
6 made it a personal experience. And we have to be careful
7 that we can affect good laws and good protection without
8 living in a bubble and being totally paranoid, which makes
9 it very difficult on your being and what you have the work
10 ahead of you.

11 I want to speak about CHRIA, the Criminal History
12 Records Information Act, and I'm not going to spend a lot
13 of time because I know you're on a schedule and the
14 gentleman up here mentioned it. It's important that you
15 look at that the way it affects school districts and law
16 enforcement agencies communicating. Communication is
17 number one. I know Representative Stephens and other
18 Representatives worked on Children and Youth to make some
19 changes in the law. We are prohibited from sharing certain
20 information with our school districts.

21 If we have an arrest over the weekend and it's an
22 arrest which the juvenile's not going to be detained and is
23 going to be back in the school on Monday, there are certain
24 times we're not allowed to give the school district that
25 information. That information can be extremely valuable

1 for the safety of all involved.

2 So what I do ask is that you look at CHRIA and
3 look at how changes could be made to that law to allow law
4 enforcement and school districts to communicate better.
5 Communication is the most important thing in keeping
6 students safe. It's more important than anything that we
7 carry on us. It's more important than anything that
8 there's school has. Communication.

9 We have a very good relationship with the
10 Hatboro-Horsham School District, and I would never say that
11 the law has ever been broken, but I can tell you that the
12 Horsham Police Department, the Hatboro Police Department,
13 and the school district we communicate very, very well. I
14 would prefer that it be legal the way the communication is.
15 I'm not saying we do anything that's illegal, but I prefer
16 that it actually be legal. But if I'm in jail and a guy
17 says to me what are you in for and I say for trying to make
18 kids safe and he says I'm in for murder, you know, we'll
19 have to live with that.

20 So I think we need to look at the Criminal
21 History Records Information Act and make it to where law
22 enforcement and school districts, both public entities paid
23 for by taxpayer dollars can share information to keep our
24 kids safe. That's the utmost of importance. We have to
25 break down some of those barriers.

1 I heard the word accountability. We have to keep
2 people accountable. We have to keep the school districts
3 accountable, the boards, the teachers, the staff, the
4 police departments that work within law enforcement, and we
5 have to keep the children accountable also. I've been
6 asked by people in my community why there is such a close
7 relationship between the school district and the police and
8 why the police seem to be involved in the school district
9 so much, and I said the number one reason is the children
10 benefit. Children benefit from that.

11 The number two reason for that is because -- and
12 I've had school officials ask me over many, many years, why
13 do you guys get involved in school business? And I said
14 because if parents aren't happy -- and that's why we're
15 here because people weren't happy and a child or family
16 sued a school district for not getting the right response.
17 When people aren't happy with their school districts, I'm
18 usually the next person they call, or these gentlemen up
19 here are the next person they call. I've been called on
20 the phone and said what are you doing -- not what the
21 school's doing, what are you doing to keep my child safe?

22 So I'm going to quickly relay three very fast
23 stories. I'm going to start speaking faster. First one
24 had to do with a young boy that was at one of our
25 elementary schools. I was on the road that day. A call

1 came out of a third grader out of control, and I said I can
2 handle that. I'm really close. I called off the other
3 car, and I go to the call. And it was a third grader out
4 of control. He was basically crazy, assaulting the
5 principal. No one else was allowed in the room because the
6 principal didn't want anyone else to get hurt. I went in.
7 The problem was resolved fairly quickly. Talked to the
8 father when he came to pick up his son, and I thought it
9 was for the most part resolved, being handled by the school
10 district.

11 I met with my superintendent. We meet quarterly,
12 either breakfast or lunch, go out and communicate, talk,
13 bounce things off each other. And that incident came up.
14 He says, oh, we got a plan in place to help the young
15 child. I said, that's great. Well, I found out what that
16 plan was a few months later, is he went to my son's school.
17 They changed his school to a different school, and that was
18 how to resolve the issue. Wasn't long that he was in my
19 son's school. Now he's a fourth grader and my son's a
20 fifth grader. And a neighbor knocks on my door and says,
21 hey, can I talk to you about my son being bullied? And I'm
22 like, absolutely. And it happened to be the same young man
23 from the other school.

24 Within 24 hours, a teacher from the school
25 district calls me on the phone and says, hey, my daughter

1 got sent home with a concussion. She got thrown to the
2 ground and her head bounced off the floor, a tile floor,
3 and I want to talk to you about something. I don't know
4 what's being done. It was the same young man.

5 Within a very short time after that, I see my
6 detectives with their bags heading out during day work.
7 And I said, where you going? They said, we're going down
8 for a sexual assault at an elementary school. I said,
9 which one? And he said Hallowell. And it was the same
10 young boy where he took a girl under the table and put his
11 hands down her pants.

12 I went and had a talk with the superintendent.
13 And I know Chief Bendig said every student has a right to
14 be educated, so what my question -- or my statement to you
15 is, for you to question and talk about is every time I talk
16 to the superintendent about kids who are disruptive to the
17 point to where they're doing criminal acts, he always
18 blames you guys, all of you. Not my current
19 superintendent, my past superintendent, who retired a year
20 ago. And he said, it's all the legislators' faults. You
21 don't know how our hands are tied with these kids.

22 So I know we have a lot of stakeholders, but at
23 what point do we put one child ahead of all the children?
24 Some up on the panel will say, we always do that. Question
25 is, should we? I'm not out to hurt any child, but should

1 an entire classroom, an entire grade level be disrupted, go
2 into lockdown? And the school district says their hands a
3 really tied. Now, I've talked to State Representative
4 Stephens, I've talked to other people, and their hands
5 aren't totally tied, but they bear the cost of placing that
6 child, I believe is the way the current laws are. A lot of
7 heads are shaking, so at least I know I'm on track. So
8 they bear the cost.

9 You sit and work on a budget every year for the
10 state, and it's probably painstaking. School districts do
11 the same thing. So now they weigh out. If I send this
12 child to an alternative school, it's going to cost us
13 \$25,000. And if send the other one, it's going to cost us
14 this much money if I send another one. And then there's a
15 portion of their budget -- they have a line item for
16 sending kids out of district. So now the question is, who
17 should pay for that? Should it be the school district and
18 the taxpayers, or do the parents bear some individual
19 responsibility?

20 Again, I don't know what can be done, but it's
21 something to think about because I've seen incidents were
22 school districts probably should've taken steps to remove a
23 child but for financial reasons didn't do it right away,
24 and an additional person got hurt and then an additional
25 person got hurt. So I just ask for that to be as your

1 committee discussions, is should school districts bear the
2 experience or even the total expense if a child has to be
3 removed for disciplinary or criminal reasons? Again, every
4 child that wants to learn has a right to learn in a safe,
5 good, public environment. But not every child does want to
6 learn.

7 The other incident was just recently when we talk
8 about the dissemination of information where I had my
9 school resource officer assaulted in the school by a
10 student who is 18 years old. And it wasn't a bad assault,
11 but it was still an assault. The juvenile was arrested and
12 remanded to Montgomery County Correctional Facility by the
13 judge. Student got bonded out and then was able to walk
14 during graduation. I met with his school superintendent
15 prior to the graduation because they sent out an email
16 speaking about how everyone has to walk a straight line, no
17 fooling around. You'll graduate, but the actual
18 participating in the ceremony is not a right, it's a
19 privilege. And they allowed this young man to walk.

20 I went in and I spoke about accountability. I
21 said what you're teaching him is that there is no
22 accountability for his actions, especially when you put out
23 correspondence before the incident stating you won't be
24 allowed to walk. That's equivalent of a parent saying, if
25 you don't eat all your dinner you don't get dessert. When

1 your kid cries you give him dessert anyway, so they don't
2 cry anymore. You're not really teaching your child
3 anything.

4 We then hire him and then when they're 24, we
5 fire them when they don't make probation because they're
6 falling asleep on midnight shift and they're coming to work
7 late and they look at us like we're crazy like they
8 actually expect us -- like, we actually expect them to come
9 to work on time and not sleep on duty. But we need
10 accountability, so that was the problem that I had with the
11 decision that was made.

12 I went to the school board with 25 police
13 officers that were there to support the officer that got
14 assaulted and got shut down every time he wanted to talk
15 about it because of FERPA, and I know that's a federal law.
16 But that's how important. We can't bring a student who had
17 violent tendencies -- this wasn't his first time. I don't
18 have access to these records. I know Representative
19 Stephens talked about a case where he was trying to get
20 information and couldn't get access to records. But I've
21 been told by people who work at the district that he has 75
22 to 100 incidents, and it just keeps going. Nothing's done.
23 We can't get access to that information.

24 So again, the communication is extremely,
25 extremely important where the districts will hold on to

1 information when it benefits them sometimes, but yet they
2 want information from the police. And I want to give them
3 information that can keep kids safe.

4 The other thing is -- we had that incident, and
5 then we have incidents that happen not on school property,
6 not on school grounds, not during school time, not during a
7 school event, and the school district gets involved in it.
8 Now, there was a case that just came out by the courts that
9 decided in favor of the student on a cheerleader that was
10 disciplined during that time. It wasn't on school grounds,
11 not a school event, and not during school time. That's
12 causing us issues where the schools are saying the law says
13 anything that causes a disruption in the classroom they
14 have jurisdiction over.

15 Problem is I have two cases that happened in
16 Horsham Township where the school -- they were both --
17 again, met all the criteria, not during school time, no
18 school grounds, not even at a school event. School
19 district takes action, then they publicize it, and then the
20 kids start getting death threats. One was a Halloween
21 costume. And I'm not going to get into the story. Not
22 good judgment on the child, but when they called us we
23 said, absolutely nothing criminal. They let us know about
24 it. Said there's nothing criminal about it. Saturday
25 night, they still decided to take involvement. Now the

1 death threats start coming in on the student.

2 So again, we're talking about they say this is
3 what they're supposed to be doing based upon the law. The
4 law says if an out-of-school event causes school
5 disruption, they have to take action. When their action is
6 sending out emails letting everyone know what happened and
7 say we're going to have to stand our ground, we have to
8 take this fight on, a lot of younger people take that as,
9 okay, we'll take this fight on. And now they start using
10 social media, texting, and they start threatening, and in
11 these cases both of them were girls. I would never even
12 tell you what the threats were in a public setting.
13 Because it wasn't I'm going to kill you, you know, it was
14 way, way worse, if you can think of something worse than
15 that.

16 So as Representative Stephens said, you wanted to
17 hear some issues, some obstacles we face, so somewhere down
18 the road you can look at this isn't a problem-solving
19 session. I want to say that we have to be careful in what
20 we do because then if we go too far one way, if we say
21 every child has that right to be educated in a public
22 setting, no ifs, ands, or buts or the school district has
23 to pay, are we hurting a vast majority of kids. But we
24 have to take care of the stakeholders also. When's it a
25 parent or family responsibility?

1 In the same respect, if you go too far in one
2 way, then you might lose out. And I'll end on this story.
3 This is a Bucks County -- I heard when you were introduced,
4 you're from Bucks County. So this is a Bucks County story.
5 And I see it from both sides. Ten years at Delaware Valley
6 University as an adjunct professor, five years at Penn
7 State, so I've been in the classroom on that side and in
8 law enforcement.

9 A child who was homeless lived in a shelter, went
10 to a middle school in Bucks County, and they were doing
11 their school trip to Washington, D.C. No busses run at 5
12 in the morning. That's what time the kids had to be there.
13 This child really wanted to go. Homeless child with
14 straight A's. Awesome student. Teachers say an
15 incredible, incredible girl. Unbelievable what she's
16 overcoming. They couldn't get her to Washington, D.C.
17 because there were no busses and she just didn't have that
18 many friends to get other parents to do it. Teachers were
19 not allowed to give her money because they're prohibited
20 from doing it. Teachers aren't allowed to pick her up
21 because they're prohibited from doing it. School district
22 policy. There's no law.

23 So what we have to be careful is, is this girl's
24 missing out. And my wife said -- who's a teacher, said
25 this girl might never get to go to Washington, D.C. and

1 learn what she could learn down there. And she was going
2 to go get her, and her principal said you will lose your
3 job. You'll lose your job. So I don't work for the school
4 district. So at 5 o'clock in the morning, I sent a marked
5 police car into Bucks County. I wasn't worried about what
6 my politicians thought, what my residents thought, or their
7 tax dollars, and we went to the homeless shelter, picked up
8 the girl, drove her to the school. We gave her \$50 so she
9 had spending money. The cost of the trip was waived. And
10 then I sent a police car up when the bus returned later
11 that night to make sure she got home safely.

12 So when I said earlier you have a hard job
13 because you have to balance fear, reality, people that are
14 paranoid. It's a very, very tough job that you all face.
15 And I thank you for that. Thank you for this time to
16 speak.

17 CHIEF WARD: I don't know if we have any time
18 left, so I -- sorry, Bill. Hi. I'm Chris Ward. I'm the
19 chief of Whitemarsh Township here in Montgomery County. In
20 Whitemarsh Township, our school district, Colonial School
21 District, serves Whitemarsh, Plymouth, and Conshohocken, so
22 have some different issues because we are different
23 municipalities and we move around and work together with
24 our school district through all three municipalities.

25 As Chief Daly has told you we could sit here and

1 talk. My background, I was the juvenile detective for my
2 department for many years. I am an internet crimes against
3 children investigator in a previous life. That's almost
4 decades ago -- you know, when we move on, but always been
5 involved and very proactive towards our schools and our
6 children. At one point, the Safe Schools reporting for our
7 school district was pointed in my direction before I was
8 the chief. I had just become a lieutenant. And that's
9 what I'll speak a little bit to right now.

10 Safe Schools reports in Whitemarsh Township. We
11 have Plymouth Whitemarsh High School. We have a elementary
12 school K to 3 and an elementary 4,5. We also have four
13 private schools, two of which have high school components.
14 They don't have to do Safe Schools, so there's no
15 consistency. Only our public schools. Personally, I'm
16 public school K to 8, private Catholic school for high
17 school. Different rules, regulations. We've seen that.

18 Safe Schools comes to me, and I'm like -- you
19 know, you're a police officer. What's this animal that
20 they're putting in front of me? And they present it to me
21 and nothing appears as my records are of the events that we
22 were actually called for. The report is inaccurate. Now,
23 this is years ago. Different administration of that school
24 district. Things have gotten a lot better. But I have
25 these Safe School reports placed in front of me, and I'm

1 asked to sign them because they're required to go back to
2 the state.

3 And I said, all right, let me look them over. And
4 I'm looking them over, and they're not what I -- the
5 information's not there that should be there from my
6 perspective. And they want my signature that I'm saying
7 that this is true and accurate. Well, I refused to sign
8 it, which became a very big deal. And I said, how can I
9 sign my name to something that's not accurate? And then I
10 get, well, if it's completely accurate, that's not going to
11 look good on our school district. And you know, again not
12 to be crude, that's a you problem, not a me problem and my
13 signature.

14 Luckily, I got the backing of the chiefs at the
15 time, and they finally started paying attention to it. And
16 there's been conversations. As you folks do, as chiefs we
17 discuss these issues, as a lieutenant you discuss these
18 issues, and we had to get them in line. But that's a
19 problem we face across the board is the accuracy of the
20 reports that you're requiring them to file because they
21 don't want them to be accurate if it's going to make them
22 look bad.

23 For the longest time, every kid that smoked or
24 thought about smoking on the school district property, oh,
25 we'll tell you about that because they didn't feel that

1 that was too harming to the school district. But when we
2 got in to real issues, we weren't being told or they were
3 categorized differently, if I can -- where we would
4 interpret it as a crime or something that needs to be
5 reported, they would categorize it as a behavioral issue.
6 Where's the line? And who has the specialty to say that?
7 The MOU for schools that we have through the district
8 attorney's office and we could sit here -- I've heard the
9 agreements that Montgomery County is the most restrictive
10 and other counties -- we're not here to discuss that.

11 There are some things that if I presented it to
12 each and every one of you, it's a crime. I don't care what
13 county, district we're in. And other things we could get
14 in to, you know, the smoking laws, the vaping laws as they
15 apply in school. And then you get in to, again, the same
16 problem of the 18-year-old senior and where do their rights
17 start and end.

