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**Before the House Committee on Children & Youth  
Regarding  
Respecting Confidentiality while Preserving Accountability  
Protecting Students & Staff in Our Schools**

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Montgomery County, PA**

Ladies and gentlemen of the committee, thank you for having me here today. My name is Brian Kent. I am a survivor of childhood sexual abuse in the school/parish setting, a former sex crimes prosecutor and attorney who has represented thousands of survivors of sexual assault and abuse for the past fourteen years. I am a living and breathing example of the failure of institutional safeguards to protect children. I deal with the impact of my abuse on a daily basis and will for the rest of my life, as will every other survivor of childhood sexual abuse, along the friends and families of survivors.

I say that not to garner any sympathy, but rather to highlight how devastating and permanent the residue of childhood sexual abuse is as well as how important the assurance of the protection of children in the institutional setting needs to be. While there have been advancements since the time of my abuse, children continue to be abused in the school setting at an alarming number. However, every case of institutional child abuse I have ever seen was preventable if there would have been adequate training, protocols and procedures in place that were enforced. We need to do better and can do better to protect children in our schools. That starts with putting the safety of children first in everything we do, no matter what.

Today, I'd like to discuss different areas that can improve student safety and provide greater access to justice for students and families impacted by sexual abuse.

#### Train Educators on the Impacts of Trauma

The bedrock of protecting our children and youth from the harms of sexual abuse is ensuring consistent and ongoing training for any and all individuals tasked with protecting children, including all of us, to be trauma informed. It is critical that we train our administrators and educators to be trauma informed; or in other words, informed about the red flags of abuse, the impacts of trauma, and interactions with survivors of abuse.

Being trauma informed starts with understanding that child abuse is a brain injury that causes physical changes in the developing brain of a child.<sup>1</sup> The way a child behaves as a result of abuse is a manifestation of those changes in the brain. And the symptoms from those changes in the brain are unique to each person. Understanding the fact that trauma manifestations are complicated and not uniform is a fundamental tenet to protecting our children and responding to suspected or reported abuse.

This type of training is critical is because so often in our cases, reporters fail to believe a child's report because their behavior or presentation does not conform to what reporters have in their mind of how a victim of sexual assault "should behave." This idea that victims of sexual assault "should behave" in a predictable and uniform way is a myth and it is damaging our responsibility to protect children and respond appropriately to potential and

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<sup>1</sup> See, *The Psychological Impact of Rape Victims*. *American Psychologist*, 63(8), 702, Campbell, R. (2008) and *Neuroimaging of child abuse: a critical review*. *Frontiers in Human Neuroscience*. Hart, H & Rubia, K. (2012).

actual abuse. As an example, I was an athletic kid with a lot of friends, who on the surface would fall into the category of someone whose actions weren't typically consistent with abuse. I acted overtly energetic and carefree to hide what was happening to me, when all the while, I was terrified of anyone ever knowing and what would happen if they did. Although I seemed fine and happy on the surface, I was suffering silently every day.

Many of the people who are tasked with preventing and responding are simply not trauma informed and are therefore ill-equipped to handle sexual assault disclosures by students. When the adults they are supposed to trust and rely upon are untrained about the impacts of trauma, victims of sexual assault are further traumatized when they're not believed or understood. Some of these complexities include the following:

- Delayed reporting of sexual abuse;
- Disclosing only partial details of abuse;
- Disclosing details over the course of multiple conversations;
- Differing accounts of the nature of the abuse, especially depending on who is conducting questioning;
- Avoidance of reporting to adults of the same gender or description of the abuser;
- Feelings of panic and anxiety based on where the conversation is occurring (for example, keeping the door open during any conversations or questionings); and,
- Desire to isolate, shut down, and/or escape.

Children who are abused need to feel safe and they need to be believed. Instead, time and time again we have seen people responding to abuse trying to find reasons it *didn't* happen, instead of believing the child, making the child feel safe no matter what, and understanding that what the child is going through is complex and nuanced. This type of training must include school administrators, educators, coaches, monitors, law enforcement and anyone who may find themselves in a position to be responding to allegations of abuse. Again, the rule must be: believe, support and make the child feel safe.