18 But as Chief Daly talked about, things that
19 aren't reported and aren't accurate -- and just as an
20 example, at one point we became aware of sexual assaults
21 that were reported to the school but never brought to the
22 police department because they were handling it. And when
23 this child who was a student was committing these sexual
24 assaults and they were handling it, we were arresting him
25 outside the school for indecent exposure on multiple

1 occasions. And they allowed this child to go on the senior
2 trip. They put him on an airplane with his classmates, and
3 he assaulted a girl on the airplane. Jurisdiction, where
4 to go with that, that was, you know.

5 Again, it all finally came out, and of course
6 there were a lot of you inquiring, like, why weren't we
7 told and why couldn't we go to our partners? And we're
8 fortunate here in Montgomery County, our district
9 attorney's office, our juvenile probation system, our
10 Office of Children and Youth, and any other organization,
11 we communicate and we try to work together.

12 And we always try to come to the best solution
13 for the child and the children involved. We don't try as
14 the police to be the end all and the answer to everything.
15 We try to within all the ability we can to use the
16 resources from the school, from the township, borough,
17 through the county. And we're fortunate here, and I don't
18 want to say that everybody else is fortunate or not, but I
19 just know our -- and Todd you can -- Mr. Stephens, you can
20 speak to that. You know how we work.

21 But again, despite the victims, the multiple
22 female victims that child was allowed to walk at
23 graduation. And our school district was carrying that as a
24 behavioral problem. So the consistency in reporting, there
25 are fights in schools, high schools. We jokingly talk

1 about high schools. That's where the most Safe School
2 reporting comes. Our K to 3, most of the times it's not
3 your students, it's the parents that cause problems that
4 could end up on a Safe Schools report there and stuff like
5 that.

6 However, fights are fights and they happen in
7 schools, but when it's clearly an assault, that's not a
8 fight. And again, the consistency of reporting, the
9 sharing of information, the ability to allow other people,
10 for the school district being the police, to interpret what
11 is going on and get more minds on how it should be handled,
12 how it should be categorized. It doesn't occur. And
13 again, it's not a Pennsylvania issue. You know, we talk to
14 chiefs from everywhere.

15 These are issues we face around the nation, but
16 we're here to discuss Pennsylvania. And as chiefs, we've
17 discussed the Safe Schools, the understanding of it, we
18 don't always as law enforcement -- because it's a school
19 report, it's not ours, but we have to sign off on it. And
20 they don't want us to sign off on it. They don't want the
21 consistency and the report to reflect what may be true,
22 unless it's something like smoking, something that I don't
23 think we'll all be very upset about compared to other
24 things that we deal with.

25 So you know, as the chief of police in my town, I

1 want it to be as accurate as possible. The fact that my
2 three children went through that school, I want it be as
3 accurate as possible. And I will tell you that was
4 probably the school district's biggest problem for a while
5 because my three children were there. And when they would
6 come home and say, oh, Dad, did you hear about this? And I
7 hadn't, whether I would've told them I had or not, that's a
8 problem, you know.

9 So not to go too long because I know Chief Troxel
10 doesn't want to be shut out over on his end of the table,
11 I'll pass it on to him. But the Safe Schools reporting and
12 the consistency that comes with that is something that has
13 to be looked at with the transparency and everything that
14 goes along with it.

15 CHIEF TROXEL: Hello, everybody. My name's Tim
16 Troxel. I'm the chief of police for Towamencin, home of
17 one of the largest high schools in Montgomery County, and
18 the eighth largest school district in the state of
19 Pennsylvania. So maybe because of that they left me for
20 last so I wouldn't have too long to ramble on, but I have a
21 lot of exposure to a lot of these types of incidents and
22 problems school district wide. And being one of the bigger
23 school districts in the state, I was asked to come and
24 speak to you.

25 And I'm going to kind of -- the other chiefs have

1 all very succinctly touched on things, and I'm going to
2 expand a little bit on what Chief Ward was just talking
3 about with the MOU's because I think where we see a lot of
4 problems and where we're having a lot of issues is that
5 there's a disparity in the MOU's from school district to
6 school district. Chief Ward already touched on this. The
7 public schools are required to have them. Private schools
8 aren't. I also have a private high school in my
9 municipality that God knows what goes on there because they
10 don't tell me anything because they're not made to. But
11 we'll stick on the -- that's a whole other conversation we
12 can have later.

13 But I think a lot of our potential -- and I'll
14 expand on this a little bit as to you just heard about the
15 disparity in what gets reported and how it gets reported
16 and why it gets reported, and I think a lot of that comes
17 back to the MOU's that are in place between the school
18 districts and the police departments that serve them in
19 their jurisdictions. The notification process to law
20 enforcement for an incident that does occur within a school
21 is basically controlled by this memorandum of understanding
22 that's entered into as mandated by the Safe Schools Act
23 between school districts and the police departments.

24 And essentially, if you want to -- the way I kind
25 of wrap my mind around it when I was thinking about how I

1 best explain this to the panel, is there are -- basically
2 as far as the reporting of crimes goes and how things are
3 handled, there's three professional entities, if you want
4 to break it down that way, that are involved with this MOU
5 process. You have the school district itself, which is the
6 professional entity for educating students and running that
7 educational process. You have the law enforcement
8 departments for whatever jurisdiction the school falls in,
9 who are the, essentially, criminal investigations experts.
10 We are the experts in handling and classifying and
11 investigating crimes. And then you have the district
12 attorney's office, who are the legal experts.

13 Once we collaborate with them on an investigation
14 after it's concluded, we make a joint determination with
15 them as the law experts as to what laws, if any, were
16 violated, what crime should be charged for those
17 violations, and that's all based on the investigation
18 conducted by the experts in that, which are the police
19 departments. And by the model MOU, which I'll refer to a
20 lot, those are the three main stakeholders, so to speak, in
21 investigating any kind of criminal acts that occur or
22 incidents in a school district.

23 In the model MOU that's put out by the PA
24 Department of Education for school districts to use -- and
25 I think one of the issues is, again, that's a model MOU.

1 That's not this is what you will do. It's you can make
2 your own. Here's what we're saying is the best idea to
3 start as a boilerplate.

4 And a lot of school districts in Montgomery
5 County do that. Some of them use them verbatim.
6 Montgomery County was very active with the district
7 attorney's office and with other groups at trying to
8 standardize that across the county so we had a more
9 leveled-off response, but that isn't the same way
10 throughout the entire state. And those variations even
11 within Montgomery County and different school districts can
12 rise to problems, which I'll describe to you in a second.

13 In the model MOU, the law enforcement response
14 and notification section -- to give you an example, in that
15 section in the model MOU, the law enforcement agency is --
16 the specific word that used, and I have it in quotes in my
17 notes, is encouraged to consult with the district
18 attorney's office in determining whether to file criminal
19 charges at the conclusion of an investigation. So although
20 we as law enforcement as one of those three stakeholders is
21 encouraged to defer to the expert in criminal charges,
22 which would be the district attorney's office, there's
23 nowhere in that model MOU where the school district is
24 encouraged to refer criminal acts to the experts in
25 criminal investigation, which is the police department.

1 And I think that shows you a little bit of the
2 disparity right there where you're starting to have
3 problems just in the way things are being looked at. The
4 model MOU and a lot of MOU's in our county that are taken
5 off of that model MOU have two different notification
6 requirements for crimes that occur. And that kind of seems
7 amazing to me. A crime is a crime, and we should be
8 investigating crimes that occur in the schools as the
9 experts, as the law enforcement criminal investigators,
10 which is the service that police departments provide.

11 However, in the model MOU and in the MOU's
12 adopted base off of that by a lot of school districts,
13 there's mandatory reporting, which are basically what we
14 call Class 1 crimes, aggravated assault, homicide, rape,
15 the really bad ones, so to speak, where school districts
16 are required to immediately notify the police. And then
17 there are discretionary crimes. So the model MOU itself,
18 which again has been adopted by many districts, gives the
19 school district the discretion as to whether or not to even
20 notify law enforcement of certain criminal acts.

21 I'm going to read you a list of just a couple of
22 those that the school districts are allowed to decide
23 whether they report this to the police or not based upon
24 this MOU: simple assault, recklessly endangering another
25 person, terroristic threats, disorderly conduct, indecent

1 exposure, harassment, and theft. Those are specifically
2 enumerated in the model MOU that goes out from the state
3 education department to school districts as criminal
4 offenses that the school district can decide whether or not
5 they want to let us know they've occurred.

6 Herein lies the problem with that. You now have
7 individuals who are teachers -- and God bless them because
8 I wouldn't want to do what they do. But you now have
9 individuals who are not law enforcement professionals, who
10 are not trained criminal investigators, who may not even
11 know the difference between a simple assault and an
12 aggravated assault, being given the discretionary authority
13 to make a determination as to whether or not this was a
14 certain level of crime that needs to be reported to the
15 police.

16 In looking at the Safe Schools Act, one of the
17 other things I noticed was each district -- the Safe
18 Schools Act itself mandated that the state board of
19 education convene and consult with a statewide advisory
20 board on what's going to be included in the Safe Schools
21 Act and how it's going to be carried out, maintained,
22 updated, all of those types of things. In that mandate by
23 the state to the Board of Education, they were mandated to
24 include certain individuals in their advisory committee
25 that was going to help maintain and make up the rules to

1 the Safe Schools Act. That listed 14 different individuals
2 or organizations -- and I don't have them all written down
3 to tell you, but they specifically said to the board of
4 education you have to have either this individual person or
5 this individual organization represented in your advisory
6 committee in order to create the Safe Schools Act.

7 Out of the 14 individuals or organizations that
8 were listed in that mandate, the very first one on that
9 list was a police chief. So mandated for the state a
10 police chief had to be on the advisory board for the Safe
11 Schools Act, the creation, the maintenance, and advising on
12 how it should move forward. Yet when it comes to creating
13 MOU's at the individual school districts level, there isn't
14 a similar mandate, and as a matter of fact what's the
15 people or organizations that are listed as recommended
16 participants, which is at the discretion of the chief
17 administrator of the school or the school superintendent,
18 not a one of them even includes a representative from their
19 local law enforcement, let alone a chief of police.

20 So the state in their overarching Safe Schools
21 Act mandated a chief of police be involved in this advisory
22 process, yet when it comes to actually writing the MOU
23 school district to school district, the school district
24 administration isn't required to consult with local law
25 enforcement with what their particular MOU will contain.

1 So I think hopefully that pointed out -- I know we're short
2 on time -- some of the discrepancies between what we're
3 giving out.

4 And I think some of the issue has to come with do
5 we have to worry about starting to mandate? Not just this
6 is a model MOU, this is what you will include in your MOU
7 to help control some of these things to bring us in as the
8 professional criminal investigators when a criminal act has
9 occurred in the school and look at it.

10 We always have the discretion and the authority,
11 as some of the other chiefs have already expressed to you,
12 to communicate with the school district and make a decision
13 that's in the best interest of the student and the school
14 district as a whole. We have that discretion in any
15 criminal investigation we conduct whether or not we're
16 going to charge somebody with a crime. Sometimes it's
17 right to do that, sometimes it's not given the
18 circumstances.

19 But if we're not given the opportunity to come in
20 and conduct that investigation in the first place because
21 the school district was given the discretion as to whether
22 or not to report a criminal offense to us, then we don't
23 have the ability -- that's when we're getting calls at home
24 from parents going -- or social media's blowing up, going
25 why isn't the police department doing something about this?

1 And we're going, we didn't even know this happened.

2 And to that end as professional criminal
3 investigators, and Representative Stephens and well tell
4 you this from his past experience, often investigations are
5 made or broken in what's done initially in that
6 investigation. And if this doesn't come to our attention,
7 this particular act, three or four days after it happened
8 and we start looking into it and it turns out it is
9 something different than what the school district wanted to
10 classify it as, but they've already interviewed students,
11 they've already talked to people, people have already had a
12 chance to formulate their stories, it changes the whole
13 scope of the investigation.

14 And to the first speaker talking about not
15 wanting to re-traumatize children, in Montgomery County we
16 have Mission Kids. If it's sexual assault, if it's
17 something traumatic, we specifically only take them once
18 for an interview so -- and all the stakeholders are there
19 and that's part of our professional criminal investigator
20 repertoire, so to speak, that we understand and know how to
21 use. Yet if it's not reported to us after the school
22 district investigates it on their own to determine if it's
23 something they're going to report to us by the MOU, now we
24 have to re-interview that person, re-expose them to that
25 trauma.

1 So I think we have to kind of -- while we need to
2 collaborate and communicate, we also need to stay in our
3 lanes. And the lane for educators is educating, not
4 conducting criminal investigations or deciding what's a
5 crime that needs to be reported to the police or not.

6 And you know, they can classify something, as
7 Chief Daly spoke to, that might not necessarily be what
8 they're classifying it as when it should be some other
9 criminal offense, and they have the flexibility to do that
10 because they have their mandatory reporting list and their
11 optional reporting list. And whether or not it's properly
12 classified, that decision I think, should be left to the
13 investigation professionals, which would be us on that side
14 of things as opposed to the school district officials, who
15 as we previously discussed, are, to some extent rightly so
16 looking out for their own best interest of the school
17 district.

18 MAJORITY CHAIRWOMAN DELOZIER: Thank you very
19 much. I really appreciate the insight, and you know, I
20 have about 20 questions in my head. But with that I just
21 want to make two statements, and then we have some folks
22 that do have some questions. I'll defer to the members.
23 Is the fact that we have had this conversation with all of
24 our state schools as well, college level, with sexual
25 assaults and them reporting them, and obviously, that makes

1 the school looks bad.

2 I mean, what parent wants their child to go --
3 you know, my daughter. Why would I want my daughter to go
4 to a school that has reported rapes that has reported
5 sexual assaults? And that same mentality, I think, is what
6 you're referring to here even with high schools. I mean,
7 granted we don't necessarily have a choice. It's where we
8 live. Maybe parochial, but that brings up a whole other
9 issue, as I'm very interested in finding out why parochials
10 don't report to Safe Schools. They receive state tax
11 dollars as well for bussing and for books and that type of
12 thing. And bottom line, again, it comes back to they're
13 kids, and the kids should be protected and that ability to
14 take a look at that.

15 I also would like to get background information
16 offline about the family response, both by the family of
17 the victim but also the family of the perpetrator. You
18 mentioned, you know, being able to pull a child out, you
19 know. I'd be very interested, from your experiences, as to
20 the fact of the response from the family. You know, you
21 mentioned about payment and that type of thing, but I'd
22 like to know, you know, kind of what response do you get
23 from the parents when, you know, you're telling that their
24 child is doing X, Y, and Z and therefore a danger to other
25 children. That can't be easy news, obviously, but I'd be

1 very interested into that response as well. But with that
2 I'll defer -- oh, and then Chair DeLissio?

3 MINORITY CHAIRWOMAN DELISSIO: Thanks. I
4 appreciate that. I hear you all. I can only imagine how
5 difficult your situation is, and I'm learning a lot. So as
6 we talk about educators and law enforcement and DAs,
7 somewhere in this mix, this is the Children and Youth
8 Committee. This has to be child development professionals
9 as far as I'm concerned for an overlay to guide all of this
10 discussion. Children who create and behave badly, there's
11 a situation that created that behavior.

12 You know, all of us, I'm sure, and our friends or
13 families, neighbors are aware of families who have children
14 who are more challenging than others, and we feel for them.
15 That might even be folks in this very room today. We don't
16 want to see any of those children go through a judiciary
17 system and not be given the opportunity to grow up and
18 develop in the best way possible, and those children do
19 need support. And who should be responsible for that
20 support?

21 All great questions, but I just had to make a
22 comment here that in all of this great -- thank you for
23 sharing your particular challenges, the barriers that you
24 see, the communication that absolutely needs to be in
25 place. But I think the overriding piece of this has got to

1 be this is about our children and that type of child
2 development professional expertise has got -- for me -- to
3 be almost the guiding hand in this. So Sheryl, thank you
4 for letting me make that comment. This way it won't go
5 poof.

6 MAJORITY CHAIRWOMAN DELOZIER: That's perfectly
7 fine. Representative Struzzi?

8 REPRESENTATIVE STRUZZI: Thank you. I have like
9 14 hours' worth of questions, but Representative Thomas and
10 I were talking about one thing you brought up. As parents
11 who are school board members, the kid came home every day
12 and told us something that we didn't know. And you went,
13 wow. And I remember being yelled at by the superintendent
14 when I yelled and screamed, why do we have to pay for that
15 kid that we just expelled? Why doesn't the parents pay for
16 it? So that was something that was really -- still bothers
17 be that \$50,000 of the taxpayer money went to that kid when
18 the other child couldn't get what they needed. And it's
19 still an issue that needs to be dealt with.

20 But I have a question, one of my districts has a
21 full-blown police force: seven officers, the chief of
22 police. They're all retired from municipalities, most of
23 them, you talked about sharing information and how you were
24 sharing something that you may go to jail for or whatever
25 and you say the murder or whatever, could -- yeah I know.

1 I remembered that. I wrote it down in the speech that you
2 gave. But with North Penn, which I --

3 UNIDENTIFIED VOICE: (Indiscernible - away from
4 microphone).

5 REPRESENTATIVE STRUZZI: I know. Of course it
6 was. And I agree with you. They should be able to do what
7 you brought up, and it should not be a crime. But North
8 Penn has police officers. One of my districts has a full-
9 fledged police force. Are they able to share, then, with
10 their district? Because if they are police in the school
11 district as opposed to a municipality, how does that work?

12 CHIEF DALY: (Indiscernible - away from
13 microphone). -- of organizations which school districts do
14 not fall under.

15 REPRESENTATIVE STRUZZI: Okay. Thank you.

16 CHIEF WARD: Just to classify, too. North Penn
17 doesn't have its own school police.

18 REPRESENTATIVE STRUZZI: Are they allowed --

19 CHIEF TROXEL: They have all security. Some of
20 them are former officers who they've allowed to maintain
21 their Act 120 certification, but.

22 MAJORITY CHAIRWOMAN DELOZIER: Well -- and some
23 schools do have -- and you mentioned some of the community
24 officers that are within school districts, so there are
25 some kind of overlap sometimes. With that, Representative

1 Rossi?

2 REPRESENTATIVE ROSSI: Thank you all for your
3 testimony. It was very helpful. And I could relate to a
4 lot of it because it's what we all hear in our school
5 districts. What I want to ask you is about in peer-to-peer
6 situations, schools very much care about their reputations.
7 And I know that when a situation happens, the school says
8 they represent those students and they're responsible for
9 the education.

10 But I wanted to know if you see situations where
11 you feel the school is not telling the victim's family
12 enough? Because I know you hear things that they do not
13 and information's withheld from them. Do you ever feel
14 you're in situations where you're concerned for the victim
15 and you reach out to the parents outside of that and say,
16 they're not telling you enough; I'm concerned? Are you
17 allowed to do that? Are you able to do that? That's my
18 question.

19 CHIEF WARD: Some of the situations we talked
20 about where the school district will classify how they
21 choose to classify, and then we get contacted by a parent
22 after the fact or -- however, social media, we find out
23 about it. There's obviously times when if properly
24 interpreted, the victim or the victim's parents are not
25 getting enough information, and it's where the lack of

1 communication and the lack of consistency between the
2 school district, the police, and prosecutors, they're not
3 all read the same.

4 I don't want to always say it comes back to
5 trying to maintain the reputation of a school district.
6 I've seen that. Other times, as Chief Troxel alluded to,
7 it's a lack of knowledge, and they're doing a job that
8 they're not trained to do and that causes another problem.
9 So I'm not going to always say, but yeah. There are times
10 when a victim does not get enough information. Sometimes
11 it's an accident because we didn't include the right
12 people. Other times it may have been for the reputation of
13 the school district.

14 CHIEF BENDIG: If I could add one thing. One of
15 the issues that I ran in to in my organization, my agency,
16 there's a concern by the Safe Schools director or the
17 officer or person in charge of the Safe Schools reporting,
18 if they divulge that individual's name to us as law
19 enforcement entities, they have an obligation to then
20 divulge the fact that police have been actively involved in
21 an investigation of their child so that has some bearing on
22 this as well.

23 So there's a real apprehension on the part of
24 most of these school districts to really tell us some of
25 these things because they have mandated reported that once

1 they tell us something about their specific, you know, face
2 to the name, then they -- you know, it starts a
3 precipitous, like, you know, rolling down the hill-type
4 thing that they're always very mindful and concerned with.
5 So that does hurt us as well.

6 REPRESENTATIVE ROSSI: I think my concern is that
7 schools do push back on you guys. I've seen them do it.
8 And I just want to know that if you felt a child could be
9 in harm or a situation's more serious than a school is
10 taking it or they're favoring the child that did this
11 because they like the child or the child's popular, you
12 know, that you are reaching out to those parents and
13 saying, hey, I'm more concerned than you may be aware
14 because you do know more. And I think some of you did say
15 you have done this, and so thank you for that.

16 MAJORITY CHAIRWOMAN DELOZIER: Representative
17 Nelson?

18 REPRESENTATIVE NELSON: Thank you. And I am also
19 a former school board member, and in fact, in Cheltenham
20 Township, I was on the board. When we were first rolling
21 out the MOU's in -- I don't know, '15, '14, something like
22 that, and I was actually one of the folks who was a primary
23 opponent to the basic language that the county had. There
24 are a couple issues that I generally wanted to bring up
25 that really helped underscore why we're here, I believe.

1 And many of them involve appropriately sharing of
2 information.

3 The question is, what information is most
4 relevant? For example, within the MOU, I think there is an
5 instance where school districts would call the police if a
6 child was injured beyond kind of the normal processes that
7 a nurse could handle. So if a child was pushed, fell, hurt
8 their arm that would be a police-reporting incident, and
9 I've brought to my superintendent.

10 I said well, so if a second grader is on a swing
11 and another second grader moves in front or if somebody
12 pushes the kid and the child falls and accidentally breaks
13 their arm, that becomes a police incident, we now are
14 thinking about bringing the seven or eight year old out of
15 school in handcuffs, not because they were intending to
16 assault another student but because it's a seven or eight
17 year old who's roughhousing and a child falls and
18 accidentally breaks their arm. There was no intent.

19 And most importantly, what I always challenge our
20 teachers to wrestle with is once that child leaves your
21 care, once you've alerted someone else, whether it's in
22 school discipline within the classroom, on the playground,
23 how do you continue to own that relationship so that when
24 that child comes back they're ready to learn? Because that
25 relationship hasn't been wildly fractured, right? I

1 believe fully, and I think most of our school districts
2 believe fully that they are able to by-and-large handle
3 that because just as you're mentioning the trainings that
4 are required and who is an expert at understanding crimes,
5 our teachers in our school districts are intended to be the
6 experts at handling children and child psychology and
7 understanding manifestations.

8 One of the other major concerns that we generally
9 have when we think about the interaction and engagement of
10 law enforcement with our schools is in general the
11 manifestations of, and I think that's probably one that
12 many of you are kind of bringing to light when we're
13 thinking about sharing information with families and others
14 is, you know, the students who are causing disruptions, the
15 students who are oftentimes causing harassments, the
16 students who many times perhaps would be appropriately
17 breaking the laws may also be bringing with them some level
18 of, you know, an identified and medically-diagnosed
19 disability.

20 So really what we're talking about is the
21 confidentiality of that student's medical conditions, their
22 expectations, what would be consider an appropriate
23 manifestation, and not looking at those students as
24 criminals. And until we continue to make sure that we're
25 all on the same page as to how do we handle not just the

1 child who broke their arm or not just the child who is
2 coming home with a story, but how do we make sure that we
3 are handling all of our students appropriately, we're going
4 to continue to have this clash to say whose responsibility
5 is it where.

6 What I think is most important that was mentioned
7 is there is a need to share information because you all do
8 have some very valuable information that the school
9 districts really do need. If a child, for example, was
10 abused, you all would know oftentimes. The school
11 districts wouldn't and the school districts would need that
12 information perhaps desperately so that they can understand
13 better how to address, coach, educate that child and how to
14 make sure that when that child does something on the
15 playground that they can put it in the appropriate and
16 proper context.

17 So I think that there is significant need to be
18 able to share information across those boundaries, and I
19 think that we can work on what that looks like. But I also
20 want to make sure that we think about the context of whose
21 job is it to care for all of our students and whose job is
22 it to make sure that when we're building educational
23 systems, because this is kind of what we're talking about,
24 protecting staff and our students in schools, that we're
25 continuing to, one, inform our school boards, our school

1 districts but also acknowledging the years and years of
2 training and required hours every year for professional
3 development.

4 They're doing a tremendous job. You guys are
5 doing a tremendous job. And I think what that balance
6 looks like I'm looking forward to the end of this hearing
7 to hear, perhaps, a counter-story to it, but thank you for
8 coming in.

9 MAJORITY CHAIRWOMAN DELOZIER: Representative
10 Gleim?

11 REPRESENTATIVE GLEIM: Thank you. Really quick
12 question for you. I also was a school board member, and I
13 was also involved with our Safe Schools MOU when we were
14 developing it, and I think that what my colleague is also
15 talking about are best practices across the state. Because
16 I have some rural areas that don't have a police
17 department, so you know, maybe -- it would be really great
18 for me to hear from officers in all different kinds of
19 settings, not just this one. I think this is awesome.
20 Thank you very much.

21 But it'd be interesting if we're going to have,
22 you know, something that's consistent, which I think we've
23 talked about having the communication consistent across the
24 state, if we do that I'd also like to hear from some of the
25 schools that don't have police departments and what they do

1 with their resource officers or those type of, you know,
2 contractors that they have. So thank you.

3 MAJORITY CHAIRWOMAN DELOZIER: Good point. With
4 500 school districts, we obviously, have lots of different
5 types of situations. And next I have Representative
6 Hanbidge.

7 REPRESENTATIVE HANBIDGE: Thank you. With
8 respect to sort of the discretionary decision as to whether
9 or not to call you under the MOU's, so if you have a second
10 grader who saw an episode of the Simpsons and thinks
11 mooning is fun, that's a very different sort of exposure
12 issue than a high schooler that corners somebody and
13 exposes him or herself.

14 Generally speaking, how much do you think the
15 perception that the police force and the district
16 attorney's office and then also the laws that we write in a
17 punitive manner cause school districts to not want to call
18 you because they're worried about sort of traumatizing the
19 children or putting the children through a system that they
20 don't feel is educationally beneficial in the way that
21 they're conceptualizing it?

22 CHIEF TROXEL: I think number one, again it comes
23 down to communication. We're not going to show up, I would
24 trust and I would hope to say, and maybe I'm just speaking
25 for myself and my own department, that we would be able to

1 differentiate the two -- or second grader that watched an
2 episode of the Simpsons and mooned somebody as not being a
3 crime. And I think we have to get away of the stigma that
4 if the police are called somebody's getting let out in
5 handcuffs.

6 It's just when the police are called, we're going
7 to come in and we're going to collaborate if that
8 communication is there with the school district,
9 administrators, officials, whoever is making that decision
10 as to yes, this was inappropriate behavior but not a crime;
11 you go ahead and handle that. But I think all we're asking
12 for is that opportunity that if we show up and go, you
13 know, what this was probably a criminal offense; let us do
14 an investigation; let us collaborate with the district
15 attorney's office, find out what their opinion is on
16 whether or not this child should be charged or if we should
17 get in to some sort of diversionary kind of activity or
18 something like that.

19 The problem is, if we don't have an opportunity
20 to do that, then that determination is made solely by the
21 school district. And it's an extreme event, but we teach
22 all of our officers -- and this is the best example I can
23 give you, you show up at a death scene where somebody's
24 dead and you don't know why, which we get calls for. You
25 treat it as though it was a murder until you determine it

1 wasn't a murder because you only have, like I said, one
2 chance to get certain things right in that investigatory
3 process.

4 We're going to get called if it's a potential
5 criminal act and make that determination whether or not we
6 think it is a criminal act or not and whether or not then
7 it rises to the level that they should be getting charged,
8 based on age, culpability, intent, all those things. But
9 if we don't get called in the first place, none of that
10 happens. So I think that's where the communication needs
11 to occur.

12 We can always work on the best interest of the
13 children once we show up and start figuring out what went
14 on, why it went on, and those kinds of things behind it,
15 but if we don't get called -- if there's an allowance for
16 certain enumerated criminal acts to occur but if it occurs
17 at a school they're allowed to decide if we get called or
18 not, then we don't get a chance to start that process. And
19 I think that definitely should involve advocacy groups for
20 the children and diversion. And the criminal arrest, if it
21 has to occur, should be a very last resort and something
22 that's coordinated with district attorney's office. But we
23 don't have a chance to go through those steps unless we get
24 called.

25 REPRESENTATIVE HANBIDGE: Chief, do you think

1 zero tolerance has contributed to some of this how do we
2 proceed? I mean, we don't live in a perfect world, so even
3 the concept never made quite sense to me, but to what
4 degree do you folks see that kicking in?

5 CHIEF DALY: Can I answer that one? I'm not a
6 big proponent of zero tolerance, but as I said earlier when
7 I testified is finding this balance is what's difficult.
8 So when I went to Hatboro-Horsham High School, you met
9 someone after school at 3:00 behind the woodshop and you
10 had a fight. Remember those days, Todd? You went to
11 Hatboro-Horsham. He beat me few -- he's a lot taller than
12 I am. He's quicker than I am, so.

13 But you know what happened, when I went -- I
14 graduated in '79. What happened was no one brought guns
15 into school. We solved our differences sometimes after
16 school in that quick fight. And it doesn't really last
17 that long because you don't have the staying power to fight
18 for that long. They're pretty quick fights. And then the
19 next day a lot of times, we sat at the same lunch table and
20 talked because it was over. We got it out. It didn't
21 build up.

22 So zero tolerance, you can argue both ways with
23 zero tolerance. You know, I've seen police chiefs, police
24 officers say you know zero tolerance is the only way to go.
25 I was low on the totem pole when Hatboro-Horsham and the

1 higher-ups in Horsham Police started the whole zero
2 tolerance, and I wasn't for it back then. I said we got
3 to -- we have to use a little common sense. We can't lose
4 sight of common sense.

5 Like, to your question what Chief Troxel said,
6 the majority of times when our school district calls our
7 detectives, they don't even go to the school. They just
8 talk on the phone, they say, yep, you got this. We don't
9 want to be in the schools locking up kids. We don't want
10 to be -- we don't want the numbers to increase of the kids
11 that have contact with the criminal justice system. We use
12 common sense but we talk, we communicate. And Hatboro-
13 Horsham school district is very good at that. I don't have
14 a complaint in the world. They call our detectives, they
15 talk to them, they go over what they have, they bounce
16 stuff off each other, and 9 out of 10 times we don't even
17 go to the school.

18 So the stigma of we're in the school all the
19 time. We're bringing out fourth graders in handcuffs.
20 That's not happening. But we can't let the sexual assault
21 happen that doesn't get reported. You can't let the
22 assault, the simple assault happen that doesn't get
23 reported.

24 REPRESENTATIVE HANBIDGE: Right. And I've had
25 child advocacy cases where I've had seven year olds that

1 it's the fifth terroristic threat they end up getting
2 referred to you and the school is trying to handle it for
3 the first four times. And I have never met a Montgomery
4 County police officer that I have not had the utmost
5 respect for, for the work that they're doing Mission Kids
6 and I'm so grateful to that.

7 If I can interject just because I wanted to
8 continue my question before (indiscernible). If someone
9 said to you I want to give you one type of training, one
10 type of diversionary program, one way to try to make this
11 process better for kids, what would each of you request?
12 Just a quick training on trauma informed training on
13 whatever for your departments.

14 CHIEF WARD: I'm going to go first because, the
15 four of us sitting here are very fortunate. We work in
16 Montgomery County. We have a lot of things in place.
17 Representative DeLissio, you talked about making sure that
18 Children and Youth were involved. We have that already, so
19 we may not be the people to ask that question because we're
20 spoiled.

21 My current superintendent did not come from
22 Montgomery County. He dealt with a very, very large rural
23 district, state police, local police. He had all kinds of
24 different things. He had different issues that he had to
25 work through with that. Some of you talked about your

1 rural school districts. We may not be the best people to
2 answer that because we believe -- and it can always be
3 improved. In Montgomery County, we've built a pretty
4 robust and -- I keep looking at, you know, Representative
5 Stephens, he helped develop it. He can talk better than I
6 could about the systems we developed including all the
7 partners that we talk about.

8 Somerset County I heard. I have a relative who's
9 a school psychologist in Somerset County. When we talk
10 about business it's a different model than we use, and
11 that's consistency across the state. You can't always get
12 training and knowledge for those people. I have 36 police
13 officers. I have a juvenile background. I have a juvenile
14 detective. Probably six of my officers have the true
15 grasp, and you have to refer to those who have the grasp,
16 the education component to make sure that it's there. Just
17 to make sure that people know how can we make sure all of
18 our officers everywhere know where to go with the
19 information, not to silo it and not to -- you know, the
20 communication we've talked about.

21 I talked with, in greeting Representative Nelson,
22 the communication in the school districts. We already
23 communicate with our school districts. If you don't do
24 that -- the first time you go in there you don't want it to
25 be in an emergency situation. You want to already have a

1 relationship with the people you're dealing with. So not
2 to not answer your question, but we not be the right people
3 to answer it.

4 REPRESENTATIVE HANBIDGE: Thank you.

5 MAJORITY CHAIRWOMAN DELOZIER: We're going with
6 that one. Okay. Representative Flood and then
7 Representative Mackenzie, and then we need to move on to
8 the next panel.

9 REPRESENTATIVE FLOOD: I'm just going to be real
10 quick because my question was on the discretionary crimes,
11 which you guys really spoke well on. But I guess I'm
12 just -- I just don't understand. To me, a crime is a
13 crime. So why is it that schools can decide whether they
14 may or may not decide on whether they're going to tell you
15 if there's a simple assault, whether they're going to let
16 you know or not? Why do they get to determine if they feel
17 that child whether it's a fight, whether they think that
18 child was impacted less or more and whether they think that
19 they should get the law enforcement involved?

20 And do you think that this is something that most
21 schools -- it's the norm for most schools that they all
22 kind of, you know, take it upon themselves to determine
23 whether they want to get you involved or not when it comes
24 to fights, terroristic threats, things like that? Is that
25 typically the norm to get them involved? Because I know

1 you're speaking specifically, Chief Troxel, from your
2 experience at your school district, right? But overall, in
3 from your experiences across the panel here, do you think
4 that's the norm for most school districts? And what can we
5 do as legislators do you think to protect the students?

6 CHIEF BENDIG: Honestly, I think the key is
7 mandating the meeting and the submission of the reporting
8 on, I think, a monthly basis. I mean, it's more work for
9 us as chiefs to have to sign off some paperwork, but by
10 mandating us to maybe sign off on paperwork on a monthly
11 basis for crimes that have been reported or at least
12 categorized by these school districts, it will prompt a
13 conversation with us, you know. Because obviously, the
14 school districts, they're looking -- they have a board to
15 answer to and they want to show the board that they have a
16 safe school environment. So that's the ulterior motive in
17 many cases.

18 We're fortunate, as Chief Ward spoke to. A lot
19 of our areas we've come a long way. We've amended our
20 MOU's. We're having conversations with our Safe Schools
21 coordinators about these meetings on a more regular basis,
22 but I think just by you imposing something as simple as
23 that with whomever each of your school districts report
24 their Safe School information to on more of a consistent
25 basis, it will almost force those conversations at hand.

1 And then from that point forward, then there can be some
2 more, you know, integration as far as -- as you mentioned
3 maybe Children and Youth as well advocating for a portion
4 of that as well to actually work together to get this
5 resolved, and then we'll be able to come to something a
6 little bit more, I guess.

7 REPRESENTATIVE FLOOD: It bothers me that school
8 districts hide some of this stuff. That bothers me, like,
9 to my core, you know, and that they think that they can
10 determine what they want to report, what they don't want
11 to, whether they want to get you involved, whether they
12 don't. And so I'm sitting here and I'm listening to
13 everything that you have to say, and I'm trying to figure
14 out what we can do to help you and to help our kids in
15 schools be safe. Because whether it's a little fight, you
16 know, behind the gym or it's, you know, an all-out brawl,
17 we don't know how each child's being impacted. And I think
18 it's the school's responsibility to report it all, and I
19 don't think that they should be the ones to determine it,
20 whether it's big or little. A crime is a crime.

21 CHIEF DALY: I can be very naïve. I think
22 Hatboro-Horsham does a very nice job at reporting because
23 we do have that relationship to where we don't go out on
24 every call. We talk to them. We go over the situation.
25 We talk about communication. They'll give us the child's

1 name. We'll run him through our records. So now all of a
2 sudden we can say, whoa, wait a minute; this is a gray
3 area. But we had him with a gun in the woods on a
4 Saturday, and now what you're talking a borderline incident
5 it may be different.

6 And that goes right back into the information
7 sharing. If we had a juvenile with a gun that's
8 information we might -- especially if it's considered an
9 arrest record in his criminal history, we might not be able
10 to share with the school district when we talk about CHRIA.
11 But I think you have mandatory reporting, and we've dealt
12 with ChildLine and mandatory reporting for sexual abuse. I
13 mean, you can legislate very similar type things with the
14 school district.

15 And the thing is as Chief Ward said, there are --
16 law enforcement's very different across the state. And I'm
17 biased. There's no doubt. But I think we are so
18 professional in Montgomery County. I don't need to make
19 additional work. We have 41 officers in Horsham, and I
20 don't need to make additional work. If it's not a crime,
21 if it's not a police matter, we don't want to go in the
22 school.

23 When you see those TV shows where the two
24 agencies fight over the case that doesn't really happen.
25 We try to push, here it's yours; you take it. That is TV.

1 That's total fiction. We don't fight over it. We don't
2 want to make extra work. That's just the bottom line.

3 REPRESENTATIVE FLOOD: I think it's a matter of
4 the mandating reporters not understanding what it is they
5 should be reporting or not or do you know? As the
6 teachers, the administrators not understanding, are they
7 clear on what the lines are? Are they blurred? They're
8 not sure?

9 CHIEF DALY: Well, the mandatory reporting laws,
10 it doesn't cover every criminal aspect. And the other
11 thing that I've seen over my tenure is, when they don't
12 report things, they hold on to stuff that they're not
13 allowed to have. So imagine if we -- someone came in to
14 your office in Harrisburg while you're here and there's a
15 lot of marijuana in the drawer. Are they going to look at
16 you for that? And then go, oh, you know what? I took that
17 off of someone a few weeks ago, and I didn't document it.
18 We just talked to them, counseled. It was real minor.

19 We've had that happen. School trips, ski trips.
20 They were on a bus. Teacher finds marijuana and doesn't
21 tell anyone just takes it, doesn't report it. Now, they're
22 in possession of marijuana. Child pornography. That's
23 also happened. We have that issue a lot of times with
24 parents, unfortunately. They have -- they take their kids
25 phone and they send them to themselves once they catch

1 their kid, and they don't even realize they're holding on
2 to child pornography on their phone even though it's their
3 child, and they can't have that.

4 So it's the same thing. We've found, over years
5 and years, teachers who didn't report but then held on to
6 contraband, and they think it's okay. They're not allowed
7 to have that contraband any more than the person they took
8 it off of.

9 MAJORITY CHAIRWOMAN DELOZIER: Okay.

10 CHIEF TROXEL: I think real quickly, too, just to
11 chime in one last thing on your question. I think what
12 spurred all of us being here, and I think each of the
13 chiefs sitting at the tables here can universally tell you,
14 we've received those reports at the end of the school year
15 and going to match up numbers and they haven't matched. So
16 there is definitely a discrepancy in what's being reported
17 and what we're aware of, what the school has listed as
18 incidents and what we do.

19 And again, I'll echo what Chief Ward and the
20 other chiefs have been saying and I know Chief Bendig
21 alluded to this, we're lucky in Montgomery County because
22 there are a lot of things in place. And we're very
23 proactive with the North Penn School District, Chief Bendig
24 and I. We do meet with the Safe Schools. WE have
25 identified this s a problem. We've said maybe if we can

1 sit down on at least a quarterly if not a monthly basis and
2 meet with you and say what did you have going on, and kind
3 of information share with something that might not
4 officially be reported or find out, oh, this went on; yeah,
5 you really needed to have done that; let's start that
6 process now.

7 At least then you don't get to the end of the
8 school year and you're looking at a list of incidents from
9 all the school districts within your jurisdiction and
10 going, okay, well, I've got 37 things that don't match;
11 why? And so I think you probably -- universally, you would
12 see that disparity across the state. How you remedy that
13 becomes the problem.

14 MAJORITY CHAIRWOMAN DELOZIER: Okay. Thank you.
15 Finally, Representative Mackenzie has a quick question.

16 REPRESENTATIVE MACKENZIE: I hope it's quick.

17 MAJORITY CHAIRWOMAN DELOZIER: Me too.

18 REPRESENTATIVE MACKENZIE: I may be the only
19 person on the panel today who was a teacher. And about 50
20 years ago when I was a first-year teacher, I had an
21 experience in my classroom of eighth grade English
22 students. And a young boy exposed himself in the back of
23 the room to the girls, and of course they -- I didn't see
24 it happen, but they came to me with anguish and fear and
25 told me about it. So I immediately contacted the principal

1 and sent the young boy down to the principal's office.
2 This was 50 years ago, so every parent got called if
3 anything happened. There was no problem with contacting
4 the parents.

5 But of course, the parents did not take
6 responsibility. They said it was my fault. My skirt was
7 too short. I was too young and pretty. Whatever. And no
8 punishment was taken. They didn't call the police. He
9 wasn't expelled. So I had to deal with it in my classroom.
10 And so I kept him in the last row and the last seat, and I
11 moved the girls up to the front so they sat near me. And
12 that's all that happened.

13 And then about six months later, his family
14 moved. This whole conversation -- I literally haven't
15 thought about this for 50 years. But I sometimes wondered
16 would that child -- who was about 13, would he, then, go on
17 and become a rapist or you know something terrible? I
18 don't even remember his name, but I do remember the little
19 girls' names and the trauma that they endured from that
20 experience. So you know, protecting the children and not
21 protecting the perpetrator but protecting the rest of the
22 school population is of utmost importance to me.

23 MAJORITY CHAIRWOMAN DELOZIER: Okay. Well, thank
24 you very much. Chiefs, thank you for everything you do for
25 our communities and for using your area as an example. We

1 appreciate that and some points brought up about some other
2 areas to take a look at and ask some questions out in other
3 parts of Pennsylvania. But thank you for everything you do
4 and thanks for being here.

5 REPRESENTATIVE STEPHENS: Can I just clarify one
6 thing for the record? I was not the one in the brawl.
7 Representative Thomas graduated with Chief Daly, and so
8 maybe it was she who he was fighting with behind the --

9 REPRESENTATIVE THOMAS: Excuse me, Representative
10 Stephens. (Room laughter)

11 MAJORITY CHAIRWOMAN DELOZIER: Okay. Next we
12 have the panel with some district attorneys. Jack
13 Stollsteimer, district attorney in Delaware County and Ed
14 McCann, first assistant district attorney in Montgomery
15 County. And also we have and edit it for me, Leslie
16 Slingsby, the executive director of Mission Kids Child
17 Advocacy Center, which we had the pleasure of touring
18 yesterday, so thank you for that and for being here today.
19 And with that, Jack, do you want to start?

20 MR. STOLLSTEIMER: Sure. Thank you very much,
21 Chairwoman for inviting us here today. My name is Jack
22 Stollsteimer. As she said, I'm the district attorney of
23 Delaware County. That's the really great county just south
24 of here in Montgomery County. So next time my friend Todd
25 invites you to southeastern Pennsylvania, tell him you want

1 to come to Del-Co. Yeah. We'd love to have you.

2 I think we're here on behalf of the DA's
3 Association to say we want to be as cooperative as
4 possible. We understand and have really great appreciation
5 for the work you did last year on making exceptions to the
6 CRHIA statute. We know there needs to be more of those
7 kind of exceptions, particularly not to be able to bring
8 the information that is required both to the schools and to
9 law enforcement, a lot of what you've heard today, so we're
10 looking forward to working with you on that going forward.

11 I would just say from my own perspective, I
12 started my career at one point as the unfortunate and
13 unique job as the Safe Schools advocate for the City of
14 Philadelphia. I was a state employee who was supposed to
15 make sure Philadelphia was actually in compliance with the
16 Safe Schools Act.

17 It was a three-year fight, but they were
18 massively out of compliance, did nothing to protect victims
19 of crime in the City of Philadelphia, were underreporting
20 violent crimes by a factor of over a hundred percent, and
21 everything you heard from the chiefs they were doing sort
22 of on steroids. We worked to make that better. I still
23 believe that there are a lot of school districts who have
24 the same kind of problems Philadelphia does, which is it is
25 a problem to properly report what's going on in your

1 schools if you're afraid of the public relations aspect,
2 and we should never do that.

3 Law enforcement and the Education Committee, I
4 think, Representative Nelson, I would just take one issue
5 with you, we both have joint responsibility for every child
6 in the Commonwealth of Pennsylvania and we take it
7 extraordinarily seriously, so what I would say is we need
8 to be more collaborative in every possible way. And that's
9 what I would like to just say we're trying to do now in
10 Delaware County since I got elected district attorney.

11 We started doing Safe School summits back when
12 Pat Meehan was the DA back in '99 after the Columbine
13 massacre. And after about 20 years of having these summits
14 of law enforcement and school personnel together talking
15 about how we can harden campuses, finally somebody had the
16 idea and raised their hand and said, you know what we ought
17 to be talking about is behavioral and mental health because
18 that's the biggest challenge right now to school safety.
19 It's not just somebody coming in with an assault rifle. We
20 have to take care of these kids because they're presenting
21 with more and more problems.

22 And so everybody in Delaware County, our office,
23 county counsel, our CYS people, and the school communities
24 are all working together on a study. It's called Healthy
25 Kids Healthy Schools. We're going to try to find ways to

1 break down those silos. And the law is one aspect of that,
2 but the other is just cooperativeness, and I think you
3 heard that from the chiefs.

4 What they would really like, and we find this in
5 law enforcement, too, is just to have a great relationship
6 between the chief of police and the juvenile police
7 officers in the schools. We don't want to be putting kids
8 in the juvenile justice system if they don't belong there.
9 Sometimes the juvenile justice system is the best thing for
10 that kid. They are not criminals when they are in the
11 juvenile justice system. They are taken out of the
12 criminal justice system, and if they are found to be
13 delinquent they are going to be given services to make sure
14 that they don't reoffend. And many times we can also
15 expunge the records going forward.

16 So there are multiple ways law enforcement
17 community and the school community need to work better
18 together. And we need to break down whatever those
19 barriers are. From my personal experience, the law is just
20 one small piece of that. The other is really just making
21 sure that everybody is on the same page. And we all have
22 to take our different cultures. We have a different
23 cultural way of doing things in law enforcement than they
24 do in the school setting, and we have to appreciate that
25 and we all have to be trauma informed and we all have to

1 figure out a way to make this work for everybody.

2 But I do really appreciate your taking the time
3 to look at the law. I think it needs to be clarified. I
4 think that's the gist of our testimony, Representative
5 Stephens. Whatever we can do to make sure that that CHRIA
6 statute is changed so that information sharing between the
7 schools and law enforcement can be easier we're for, so
8 thank you very much.

9 MR. MCCANN: Good afternoon. And welcome to
10 Montgomery County. I really appreciate the opportunity to
11 address a group of like-minded people. People that think
12 it's really important to ensure the safety of children.
13 It's something that I've dedicated a lot of my career to,
14 so it's really a pleasure to be before people like
15 yourselves.

16 I was in the Philadelphia DA's office for 26
17 years before I came to Montgomery County. I've been here
18 for five. Probably the most important case I've prosecuted
19 and investigated in Philadelphia was the death of a young,
20 14-year-old girl with cerebral palsy in Philadelphia
21 County, in Parkside, she died. She was horribly neglected.
22 She was under the auspices of the Department of Human
23 Services at the time of her death. We investigated this
24 case for about two years and ended up arresting 10 people,
25 including several child protective services workers who

1 were supposed to be giving service to the family that were
2 not.

3 Out of that and out of what was already talked
4 about on Heckler's committee that did the hearings after
5 the Sandusky case, some really good things happened that
6 you guys were -- I'm sure many of you were part of. And
7 the one thing I want to talk about because I think it fits
8 right in to the title of this hearing is respecting
9 confidentiality while preserving accountability. Again,
10 having been involved in the criminal justice system and
11 child welfare for a really long time, 32 years as a
12 prosecutor, the best piece of legislation that I think I've
13 ever seen in that time period is Act 33.

14 I was on the initial Act 33 team in Philadelphia.
15 I ended up being the vice chair with Sam Gulino, who was
16 the medical examiner. And I was on that for the last six
17 years that I was in the city of Philadelphia. And I
18 thought that team, the collaborative approach that is
19 engendered by that statute having a multidisciplinary team
20 look at system failures to find out what happened, to find
21 out where systems and people potentially have fallen short.
22 I'm positive that that process worked to make kids safer in
23 Philadelphia. Leslie's the Chair of the Act 33 team in
24 Montgomery County, and I'm certain that that's happening in
25 Montgomery County, too.

1 And the reason why I think that is a few reasons.
2 And a lot of people have already talked about this and I'm
3 not going to elaborate too much on these points, but the
4 whole collaboration issue, having people from -- all
5 stakeholders in terms of child welfare being involved,
6 people from school districts, from child welfare
7 professionals, from medical professionals, law enforcement
8 professionals, talking about these issues in a frank way
9 and trying to get at where the potential issues and
10 problems are. That's one that Act 33 is excellent at.

11 And the second thing that I think Act 33 does
12 really well, too, is you balance it by the whole notion of
13 confidentiality. We're required to sign a confidentiality
14 agreement every time we meet. So every individual person
15 from the team is basically duty-bound to keep what happens
16 at these meetings confidential.

17 Now, we do public reports that are redacted and
18 things of that nature, but the conversation and what
19 happens as a result of these meetings -- again, I will tell
20 you being in Philadelphia where, unfortunately, we met
21 pretty much every month multiple times because of the
22 amount of fatalities and near fatality child abuse cases
23 were going on there. Thankfully, we meet far less in
24 Montgomery County. But the fact that the discussion
25 happens quick in terms of short in time from the time of

1 the incident to the time of the discussion and the fact
2 that everybody is at the table -- and again, if it's run
3 right and it is in Montgomery County and it was in
4 Philadelphia, where you have a really frank discussion and
5 information sharing, that's really been facilitated by
6 Representative Stephens in terms of your amendments, it was
7 a godsend.

8 Now, as Chief Daly said, we can do things
9 legally. Like maybe we weren't necessarily doing that
10 before in terms of the amount of information that was being
11 shared, but it makes the process so much better when
12 everyone has the information and everyone can talk and
13 everyone can collaborate. So that would be my two cents
14 about this whole topic. That if you want to look at a
15 model for the kind of successful legislation that can lead
16 to really making kids safer, you guys look to what you did
17 with Act 33 because it's a great example of something that
18 has literally made the difference in making kids safer in
19 the two places that I've worked.

20 MS. SLINGSBY: Now, he's making me feel guilty.
21 I'm missing my first Act 33 next week, so. I'm here to
22 talk really specifically about some changes in Title IX,
23 which I realize is federal legislation but certainly has
24 affected our communication with the school districts. On
25 February 26, 2020, the Secretary of Education directed the

1 Office of Civil Rights to ensure that school districts
2 kindergarten through 12 understand their obligations under
3 the federal law, and that they were prepared to respond
4 effectively to student complaints of sexual harassment and
5 assault, including sexual acts perpetrated upon students by
6 teachers, staff, and school personnel.

7 In addition, we have new Title IX regulations
8 that went in to effect August 14th, 2020. In Montgomery
9 County, we didn't start seeing the implementation of the
10 new prescriptive procedural requirements until February
11 when children started to return to in-person learning.
12 While Title IX is an extremely important piece of
13 legislation, there have been significant consequences to
14 our trauma-informed child abuse investigations and
15 interventions in Montgomery County. Child advocacy centers
16 like Mission Kids were created to reduce trauma associated
17 with numerous interviews, ensure that interviews are
18 conducted by highly trained professionals, as well as to
19 fully document the entire interview process. At child
20 advocacy centers across Pennsylvania, forensic interviewers
21 are trained in asking legally sound, nonleading, and
22 developmentally appropriate questions.

23 Since the new implementation of Title IX
24 regulations, we have found that school districts have
25 finished interviews of the alleged victim and the alleged

1 offender before the criminal justice system had the
2 opportunity to even begin their investigation. In
3 addition, interviews were conducted by a variety of school
4 employees who were neither trained in interviewing nor in
5 documentation.

6 Lastly, the child welfare and criminal justice
7 systems have been frustrated that anything shared with the
8 school district is now required to be presented to the
9 alleged offender, who is known as the respondent in any
10 Title IX investigations. Title IX was absolutely written
11 with adults, albeit college students, in mind and is
12 currently being blindly applied to minors as well. School
13 districts have been equally frustrated with the child
14 welfare and criminal justice systems. While the school
15 district is required to investigate and respond to
16 allegations promptly it has been very challenging for them
17 to wait for the criminal investigation while still
18 demonstrating to the federal government that they had a
19 prompt response, which is required for federal funding.

20 It has been my experience that school districts
21 would prefer if the interview was conducted by their local
22 child advocacy center but don't feel comfortable with that
23 option since they won't be provided with the recording or
24 the report due to CHRIA, as well as the fact that they're
25 legally obligated to share this information with the

1 respondent even before charges are filed. As a child
2 advocacy center, we believe in the multidisciplinary team
3 approach to the response of child abuse allegations and we
4 believe in sharing information in order to provide the best
5 protections for children and potentially prevent future
6 crimes by holding offenders accountable.

7 While we haven't yet found a reasonable solution
8 under our current laws, we have come so far with our
9 mandated reporting laws in Pennsylvania to clearly
10 communicate to schools that you don't need to investigate
11 any suspicion of child abuse. You're only obligated to
12 report it. Unfortunately, Title IX has changed all that.
13 They are now required to promptly investigate, and
14 unfortunately, this is taking us back to a time where we
15 have multiple interviews of children with concurrent yet
16 extremely different investigations.

17 We appreciate your time and commitment to help us
18 find the best way to protect children through coordinated
19 communication and investigations with our integral school
20 partners. Thank you.

21 MAJORITY CHAIRWOMAN DELOZIER: Thank you very
22 much. Appreciate the insights and the ability to ask
23 questions about the different -- because I have a number of
24 questions that popped in to my head about that because the
25 idea is not to make it more difficult. The idea is to make

1 it easier. With that, Representative Stephens had a
2 question.

3 REPRESENTATIVE STEPHENS: Thank you. And that's
4 to all three of you for testifying and participating.
5 Leslie, thank you so much for indulging me when I asked you
6 yesterday late in the day if you would join us for your
7 testimony, but I think it was really helpful. Do you know
8 if Title IX or those regulations or the directive from the
9 U.S. Department of Education requires the district to
10 perform their own investigation or whether they simply
11 could piggyback off of the investigation that law
12 enforcement is doing?

13 MS. SLINGSBY: I don't think it clearly states that, but
14 they certainly are required to investigate it. It doesn't
15 say whether they could utilize other people's investigation
16 techniques and reports. It does prescriptively say that
17 they would then need to turn over and give due notice to
18 the alleged offender, or the respondent in this case, with
19 all the materials that they've seen, collected, or heard.

20 REPRESENTATIVE STEPHENS: And for anyone on the
21 panel, is it still -- I mean, it's been 10 years since I
22 was in a courtroom. Is it still the law that impermissible
23 questioning can lead to the dismissal of charges
24 completely?

25 MR. MCCANN: You're talking about impermissible

1 questioning by --

2 REPRESENTATIVE STEPHENS: Like leading
3 questions -- you know, improper questioning --

4 MR. MCCANN: Yeah. I mean --

5 REPRESENTATIVE STEPHENS: -- with a young
6 witness.

7 MR. MCCANN: -- because there's still -- yeah.
8 The taint law's still -- and you have to have the hearings
9 on that from time to time. Yeah. I mean, that's why we do
10 at the CAC because you can show that the interviews are not
11 done in a way that would compromise the credibility of the
12 child's account.

13 MS. SLINGSBY: And the bigger issue, I think, is we now
14 have multiple reports of multiple interviews that happened,
15 and we know that it makes children look like they're
16 inconsistent when that's not the case. We're not trained
17 on how to go back and report verbatim what a child said,
18 and so now we have all kinds of complications for
19 protecting children as well as holding offenders
20 accountable.

21 REPRESENTATIVE STEPHENS: Thank you.

22 MAJORITY CHAIRWOMAN DELOZIER: Well, especially
23 because with a child the inconsistencies might be there
24 just because of how they're telling the story. And as was
25 mentioned in an earlier panel was the fact that that makes

1 the child look like they're lying --

2 MS. SLINGSBY: Absolutely.

3 MAJORITY CHAIRWOMAN DELOZIER: -- when they may
4 not be. It's just a matter of how they're telling the
5 story, and if they have to do multiple reports that causes
6 an issue as to the validity in court in the cross-
7 examination and all of the things that go along with the
8 court case. So with that, I don't know that anybody has
9 any -- but I appreciate the insight with the ability for us
10 to turn that around because the DAs and prosecuting, the
11 one question that I guess I would have is the sense that
12 with folks -- and it kind of goes back to putting people in
13 the pipeline and having folks that are not necessarily --
14 and I'm thinking juveniles from that perspective.

15 Could you just make a comment from the DA's
16 perspective and what it is that you go about trying to do
17 to not have kids? Because I know many of the DA's office
18 throughout our state were very hard to have diversionary
19 options when available and not have a juvenile. Because
20 the more that we have juveniles in our system, the more
21 adults we have in our system, most likely, which is not
22 certainly our goal. So if you guys could talk a little bit
23 about that, I think that would be important in the sense of
24 our end goal of having less juveniles in our system.

25 MR. MCCANN: Yeah. I mean, I think that's a

1 really excellent point. Certainly, especially in the last
2 two years for us have been a huge priority to reduce the
3 juvenile justice footprint in Montgomery County. Have we
4 been a hundred percent successful? No. We have tons of
5 work to do. But one of the things that DA Steele really
6 placed a priority on is to expand our Youth Aid Panel,
7 which allows juveniles to resolve any type of issues prior
8 to arrest in most cases informally through members of the
9 community doing community service, things of that nature.
10 We expanded our criteria, meaning that we allowed for
11 eligibility for more charges to fit within that and also
12 for kids who potentially had other encounters with the
13 juvenile justice system made them eligible in certain
14 respects for that.

15 So we do have a lot of work to do on that but
16 that's probably one of our number 1 priorities is certainly
17 to reduce the footprint of the juvenile justice system
18 because the research clearly shows that even kids that get
19 diverted after being arrested have a much higher recidivism
20 level than children who are diverted prior to arrest. So
21 really the endeavor is to try to make that Youth Aid Panel
22 available to more kids than are in the actual justice
23 system itself.

24 MR. STOLLSTEIMER: I agree with Ed. We use a
25 consent decree program we also use Youth Aid Panels in

1 Delaware County. But I also think that people need to keep
2 in mind that a lot of kids' lives are turned around in the
3 juvenile justice system. There are a lot of kids who go
4 through there and they get the help they need when they're
5 actually put in placement. My last case as a federal
6 prosecutor was a guy I had to put in jail for 15 years,
7 even though he had a serious juvenile offense, and he got
8 sent out to a school in Delaware County called Glen Mills.
9 And Glen Mills turned this kid's life around. He was going
10 to go to college on a scholarship, but his mother wanted
11 him back in North Philadelphia and he ended up selling
12 drugs with a gun. That ruined his life, not the juvenile
13 justice system.

14 So we also have to keep in mind whenever we talk
15 about a, you know, juvenile court or a school-to-prison
16 pipeline that most kids who get in to that system, they
17 actually get the help they need.

18 MAJORITY CHAIRWOMAN DELOZIER: And I would assume
19 in many cases they're not getting it necessarily at home,
20 like the example that you just gave.

21 MR. STOLLSTEIMER: They are absolutely not, and
22 in fact, Madam Chairman, sometimes you come to juvenile
23 court and you can see the kids who are in trouble and being
24 held delinquent, you can look at their parents and you can
25 see where the apple fell from the tree.

1 MAJORITY CHAIRWOMAN DELOZIER: Okay. It's a
2 family issue.

3 MR. MCCANN: I think that's a good point. I
4 mean, the other thing that we've done in Montgomery County,
5 we fortunately had a grant to do this and then expanded it,
6 is have case management services for some of the kids that
7 are in the Youth Aid Panel. Now, these are, obviously,
8 kids that aren't committing the most serious offenses as
9 Jack said, I mean, those people need a lot more services.
10 But for those that commit the less serious offenses,
11 sometimes intervention can be helpful to sort of take them
12 out of going on a path --

13 MAJORITY CHAIRWOMAN DELOZIER: Right.

14 MR. MCCANN: -- that could be worse for them.

15 MS. SLINGSBY: We also recently applied for an OJJDP grant
16 that would provide therapeutic services, a diversionary
17 therapeutic service for youth with problematic socialized
18 behaviors, which is deemed really effective. I mean, it's
19 less than a two percent recidivism rate instead of other
20 types of models of, I guess, treatment you would say. And
21 so other things out there that really work and I think
22 could have been really applicable in the case that you're
23 examining from North Penn.

24 MAJORITY CHAIRWOMAN DELOZIER: Chair DeLissio?

25 MINORITY CHAIRWOMAN DELISSIO: I just want to

1 clarify that this -- what you're describing varies from
2 county to county, correct? There's nothing in state
3 statute that tells a county that they have to proceed in
4 this manner, so some counties may have strong diversionary
5 programs. It may be a priority. Others may have no
6 diversionary program; is that correct?

7 MR. STOLLSTEIMER: That is correct. And I guess
8 that's the challenge of local government. They get to make
9 their own decisions about how they want to treat their
10 programs.

11 MINORITY CHAIRWOMAN DELISSIO: And that a program
12 that is currently in place, like the one, Mr. McCann, you
13 site now in Montgomery County could be undone, if you will,
14 when new folks come in at that level who made the decision;
15 it this correct?

16 MR. MCCANN: That could always happen. Correct.

17 MINORITY CHAIRWOMAN DELISSIO: So I'm just
18 thinking that something in state statute takes a little bit
19 more effort to undo if it's in place. And I am a proponent
20 of local government, but I have been struck by on many
21 occasions, over the 11 years I've been in office, as to how
22 different things can vary by county. And I think most of
23 our citizens don't even understand that or recognize it
24 until they're confronted with a need they have and find out
25 that, oh, in that county, I could've gotten that help, but

1 in this county, I'm kind of tough out of luck. So just
2 wanted to sort of make that point for the record.

3 MR. STOLLSTEIMER: As long as the resources come
4 with the mandates, we're happy to do it.

5 MINORITY CHAIRWOMAN DELISSIO: A given.
6 Understood.

7 MAJORITY CHAIRWOMAN DELOZIER: And I will say
8 just as a follow-up even to what the Chairman said is the
9 fact that of with the juvenile justice report that came
10 out, some of that issue was to push towards diversionary
11 and to push certain counties that may not have diversionary
12 programs as well as the age issue with the youth and who's
13 considered for adult court versus juvenile, and all of that
14 was wrapped up into a very large report. And we'll be
15 moving forward with some of those initiatives as well, but
16 thank you very much for your time. We appreciate it.

17 MR. MCCANN: Thank you.

18 MAJORITY CHAIRWOMAN DELOZIER: Our next panel, we
19 have a very familiar face in Jon Rubin from the Department
20 of Human Services Office of Children, Youth, and Families
21 and Brian Bornman, the executive director of Pennsylvania
22 Children and Youth Administrators Association, which
23 represents county Children and Youth agencies. With that,
24 Mr. Rubin?

25 MR. RUBIN: Thank you. I'm going to not read

1 through the testimony, the submitted written testimony, in
2 the interest of time. And as you would see I took
3 extensive notes, and I probably could've commented after
4 each of the panels, so I'm going to keep this brief and
5 open myself up to whatever questions you all have.

6 I do want to say first and foremost that the
7 Office of Children, Youth, and Families does come today in
8 partnership and with a desire to do a critical self-
9 examination of confidentiality and information sharing for
10 protecting students and staff in the schools. Child abuse
11 investigations are confidential, as per the Child
12 Protective Services law, as I think everybody here today
13 knows, and we do support the model that was just mentioned,
14 the children advocacy center model and being able to work
15 collaboratively and cross systems in the matter where we
16 cannot duplicate efforts and assure that we are working in
17 the best interest of the child.

18 So the Office of Children, Youth, and Families
19 strongly supports that model and has supported that model
20 through our needs-based budgeting process and working with
21 counties ongoing. I guess the question in front of the
22 Committee is, how do we develop that flexibility of
23 information sharing with public schools, as was maybe just
24 said, that when you create a one-size-fits-all law, how
25 does that get applied in our county-administered system,

1 and how do we oversee and assure that both rights of the
2 students and everybody involved? The confidentiality is
3 there for a reason, and we do want to avoid the potential
4 stigma that goes to a child or to a family when the
5 investigation is occurring while the information is being
6 gathered.

7 So again, the challenge before us is really, how
8 do we balance the rights and responsibilities? Well, we on
9 behalf of OCYF again, I would say that we will follow the
10 law as written. And I was struck by the earlier of the
11 story of the police chief who spoke about how he had picked
12 up a child at the shelter and made sure that that child got
13 to the field trip to Washington, D.C., and I know that our
14 case workers quite frequently do what they can to meet the
15 needs of the students and meet the needs of children going
16 above and beyond, sort of, I'll say testing the boundaries
17 of the law but not going and breaking the law in terms of
18 confidentiality and information sharing.

19 I do want to say that -- I know there were some
20 questions and some comments and discussion earlier about
21 reports coming in to ChildLine, and I do want folks to know
22 that as we receive reports to ChildLine -- and I oversee
23 ChildLine as part of my role at Office of Children, Youth,
24 and Families. As we receive them, we do refer them back to
25 law enforcement agencies even if they are not specific

1 fitting the criteria for Child Protective Services where
2 the county investigation would occur, so I know we've been
3 looking at child-on-child potential crime and other type
4 crimes. So please be aware of that. I believe you all
5 know the mandated reporter law that's been talked about
6 earlier, that we accept all of those referrals. But in
7 those cases where there's not one that would be appropriate
8 for the county to investigate as per the CPSL, those are
9 definitely reported to law enforcement for the local law
10 enforcement to follow up and also reported to the local
11 county agency.

12 And I do want to say that I strongly believe that
13 even if it's not a matter of the county agency to do an
14 investigation, anything that interests the potential harm
15 and trauma to a child, the county agency should look in to,
16 offer supports and services to the family. So we do
17 differentiate the reports that we receive and how we
18 respond to them into generally two types of categories.
19 One, is CPS, Child Protective Services where we do an
20 investigation but also GPS, General Protective Services
21 where we are really doing a family assessment and a needs
22 assessment and providing supports and services to that
23 family, not in the context of a specific abuse
24 investigation.

25 And a lot of these circumstances that we've

1 talked about today whereas our county agency might not be
2 doing an investigation, we would be available to provide
3 supports and services both to the victimized child but also
4 to the family. And I know we've heard some discussion
5 today about, I'll just say, what would be the whole family.
6 You know, it's not usual that a child would have acting-out
7 behavior in the absence of other family dynamics. And I do
8 think it's really important that we look at the reports
9 that we get in the context of the whole family and
10 multigenerational supports.

11 And early on I think the first gentleman who
12 testified today did talk about taking a trauma-informed
13 approach. And again, that is something that the state has
14 really emphasized. We are working with all of our programs
15 and facilities to be more trauma informed. That would be a
16 whole other hearing. I won't go in to great detail on that
17 but just wanted to comment on some of those things that
18 were mentioned earlier today. And I'm, again, happy to
19 stay here and take your questions.

20 MR. BORNMAN: Thank you. On behalf of the county
21 child welfare agencies, I also want to thank you for
22 holding a hearing. I submitted a written testimony that
23 considered many of the common issues that Child Welfare has
24 when they're dealing with the school districts and kind of
25 some of the points of conflict, so I'm not going to go over

1 all those again, particularly in light of the time here.

2 I did just want to touch on a couple points that
3 came up throughout the hearing, though. And I think what
4 you're seeing is really the theme of the hearing is too
5 much siloed information, be it the Child Protective
6 Services law, the Every Student Succeeds Act, Title IX,
7 CHRIA, everybody's got their little silos of information
8 that only allows you to share this much when you need this
9 much. So I think what we really need -- and this is
10 something Child Welfare has been talking about for the last
11 20 years, frankly, between mental health, drug and alcohol,
12 law enforcement, we need the comprehensive look at all the
13 different limitations on confidentiality. What information
14 really is important and who really needs that information
15 and why? And then conform all of the laws so that that
16 information can be shared with the people who really need
17 it.

18 If Child Welfare has information that's pertinent
19 for the schools and it is going to keep kids safer in
20 schools, then absolutely the schools should have that. If
21 law enforcement has information that's pertinent and Child
22 Welfare needs it in order to do an effective Act 33 review,
23 absolutely that should be able to be shared, and yet we
24 constantly run in to conflicts and people butting heads
25 because we can't share certain information.

1 Representative Stephens, one of the things you
2 asked at the beginning, very pointedly was, are there laws
3 that need to be improved? One of the points I made in my
4 written testimony is that for Child Welfare, if we find out
5 that a mom with some kids moves in somebody who's an
6 indicated perpetrator of sexual abuse, we can't disclose
7 that. Even as Child Welfare you have to play these
8 ridiculous games where you go out, talk to mother and say,
9 are you sure your kids are safe? Well, why are you asking?
10 Well, we can't say.

11 Because unless it's public information, unless
12 they're listed on a Megan's Law or some other public record
13 that they're criminally convicted, you can't disclose that
14 under the CPSL. And it's the same with the schools. And
15 you're really talking about some ridiculous kind of
16 limitations on assuring safety but without having the legal
17 authority to share your boyfriend's a perp. So there are
18 some issues that really need to be rectified, and they're
19 fairly concrete.

20 The issue, then, really becomes, as John said,
21 how do you set the limits on that? Who gets to be the
22 arbiter of what is enough information and what is the right
23 circumstance to share that information? And that's your
24 job, thankfully.

25 But again some of the other points that were

1 brought up: the trauma-informed. Absolutely. I mean, we
2 would certainly advocate for anybody who is working with
3 kids to have that lens of trauma-informed care and to
4 really understand the dynamics of abuse and neglect issues.
5 And I would go so far as to say, let's start with the
6 Bureau of Hearings and Appeals. I think many of you have
7 seen the report from the Auditor General the last year or
8 so that 85 percent of the appeals are overturned. There's
9 been a lot of issues brought up over the years about some
10 of what takes place at the Bureau of Hearings and Appeals
11 that lead to that high level of being overturned, and
12 certainly a big part of it is a lack of understanding with
13 the administrative law judges and understanding the
14 dynamics of child abuse. So I mean, I would say start
15 there and let's go and build out from there as well.

16 One thing that has not come up and I just wanted
17 to touch on very briefly is, at least when I was still
18 representing the county Child Welfare Agency in Franklin
19 County, for most of the school districts, staff couldn't be
20 terminated unless the abuse report against them was
21 founded. So the way it works, obviously, if there's a
22 referral that comes in, county agency may go investigate
23 and decide yes, there's substantial evidence to that.
24 They're indicated. They're then put on ChildLine. But
25 unless they are, then, criminally prosecuted or go to an

1 appeal whereby that appeal is then founded after a full
2 hearing on the merits, under the union contracts most of
3 the time, then, cannot be terminated.

4 Now, I don't know if that's across the board or
5 if that was kind of a local endeavor, but it really set up
6 a disincentive to try to appeal to clear your name because
7 if you lost, now you really could be terminated. If you
8 just said, okay, well, I'll stay indicated then you can
9 continue to work.

10 So again, we have to look at how all the
11 different moving pieces, be those union contracts,
12 policies, different incentives. A lot of what we talked
13 about today was the incentivization schemes of the Safe
14 Schools reporting and who has to -- I mean, what do you
15 report and how does that make you look? So I mean, these
16 are all things that we really need to consider when we're
17 looking at different pieces of legislation.

18 The last piece I want to touch on very briefly is
19 the issue of something -- kind of another point of
20 conflict, and it's not something I spoke about in the
21 written testimony between schools, is this kind of issue of
22 timing. There was kind of a standing joke at Child Welfare
23 that if you're going to get a call from a school, it's
24 going to be at 3:00 in the afternoon because the kid
25 discloses at 10:00 and the teacher waits until they get out

1 of class for the day and calls, but by that point it's too
2 late for the agency to get out and see the kid in the
3 school before they go and are back in the parents' home.
4 And you always have a much higher chance or likelihood of
5 getting comfortable disclosure if something's going to come
6 up from the child when they're outside the perpetrator's
7 home.

8 So that was always kind of an issue, as well as
9 the truancy referrals where it was entirely common to
10 get -- the last three weeks of school, you would get a
11 stack of truancy referrals come to the Child Welfare Agency
12 the kids that had missed 60, 80, 100 days of school and it
13 was always the point of, well, what do you expect the
14 agency to do about it now that there's two weeks left in
15 the school year? So I mean, I think a lot of this is we
16 need to be more cognizant that we're not checking boxes;
17 that we really are doing what's in the best interest of the
18 kids. If truancy referrals are going to be sent to the
19 agency, they need to be sent after a relatively short
20 period of time so the agency actually has a chance to do
21 something about, not wait until they've missed 80 days of
22 school and haven't done a lick of school work and it's a
23 guaranteed fail no matter what the agency does to get them
24 to class. So we just need to be all kind of working on
25 that same page.

1 And throughout all of this, I think the key point
2 is communication, building those relationships, developing
3 a good multidisciplinary investigation team between law
4 enforcement and Child Welfare and keeping those lines of
5 communication open to the best you can with the
6 understanding that there does need to be some changes to
7 some of the confidentiality laws so that pertinent
8 information really can be shared. Thank you.

9 MAJORITY CHAIRWOMAN DELOZIER: Thank you very
10 much for the information. With some of the conversations
11 that we've had with the other panels, I guess I would throw
12 out there the issue of the Safe School reports, only public
13 schools doing them. Is there a reason that private schools
14 don't do the Safe School reports? I don't know. I'm
15 asking why private schools don't do them but public schools
16 do, do them? Is there --

17 MR. BORNMAN: You're probably asking the wrong
18 people on that one.

19 MAJORITY CHAIRWOMAN DELOZIER: Well, I didn't
20 know what the agency in and of itself, if it was something
21 that had been historical. If there is a reason behind --

22 MR. RUBIN: I don't know any reason behind it. I
23 would only be guessing.

24 MAJORITY CHAIRWOMAN DELOZIER: Okay.

25 MR. RUBIN: Yeah.

1 MAJORITY CHAIRWOMAN DELOZIER: I want to find
2 out. So I'm trying to -- I'm like, okay. Since that had
3 come up -- like I said, because kids are kids whether
4 they're in private school or public school. If there's
5 incidences, I would imagine they would need to have that
6 communication as we've been talking about throughout the
7 day.

8 MR. RUBIN: Right. I will say that we would
9 investigate anything that happened in a private school the
10 same as if it happened in a public school that --

11 MAJORITY CHAIRWOMAN DELOZIER: If it came
12 through --

13 MR. RUBIN: If a report was made to ChildLine,
14 yes --

15 MAJORITY CHAIRWOMAN DELOZIER: ChildLine.

16 MR. RUBIN: -- and then we would access to the
17 child. The private school could not refuse us access to a
18 child if we felt we needed to see them in the school. And
19 those --

20 MAJORITY CHAIRWOMAN DELOZIER: Okay.

21 MR. RUBIN: -- all still apply the same for
22 private school as a public school.

23 MAJORITY CHAIRWOMAN DELOZIER: Okay. That's good
24 to know.

25 MR. BORNMAN: Yeah. I think the only difference

1 is that report -- I mean, in terms of all the mandated
2 reporter laws and the CPSL are all universally applicable.

3 MAJORITY CHAIRWOMAN DELOZIER: I was going to say
4 because the mandated reporter doesn't matter whether you're
5 a private school teacher or a public school teacher, but
6 what they're saying is that the Safe Schools report is not
7 required by private school is what we --

8 MR. RUBIN: Correct. Right. So it's the report
9 as --

10 MAJORITY CHAIRWOMAN DELOZIER: The report itself.

11 MR. RUBIN: -- opposed to the activity. Yes.
12 Correct.

13 MAJORITY CHAIRWOMAN DELOZIER: Okay. And then
14 one of the questions I did have, you were talking about
15 truancy and being reported to Children and Youth. Can you
16 explain that a little bit more? Because my understanding
17 is, at least in my school district, if you miss three times
18 a parent conference is required. And then if that doesn't
19 fix the problem, it's reported to the MDJ. But Children
20 and Youth is not listed in there, so can you tell me the
21 part -- you know, where you come in to play with that? I
22 didn't realize that the report to Children and Youth
23 happened for truancy.

24 MR. BORNMAN: Yeah. So after referral to the MDJ
25 then the next step is to go to Child Welfare. Right.

1 MAJORITY CHAIRWOMAN DELOZIER: Okay. Got you.
2 Great.

3 MR. BORNMAN: For truancy diversion programs and
4 truancy prevention programs. One of the things we have
5 discussed as county agencies is that the issue with truancy
6 is kind of an outlier compared to most of what Child
7 Welfare does. And some states have actually set kind of an
8 age, a bright-line rule, be that 10, 12, 14 years of age
9 but that below a certain age it really is parental conduct.
10 Above a certain age, you're really talking about more of a
11 summary offense, like a runaway child or behavior of the
12 child that kinds of lends itself less to Child Welfare. So
13 that's something to consider potentially.

14 MAJORITY CHAIRWOMAN DELOZIER: Okay.

15 MR. RUBIN: And if I could just quickly say, as
16 we would receive reports on truancy, we would pass them on
17 to the Child Welfare agency. And again, truancy is often a
18 symptom of other things that are happening in the home and
19 does require assessment.

20 And there was a comment earlier that I respect.
21 I believe Mr. Kent talked earlier about he was concerned of
22 mandated reporters not reporting and under reporting. And
23 I'm sure he's had experiences directly where he's spoken to
24 people and that's what he's learned and heard in very
25 specific instances. Generally speaking, I would say -- and

1 I don't know if Brian would agree from the county
2 perspective. I believe the counties all feel like there's
3 over reporting and that people who are not sure that
4 they -- that word suspect is very broad and that mandated
5 reporters typically will report if they're on the fence
6 versus not report if they're on the fence.

7 And I think if this Committee were to consider
8 looking at that word suspect and where we're setting the
9 bar of when to report to please be aware that a lot of
10 folks feel like there's over reporting and over
11 surveillance of people. And so again, very respectful to
12 the earlier opinion, which I'm sure is based on experiences
13 but just wanted to put that out there as well.

14 MAJORITY CHAIRWOMAN DELOZIER: Okay. I
15 appreciate the second opinion. Representative Thomas?

16 REPRESENTATIVE THOMAS: I have a lot of questions
17 about that over reporting but that wasn't originally why I
18 asked to ask a question, so I'm a little put off. I'm just
19 wondering, what is the relationship between Children and
20 Youth and the school systems? Are there routine
21 conversations? Are they only happening when there's a
22 joint child involved? Is there some kind of communication
23 mechanism that exists in the county Children and Youth or
24 the school district that creates kind of a constant
25 communication effort?

1 MR. BORNMAN: I mean, unfortunately, Pennsylvania
2 being a county-based system, you're going to get the same
3 answer every time. It depends. Based on which county
4 you're in -- I mean, there's some counties that their Child
5 Welfare agency will have staff actually stationed at the
6 school where they have an office to try to address some
7 issues that might come up throughout the school day and
8 build that engagement with the kids and the families and
9 then some that it's a very adversarial relationship. So I
10 think most really try to build that working relationship
11 and have regular conversations with the superintendents and
12 the principals of the school, but I mean, there's kind of a
13 ongoing conflict at times for some of the things that have
14 been mentioned earlier. Yeah.

15 REPRESENTATIVE THOMAS: Yeah. A lot of
16 conversation has been around communication and
17 confidentiality, which I understand, but I hate to mandate
18 communication by law. That's why I was wondering -- you
19 know, we heard from the police officers and the DA's office
20 kind of how -- and certainly I know it's going to vary, but
21 it's not like it's a set position or a set structure right
22 now, is what I'm hearing.

23 MR. RUBIN: Many county agencies have an
24 educational liaison at their county agency as a position
25 or --

1 REPRESENTATIVE THOMAS: Oh, they do. Okay.

2 MR. RUBIN: -- as somebody who has another
3 position, but they are the assigned educational --

4 REPRESENTATIVE THOMAS: Right.

5 MR. RUBIN: -- liaison. Do all county agencies?
6 I believe they all are required to have somebody identified
7 as an educational liaison. I'll speak for Brian and he can
8 correct me. I think what he's saying is the implementation
9 might vary from county to county --

10 REPRESENTATIVE THOMAS: Got it.

11 MR. RUBIN: -- and the success might vary from
12 county to county. I would also say that the county
13 agencies, unfortunately, a lot of the communication happens
14 on the circumstance on the case-by-case basis versus
15 strategically and big picture between the county agency.
16 That it should be noted and hasn't been said at all today,
17 that for youth who are in the custody of a county agency,
18 when there's a school-aged child, the county agency is
19 required to work with the school. If a child comes in to
20 custody, if their foster home is outside the district,
21 they're required to, if it's considered the best interest
22 of the child, to keep the child in that district. They are
23 regularly working with districts on transportation plans
24 and ongoing, a very much -- and it might be more school-by-
25 school and district-by-district, but there is a lot of

1 communication on a case-by-case basis.

2 REPRESENTATIVE THOMAS: Thank you.

3 MR. BORNMAN: And just to add, I mean, you're
4 hearing about kind of the all the worst scenarios. For a
5 general rule, I think agencies and I'm sure law enforcement
6 and schools work very well together. I mean, I certainly
7 wouldn't want what's represented here today that anyone
8 believe that that's somehow indicative of the entire school
9 system and the entire Child Welfare system and the entire
10 law enforcement system in the state. I think what you're
11 seeing is kind of the anomalies in some of those pieces.
12 But for the most part, I think there's very good
13 communication and there's very good relationships because
14 everybody does have the best interest of the kids at heart,
15 so I think mostly it works well. What we're talking about
16 today is when it doesn't.

17 MAJORITY CHAIRWOMAN DELOZIER: No, good point.
18 As we all know with many public policies, it's formulated
19 based on the worst-case scenario. Unfortunately, sometimes
20 that also is the ones that get the attention, so the ones
21 that work well don't get the attention because they're
22 hopefully happily settled children. But with that
23 Representative Hanbidge had a question. Oh, you're waiving
24 off? Okay. All right.

25 Well, I thank you very much for your time and

1 your testimony that each of us have as well. And the
2 ability for us to comment on, you know, working with the
3 counties and the state, we'll be taking a look at a lot of
4 the information that we received and looking for feedback
5 from you guys. And I appreciate your always willingness to
6 give us your feedback as to what you think the best
7 direction to go, so thank you very much for your time.

8 And last but certainly not least -- and we
9 appreciate the time, the Pennsylvania School Boards
10 Association panel. We have William Zee, partner and chair
11 at Education Law Group, Appel, Yost & Zee. And then we
12 have Vincent Champion, Esquire, immediate past president of
13 the Pennsylvania School Board Solicitors Association and
14 owner of Champion Law Office, so thank you both for being
15 the last panel. So there's always somebody who's got to be
16 the last one. But we really appreciate you taking the time
17 to be here and share with us, so I'll hand it over to you.

18 MR. ZEE: Thank you. Thank you for having us.
19 Vince and I were just joking, actually. It's good to go
20 last sometimes because you can kind of highlight all the
21 important things. And with a name like Zee I usually go
22 last, so I'm used to it. Vince is going to start.

23 MR. CHAMPION: Yeah. And with a name like
24 Champion I usually go first. So thank you for having us
25 speak today on behalf of the PSBA. It's particularly an

1 honor for me and humbling. I'd like to say that my office
2 is located in Carlisle, Pennsylvania, so I'm very happy to
3 see Representative Gleim. I've seen her often around town.
4 I was just in a meeting with the Chamber this morning.
5 Your name came up, and I was just thinking you are
6 everywhere, so it's nice to see --

7 REPRESENTATIVE GLEIM: You're following me.

8 MR. CHAMPION: So it's nice to be here.

9 Primarily, you have had an opportunity, I suspect, to
10 review the testimony that we submitted on a written basis,
11 so I'll just summarize in general. There's three really
12 main enactments that implicate the balancing of student
13 privacy interests and student safety. The first of which
14 is the Child Protective Services Law, which is CPSL. And
15 I'm positive this Committee is well acquainted with those
16 requirements.

17 The second is the Pennsylvania School Code and in
18 particular, Article XIII, which really is dedicated to
19 promoting school safety within the schools within our
20 Commonwealth. And the third, and I've heard us reference
21 this a couple of times during this testimony is FERPA,
22 right, which is the Federal Educational Rights and Privacy
23 Act. And as you know it's federal legislation, but the
24 supremacy clause as we know kind of creates a little bit of
25 an obstacle, I think, that school districts, law

1 enforcement agencies, and Children and Youth services
2 agencies are confronted with on a day-to-day basis when
3 they're trying to balance those competing interests. So I
4 just want to talk with you a little bit about those three
5 different enactments.

6 With regard to the CPSL, we know that that law
7 requires certain individuals report instances when they
8 suspect that a child is a victim of child abuse. We more
9 commonly refer to those individuals as mandatory reporters.
10 We're all well aware about what those requirements are. My
11 school district clients have reported, in talking with them
12 about the testimony that I was going to give today, that
13 one of the areas that they'd like this Committee to
14 consider is that when someone within a district makes a
15 mandatory report and Children and Youth Services begins
16 their investigation, sometimes school districts have no
17 idea about the status of the investigation. And school
18 districts would find it helpful to the extent possible to
19 have that information. Because we all know when a child is
20 experiencing or maybe a victim of abuse, when they come to
21 the classroom that abuse doesn't just stay at home, right?
22 It has a profound impact on them and on their ability to
23 learn and their ability to feel safe. So school districts
24 are uniquely equipped to provide wrap-around services
25 during the day because they're the ones that spend the most

1 time with children. So that's not stated as a criticism.
2 We just know that there are confidentiality restrictions
3 that prevent really the prompt provision of services that
4 students may need.

5 To that point, if something were to happen over
6 the weekend when it's not a situation where the school
7 district has made a report, the school districts may not
8 even know that this is an issue. So they respectfully ask
9 that you consider that and consider how you can eliminate
10 those sorts of obstacles so that they can provide the
11 services the kids need during the day.

12 I'm going to just skip over the school code. I
13 mean, I've talked a little bit about this in my written
14 submission and it has legalese. I quoted the statute. And
15 I know we've been at it for a while, so I want you to stay
16 awake while I'm quoting statutes, right? The Federal
17 Educational Rights and Privacy Act, we've talked about it
18 but I want to just make sure that we're all on the same
19 page in what it means. So FERPA restricts the disclosure
20 of information from student education records.
21 Specifically, FERPA restricts the disclosure of personally
22 identifiable educational records, which are maintained by
23 educational agency or institution. Generally speaking,
24 educational records cannot be disclosed without the consent
25 of a parent. There are a number of exceptions. And we had

1 a wonderful panel consisting of chiefs of police here in
2 Montgomery County, and you know, they were explaining their
3 difficulty, I guess, in terms of how it is that they can
4 receive information from school districts about student
5 records.

6 FERPA has limitation relative to that. School
7 districts aren't able to just turn over educational records
8 without a subpoena in connection with some sort of a law
9 enforcement or an investigation. So typically -- and I
10 know this puts school districts, at least my school
11 district clients in a difficult situation because they do
12 want to share the information with law enforcement, right,
13 because they recognize that collaborating with law
14 enforcement and Children and Youth services will put the
15 student in the best position to have a good result, even
16 though they are undergoing some pretty tragic
17 circumstances. However, I'm standing in the way.

18 And the reason I'm standing in the way is because
19 I'm guiding them as to the requirements of FERPA and I
20 routinely tell them that they should request that law
21 enforcement obtain a subpoena so that the school district
22 has protection under FERPA. And I always tell them, just
23 make sure I'm the boogeyman, right? Just blame it on your
24 lawyer, and you know, it usually works out. But the reason
25 that I take such a conservative approach to that is that

1 FERPA has a penalty that can be imposed on school districts
2 if they essentially have a pattern or practice of
3 disclosing educational records, and that would be the loss
4 of federal funding and that's a pretty significant issue.
5 So that's why I take a very conservative approach in terms
6 of advising clients to obtain a subpoena before they
7 disclose that information.

8 From a real-life example perspective, a lot of
9 our school districts in Pennsylvania have school resource
10 officers. And consider this, if you have a school resource
11 officer that has been asked to help with a disruptive
12 student who may be special needs, the officer will come in
13 and they try their best to de-escalate any situation in a
14 peaceable manner, and we've seen it time and time again.
15 However, if a school resource officer does not have
16 information as to a student's diagnosis or what the student
17 may be dealing with, they may use the inappropriate de-
18 escalation technique, not on purpose but simply because
19 they didn't know.

20 So school districts do recognize the significant
21 importance in terms of sharing that type of information and
22 how that could potentially benefit a student. So with that
23 said, you can see there are a number of obstacles that
24 impede the collaboration between law enforcement, school
25 districts, and Children and Youth services, my experience

1 has shown that the better able these three entities are
2 able to work together, the better the result for the
3 student. Thank you.

4 MR. ZEE: Thanks, Vince. So wrapping up, I'd
5 like to kind of take a different approach to this and
6 really leverage some of the positives I've heard today. I
7 think part of the reason I am here, I represent roughly 30
8 educational entities around the Commonwealth. Prior to the
9 practice of law, I was an educator, higher administrator,
10 and a public school teacher, and really I have focused a
11 lot of my legal work on the area of trauma-informed
12 practice. So PSBA, I think, I believe, probably asked me
13 to be here partially because I was the person who went
14 around the state in 2019 and talked to school boards about
15 trauma-informed practice and have done that throughout the
16 country and throughout all the various school districts
17 that we work with.

18 So I think it's important -- a lot of what I
19 heard today -- it was interesting to sit through this
20 because there's a lot of talking past one another, I think,
21 but I do think there are some opportunities. We've kind of
22 highlighted some of the more negative areas. But you know,
23 one I'll point out, for instance, as someone who is -- you
24 know, I was a child who experienced trauma, so I have the
25 opportunity a lot to work with school districts and do the

1 training that I think is really important for those in the
2 classroom, anybody with touchpoints with kids to understand
3 how that impacts behavior and how that impacts interactions
4 with law enforcement. And so I think having a group like
5 this and having this kind of discussion is really important
6 because I don't think it's necessary to talk past each
7 other.

8 Some of these silos -- and that word came up
9 quite a bit. It's a word I use a lot with this. I think
10 those really are the barriers, but there's also a lot of
11 opportunities. So one of the things, for instance, that
12 came up are the MOUs that law enforcement has with school
13 districts. One of the things that I've tried to be really
14 proactive with, with our clients is using that as a tool.

15 You know, I heard a lot about the impediments of
16 the MOU but not as an opportunity. So if you look at
17 things like training -- and I know the chiefs here talked a
18 lot about the training they get and their area of
19 expertise, and we had some comments about educators and
20 their areas of expertise.

21 One of the things we'd looked at is let's include
22 within our memorandum of understanding that we're all
23 getting similar sort of training; that we're bringing
24 everyone together and getting trauma-informed training so
25 that officers understand what it is that educators are

1 trying to accomplish when they have an incident that, you
2 know, the police may feel rises to the level of a crime,
3 but educators are looking at it through that lens of, hey I
4 work with students with special needs and I understand that
5 this autistic kid isn't necessarily trying to assault
6 someone. So having those same sorts of trainings I think
7 is really important. It's something that I know our
8 clients really want to see happen as well.

9 Some concerns with the Child Protective Services
10 Law that Vince referenced earlier, there are really no
11 mention of schools and collaboration with schools in that
12 law. There's mention of penalties if schools don't
13 cooperate with investigations, but there's very little with
14 respect to collaboration. So that's an area I think
15 schools would like to see addressed as well so that there's
16 a better understanding, again, of what the needs are on the
17 ground, in the school.

18 When you have a student -- you know, the for
19 instance I'll use is, you have a kid who's in an emotional
20 support classroom has an emotionally disturbed label and
21 has experienced trauma and there's some touchpoint with law
22 enforcement or CYD over the weekend, there's no ability for
23 a school district to be made aware of that prior to that
24 student returning back to the classroom.

25 Which in turn, it's sort of a vicious cycle

1 because now we get in to behaviors that are responsive to
2 what that child's experiencing outside of school, and the
3 school has no ability to program for that in an effective
4 way. So something as -- to you and I may seem as innocuous
5 as a teacher pounding on the table saying, hey, be quiet,
6 suddenly that student's triggered and is in a physical
7 altercation in the school facility, and now we have law
8 enforcement involved.

9 Those are the areas I think that -- really just
10 looking at those silos of information that's been addressed
11 and trying to break those down a little bit. I don't think
12 requires massive changes to the law. I think coordination
13 is probably the word that's more important and you know,
14 opportunities like this to bring these groups together so
15 they can actually talk about where the impediments are.

16 One of the things I did want to highlight -- and
17 I'm not going to go through everything. I took a ton of
18 notes, and as someone mentioned earlier, I mean, I'm very
19 passionate about this. I could talk about this all day, so
20 I enjoyed being here and listening to everyone, but I'm not
21 going to put everybody else through that. But we have a
22 Safe to Say program. I think it's been very effective. I
23 know the educators that I've talked to, despite the fact
24 that they get calls at two and three o'clock in the morning
25 and have to respond to some of those issues as they come

1 in, they view it is a really helpful tool because it helps
2 kids.

3 But one of the things that I think is starting to
4 occur around the Commonwealth and certainly has occurred in
5 other states throughout the country is the Handle With Care
6 projects. And I would love to see something like that, and
7 I know schools would like to see that implemented as part
8 of this.

9 So I hit this in my written testimony but just to
10 kind of highlight that, the Handle With Care essentially is
11 just -- it's not about disclosing a lot of specific
12 information. It's about essentially just giving schools a
13 heads up that, hey, there was a touchpoint with law
14 enforcement or Child and Protective Services over the
15 weekend for Johnny. Make sure you understand when Johnny
16 comes in, there's going to be an issue potentially in
17 school that day. To me, that's a very simple solution.
18 And maybe having practiced school law for 15 years now and
19 particularly over the last two years with COVID, you know,
20 so I try to be pragmatic about some of these things and not
21 recreate the wheel.

22 So I think there are things that we have in place
23 that we can leverage. The changes to the school code in
24 2019 for trauma-informed education for board members and
25 teachers I think was a great first step. And the next

1 logical step there I think is increasing that coordination
2 with agencies and law enforcement because I think everyone
3 you heard here today, I mean, the common theme, despite
4 magnifying some of the warts, is people care about kids and
5 they want to do the right things for kids. So I think to
6 me, those are the areas that don't really require a lot
7 with respect to change in the law but just better
8 coordination, so. We're happy to take questions.

9 MAJORITY CHAIRWOMAN DELOZIER: Thank you very
10 much for your insight and for being able to hear all the
11 other testimony and do a high-level wrap up. We appreciate
12 that. Chair DeLissio had a question.

13 MINORITY CHAIRWOMAN DELISSIO: Mr. Champion, you
14 had mentioned that school districts would be interested in
15 the status of an investigation, but then in your further
16 comments it sounded actually like they were looking for the
17 substance of the investigation. Because to me, status
18 would be open, closed, in the middle, you know, something
19 very high level such as that. So could you clarify for me
20 if the school district is actually looking for information
21 about the nature of the investigation that is other than
22 just yes, there's an investigation; it's open and closed,
23 so in fact, they may be able to respond appropriately to
24 the student who's going through some type of event?

25 MR. CHAMPION: Yeah. No. And thank you for your

1 question. And I should've been more clear. So I think
2 that it's two-fold. To the extent that I think it's
3 helpful for school districts to know if there has, as Mr.
4 Zee said, some sort of touch or point contact, particularly
5 if it's on the weekend and school districts don't know,
6 there are circumstances, however -- and without getting in
7 to details that would potentially undermine some sort of
8 investigation and potentially undermine maybe some sort of
9 criminal prosecution, there are some helpful facts that
10 could be used by the school district to provide the
11 appropriate services to address whatever the student's
12 experiencing. I hope that answers your question. It's a
13 case-by-case basis, I think, and it's hard to just say yes,
14 give them all the information because I know that's not
15 necessarily what they always need.

16 MINORITY CHAIRWOMAN DELISSIO: So it would be
17 beyond what Bill is suggesting in the Handle With Care
18 program but may stop short of a full disclosure because of
19 the nature of it. And I do think this is a judgment call.
20 This is case-by-case. We can't legislate this. And when
21 we legislate to the lowest common denominator, which is our
22 want, we really don't serve the greater good of citizens,
23 in my opinion. Well, I'll leave it at that, coordination
24 and communication; that needs to be improved. I mean, I
25 think that's definitely one of my takeaways today.

1 MAJORITY CHAIRWOMAN DELOZIER: Thank you.
2 Representative Thomas.

3 REPRESENTATIVE THOMAS: Yes. I would say I agree
4 with Representative DeLissio. But having been a school
5 board member, I understand the significance of maybe
6 wanting to know if there was a touchpoint over the weekend.
7 I think what we were hearing from law enforcement and one
8 of the things I saw on the school board is law enforcement
9 might also benefit from something that happened in school
10 on Friday that then translates to a weekend. And you know,
11 I take away that there has to be a way we can -- we're all
12 kind of governmental agencies. There has to be a way we
13 can communicate and share information without harming
14 privacy. You know, silos, et cetera.

15 So my question for you is if you'd like to have
16 that information for your clients or are you willing to say
17 to your clients that it can flow the other way? Because I
18 do think it needs to go back and forth, if it's going to
19 help kids in general.

20 MR. ZEE: I think I can handle that. Sure. And
21 feel free to jump in. No. I absolutely agree. I think
22 there are ways of accomplishing that. We do it as
23 attorneys all the time with clients. I mean, there are
24 ways to have discussions about situations without
25 disclosing confidential information. So I think

1 sometimes -- my wife's an educator, so you can imagine what
2 it's like being in my house having an education attorney
3 and a teacher. So we get to debate a lot of this stuff.
4 But I know one of the frustrations she expresses quite a
5 bit is, she feels she could do her job a lot better if
6 people didn't always come back and say, well, I can't
7 disclose that information to you because of
8 confidentiality. And you know, what I'll often respond to
9 her is that I think sometimes people take too hard a line
10 in how they interpret some of those restrictions.

11 So if you have a legitimate educational interest
12 in information, it can be shared under FERPA; that's not
13 problematic. But I think to your point, when you're
14 talking about agency interaction or law enforcement
15 interaction, why is it necessary to get in to the specific
16 name of a student? Some of the anecdotal information I
17 heard from the chiefs this morning, which was very
18 enlightening to kind of hear their perspective because I
19 get the calls from the other end from clients. I think
20 that just required a phone conversation and just let's
21 bounce some ideas off each other and see where this things
22 goes, so.

23 MR. CHAMPION: And just to add briefly, I think
24 you're absolutely right. I think it's a two-way street,
25 and that's how information should be exchanged. So I

1 readily have advised my clients that they should be
2 cooperative and to share as much information as possible.
3 So from my view, I don't think that that's problematic at
4 all to have both sides share information.

5 MR. ZEE: And just one other point on that
6 because there are a few things that did come up that I
7 just, with your indulgence, would like to address. The
8 Title IX thing in particular came up quite a bit. And this
9 is an area of struggle for districts right now, and I'm
10 doing some of those Title IX investigations.

11 I know one of the questions was asked, does the
12 administration have to use someone in-house to do those?
13 And the answer to that is no. However, there are certain
14 boxes that need to be checked with respect to how you
15 handle that process. So you know, the fact that I do a lot
16 of trauma work has helped me with clients and being able to
17 do those investigations in a way that's probably a little
18 more attuned to the needs of students than maybe some
19 others that would be called in, but you could use outside
20 providers.

21 I would agree wholeheartedly with the comments
22 that were made about, you know, the changes to the Title
23 IX. It's essentially a square peg in a round hole. They
24 were intended for the higher ed. environment and have been
25 foisted upon K-12 districts during COVID, so there was a

1 scramble to really get mechanisms and procedures in place.
2 I know districts are desperate for help with that right now
3 and would like to see some changes with respect to how they
4 handle those sorts of Title IX complaints in connection
5 with behavior that may rise to the level of the agency or
6 law enforcement involvement.

7 But unfortunately, it's not just an issue about
8 funding. It's also an issue of if you don't handle those
9 situations the right way you will be a lawsuit. And
10 districts are aware of that, so they're making sure that
11 they are very strictly adhering to the training that
12 they've had to go through, the procedures that have to be
13 in place. So we're all hopeful that over the course of the
14 next year or two years here we see some, maybe,
15 reevaluation of some of those regulations with respect to
16 their application for the K-12 environment, but right now,
17 you know, understanding some of the comments that were made
18 earlier, I think schools are really just in a difficult
19 spot and have to approach that process the way they're
20 approaching it.

21 MAJORITY CHAIRWOMAN DELOZIER: Thank you very
22 much. Representative Nelson.

23 REPRESENTATIVE NELSON: Okay. Thank you. My
24 question was actually regarding Title IX, so I'm good.
25 Thank you.

1 MAJORITY CHAIRWOMAN DELOZIER: Well, there you
2 go. Even better. Representative Gleim.

3 REPRESENTATIVE GLEIM: Hello. I had a question
4 about disciplinary hearings that school board members are
5 required, you know, to take especially if there is a
6 dangerous child or a situation that has occurred. I know
7 that their responsibility is to go through that
8 disciplinary process and then, you know, get the child out
9 of the school, basically, on suspension or whatever, you
10 know, comes out of it. But in those disciplinary hearings,
11 we do invite the parent, we do invite the administration,
12 and we have the school board members.

13 My idea or just thought was, in those hearings we
14 don't know if that student has been in touch with Children
15 and Youth or have a different, you know, thing going on, on
16 the side. Is that a particular hearing? Because it is
17 recorded, you know, you have a group of people in there,
18 that perhaps we could get some information as school board
19 members and as administrators that the child is also
20 involved in something else, whether it be with the police
21 or with Children -- you know, and invite them in or make
22 them aware that the disciplinary hearing is even going to
23 be happening.

24 MR. CHAMPION: I think that expulsion hearings
25 are a difficult venue and sometimes police officers are

1 reluctant -- I do not blame them, to testify necessarily in
2 a discipline hearing because they are placed under oath,
3 right, and whatever they say potentially could be an issue.
4 I think your points are well taken, though. So if you have
5 a -- I think what I heard you say is that if you have a
6 parent and you have a child that's involved in maybe an
7 abuse situation and the parent's in the hearing if that's
8 problematic, and it can be. And those are difficult issues
9 that the school districts have to work through, so.

10 REPRESENTATIVE GLEIM: All right. Maybe they
11 don't have to be there but just you know, supply or
12 communicate some information that -- you know, a statement
13 of some type. It's just an idea. So thanks.

14 MAJORITY CHAIRWOMAN DELOZIER: Again, it all goes
15 to the big picture of what's affecting a child and many
16 times as we've all known in certain hearings whether it's a
17 school hearing or unfortunately, the judicial system
18 hearing, when the person that's causing the turmoil due to
19 abuse of some sort is staring at them is very difficult for
20 a child to say what's happening or ask for help in any way.

21 But with that, the last question is
22 Representative Stephens.

23 REPRESENTATIVE STEPHENS: Thank you. Thanks for
24 your insights and testimony. Following up on the Title IX
25 piece where the districts don't have to do that in-house,

1 is there a requirement that whatever statements are made or
2 interviews are conducted be immediately turned over to the
3 person being investigated?

4 MR. ZEE: Yeah. It's part of the new Title IX
5 regulations. You actually have to -- and again, I think
6 this speaks more to what was trying to be accomplished
7 through the changes to the regulations and that was really
8 about the way those hearings were conducted in the higher
9 ed. environment. So there was a feeling that perhaps some
10 of the accused weren't being provided with sufficient
11 information. There are a number of -- the book Missoula is
12 a great book about Title IX the way Title IX used to look
13 under the prior regs and how it looks different now. So
14 yeah, I think that was one of the big changes is making
15 sure we were sort of leveling the playing field with
16 respect to information for both sides.

17 So the schools do -- for instance, if I go in and
18 do an investigation for one of my clients I provide that
19 back to the district. The district, then, has a designee
20 who's working with both of the families involved and that
21 investigation report has to go to both at the same time.
22 And they have an opportunity to challenge findings in the
23 investigation, to supplement the record with things they
24 think need to be addressed by the decision-maker. It's a
25 much more top-down process investigating that in K-12 than

1 it used to be, and I think that's primarily based on
2 changes that were intended to be made at the higher ed.
3 level. It just got lumped together.

4 REPRESENTATIVE STEPHENS: Yeah. I mean, I can
5 see that being tremendously problematic from a law
6 enforcement perspective. I wanted to discuss FERPA for a
7 minute because there seems to be -- as I've dug in on some
8 of these issues, I've gotten so many different explanations
9 of what FERPA protects from, frankly, school board
10 solicitors. I mean, it's been really difficult to try to
11 nail down. So I think in your testimony, you mentioned
12 that it restricts the disclosure of personally identifiable
13 information. In your opinion, does it prevent an
14 individual from asking -- at a public meeting, asking a
15 school board without identifying a student why a particular
16 student was disciplined or not disciplined in a certain
17 fashion if you don't identify the individual?

18 MR. ZEE: They've changed the definition under
19 FERPA and the FERPA regs have changed pretty drastically
20 over the course of about the last 10 years such that if you
21 can connect information to a student that becomes
22 personally identifiable. So I'll give you a for instance,
23 if I have -- you know, we get routinely requests under the
24 Right-To-Know Law for settlement agreements in special
25 education matters. If someone who is requesting that

1 information knows who the student is, we have a FERPA
2 problem because it's directly connected to that student,
3 even if we're redacting information out. And the Office of
4 Open Records has even had to grapple with that decision a
5 little bit -- those issues a little bit in releasing
6 information.

7 So specifically, to your point, the typical
8 lawyer answer, it depends. I mean, if there's information
9 that can be connected to a student, then arguably under the
10 definition of personally identifiable information, you
11 would be violating FERPA if you released it.

12 REPRESENTATIVE STEPHENS: But when you say if it
13 could be connected to the student, if who could connect it
14 to the student? If anyone could connect it to the student?
15 So if anyone on the planet Earth could connect it to the
16 student -- so if there was another student who witnessed
17 the behavior and you described the behavior without
18 describing the individual or identifying the individual,
19 your position is that that is protected by FERPA and the
20 district may not disclose that information?

21 MR. ZEE: I mean, it's contextual in the sense
22 that if you had a board meeting discussion about an
23 incident that occurred in school and someone gets up to
24 make public comment and you know, is commenting about a
25 fight that occurred, there may be lots of people in the

1 room that know who the students were, but I don't think if
2 there was some sort of response there that's generic that
3 that would be a FERPA violation. But I think when you get
4 in to specific protected information, some parts of student
5 information, for instance, directory information, name,
6 enrollment, those things aren't protected under FERPA.
7 It's that protected student information that if you can
8 connect with a student it's problematic.

9 REPRESENTATIVE STEPHENS: And these provisions
10 only apply to the district. The district may not disclose
11 this information, right?

12 MR. ZEE: Correct.

13 REPRESENTATIVE STEPHENS: Because the example
14 that was given -- and it was the police chief that was
15 sitting in the seat where you are, I mean, he was asking a
16 question of the school board and was told he couldn't even
17 ask the questions because of a FERPA concern. And
18 obviously, a member of the public can't violate FERPA. And
19 so you know, it seems -- and the perception is out there,
20 the districts hold FERPA up like a shield when they don't
21 want to discuss something. And there's a very -- an overly
22 broad interpretation given by the districts. And then, you
23 know, it gets in to a -- I know you commented about being
24 very conservative and I think you made the comment that
25 because the penalties could be so severe.

1 MR. ZEE: Right.

2 REPRESENTATIVE STEPHENS: Except my understanding
3 is that has never once happened in America.

4 MR. ZEE: That's correct. It's never happened.

5 MR. CHAMPION: It hasn't, but it's in the law, so
6 it's expressly written, and that's why I take such a
7 conservative approach.

8 REPRESENTATIVE STEPHENS: And am I also right
9 that there's no private cause of action --

10 MR. ZEE: That's correct.

11 REPRESENTATIVE STEPHENS: -- available under
12 FERPA?

13 MR. ZEE: That is correct.

14 REPRESENTATIVE STEPHENS: So no one can sue a
15 district and claim a FERPA violation --

16 MR. ZEE: Correct.

17 REPRESENTATIVE STEPHENS: -- with success, I
18 guess I need to --

19 MR. ZEE: It would be withholding federal funding
20 would be the penalty for --

21 REPRESENTATIVE STEPHENS: Right.

22 MR. ZEE: Now, there are other implications with
23 respect to the disclosure of student information. You
24 would potentially have private cause of action for not
25 looking at FERPA. There would be other issues that you

1 could potentially deal with as a school district, so we
2 want to be very careful in protecting student information.
3 But I don't disagree with your underlying premise that --
4 and I think I tried to reference this earlier that
5 sometimes there is this misunderstanding as to how far
6 those restrictions go. And I try to err on the side of if
7 we're doing something that's going to be helpful for a
8 student and you have a legitimate reason for the
9 information, then I think you're probably on safe ground
10 with respect to FERPA.

11 REPRESENTATIVE STEPHENS: All right. So on a
12 slightly different topic, nondisclosure agreements; are
13 they utilized in settling civil cases, generally?

14 MR. CHAMPION: They are as a standard practice.

15 REPRESENTATIVE STEPHENS: So let me ask you about
16 that because when it comes to accountability, do you think
17 that that's a fair -- do you think that's fair to utilize a
18 nondisclosure agreement? How is the public supposed to get
19 an accounting of how their tax dollars are being spent, if
20 by definition there's a nondisclosure agreement and they
21 aren't allowed to know?

22 MR. CHAMPION: Yeah. I think that Right-To-
23 Know --

24 MR. ZEE: Yes.

25 MR. CHAMPION: -- directly addresses that.

1 MR. ZEE: Yeah.

2 MR. CHAMPION: So notwithstanding the fact that
3 there is a nondisclosure component, I think the Right-To-
4 Know law will supersede that and ultimately a settlement
5 agreement will need to be disclosed pursuant to Right-To-
6 Know.

7 REPRESENTATIVE STEPHENS: Okay.

8 MR. ZEE: But we have to redact portions --

9 MR. CHAMPION: Right.

10 MR. ZEE: -- but it would be subject -- in
11 particular, the -- any sort of funding that's involved with
12 a settlement --

13 MR. CHAMPION: Right.

14 MR. ZEE: -- would most certainly be subject to a
15 Right-To-Know request, but --

16 REPRESENTATIVE STEPHENS: Okay. And that would
17 all still be available, notwithstanding the nondisclosure
18 agreement.

19 MR. CHAMPION: That's correct.

20 MR. ZEE: And it's routine language in those
21 agreements to say, you know, subject to requests under the
22 Right-To-Know law. I mean, I know that's --

23 MR. CHAMPION: Yeah. I put it --, too.

24 MR. ZEE: -- the language I use.

25 MR. CHAMPION: -- in, too.

1 MR. ZEE: Yeah.

2 MR. CHAMPION: Yeah, so.

3 REPRESENTATIVE STEPHENS: Got it. All right. I
4 think that's all the questions I had Madam Chair, I think.
5 Thank you.

6 MAJORITY CHAIRWOMAN DELOZIER: I think I'm done
7 but thank you for that. I believe everybody else the
8 questions have been answered, but first and foremost thank
9 you to everybody that was here. Thank you for being here,
10 taking your time and being the last panel, so thank you for
11 your patience with that.

12 And to all the members, thank you very, very much
13 for your time today and being here. I know scheduling is
14 always an issue and many of you drove a very long distance,
15 so thank you for that. I think the information was very
16 useful. I think that we have a lot of work to do in taking
17 a step back and trying to thread that needle and find out
18 how we can get a little bit more openness so that we can
19 feel that we are protecting our kids and have teachers less
20 going up against that barrier of I can't tell you that, I
21 can't tell you that, I can't tell you that because I'm sure
22 that is frustrating when they're trying to do something as
23 we all said for the betterment of the kids.

24 So we have to follow the law and that's why we
25 have attorneys so thank you for that, but we also need to

1 take a look at where we need to maybe make some changes in
2 the existing law to be ultimately clear as to what it is we
3 can and can't do and what information should be share in
4 the protection of children. So on behalf of the Committee,
5 Education as well as Children and Youth, thank you for your
6 time, and this hearing is concluded. Thank you very much.

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C E R T I F I C A T E

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