### Improve and Encourage Timely Reporting

The lack of training on the impacts of trauma has also resulted in an epidemic in this Commonwealth of school administrators and employees choosing not to report suspected or reported abuse. In the school setting, one could also blame this on a failure to have adequate and ongoing training about reporting responsibilities. For instance, in our bullying and hazing cases, we often hear from teachers and administrators that they did not know they were required to report peer on peer assaults or hazing incidents because they didn't know these incidents trigger reporting requirements. Unfortunately, as a result, schools only amp up these types of trainings *after* a student has been injured and their lives changed forever.

Our legislators can also help by making sure that our laws pertaining to the protection of children are absolutely clear in their language. For example, one common issue we see is confusion regarding the definition of words in either the law or policies. For instance, does suspected child abuse mean an adult abusing a child or a child abusing a child? Does hazing constitute child abuse? What does it mean to reasonably "suspect" abuse? The confusion that

lies in the wording of some of our laws, which must be addressed and made more concrete so that people who are tasked with protecting children are never left in doubt in terms of what abuse is and what they are required to do.

We have also seen the fear of reporting someone who is suspected of abuse because the reporting person doesn't want to "defame" the other person. As schools are often close-knit communities, people often are concerned with damaging a person's reputation, however it comes at the cost of a child's safety. Again, the safety of children has to be paramount above all, nothing else. The vast majority of sexual assaults are never reported, and false reports regarding abuse or assault make up approximately 2-8 percent of all reports.<sup>2</sup> Despite this, children and youth disclosing sexual abuse to an adult they trust are faced with unnecessary and inappropriate scrutiny, and worse, are completely ignored. We see time and time again a bias toward disbelieving victims rather than believing them. As a result, child predators carry out their abuse with impunity, become more bold or violent in their abuse, and go on to abuse more children.

Let me address hazing also. Hazing is abuse. If there is a culture at a school which tolerates hazing, it is tolerating child abuse. We have multiple cases against schools in this Commonwealth where sodomizing young boys was a rite of passage, commonplace and accepted by institutions. This needs to stop and can be improved by way of policies, enforcement, accountability and with better laws.

We also need to alert schools of students who pose a danger to other students. These types of records which are covered by The Family Educational Rights and Privacy Act (FERPA) are allowed to be disclosed to school officials with legitimate educational interests or another school at which the student intends to enroll. Moreover, certain disciplinary outcomes for crimes of violence or non-forcible sex offenses are excluded under FERPA, so if a child had a prior or current abusive history, that information is not protected by FERPA. These issues create hostile environments for students, making it impossible to have a fruitful educational experience, but more importantly, create a significant safety risk for children.

### Enhance Monitoring to Flag Grooming and Abusive Behavior

Monitoring in our schools needs to improve as well. In every single one of our student sexual abuse cases, the perpetrator spends significant time and effort grooming their victims. Often, these grooming behaviors were evident to the other adults in the community but were outright ignored. Understanding and looking out for these grooming behaviors could shut abuse down before it even starts.

As one example, school districts have policies relating to communication with students or use of computers and electronic devices, but we have found schools often fail to actually

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<sup>2</sup> *False Reports: Moving Beyond the Issue to Successfully Investigate and Prosecute Non-Stranger Sexual Assault.* Kimberly Lonsway, Joanne Archambault, David Lisak - The National Center for the Prosecution of Violence Against Women

monitor devices. While policies prohibiting communications between students and teachers over text or social media should be the standard, these policies must also be enforced. There should be severe consequences for any communication via text message or social media with a student, including termination, and other adults who become aware of this behavior between a student and a teacher should be required to report this to school administrators immediately. Further, privacy concerns need to be ameliorated for both students and school district employees when viewed in comparison with the significant risks and harms that inappropriate communication with students can create.

Another grooming pattern which is often ignored in schools is inordinate or unnecessary one-on-one time between adults and students. All too often, we have seen that when children get pulled out of class or spend time alone with a teacher while on school property it leads to abuse or at least opportunities too abuse. Many schools have no systems in place to document or track where children or teachers are spending their time while at school, for example, security cameras or logs, which can be a simple and necessary safeguard. Yet another common pattern we see are teachers or coaches spending time with students outside of school under the guise of being their “mentors” or “friends,” and other adults turn a blind eye to this clearly problematic behavior.

#### Improve Transparency and Information-Sharing

Another obstacle to student safety is the issue of teachers, educators, and coaches bouncing around educational institutions where their troublesome, inappropriate, or even abusive behavior was known to the school. We have seen abusers move from school to school because of no cohesive system for schools to share information with regards to suspected predators, whether it be students or adult employees. Although Pennsylvania enacted “Pass the Trash” laws in 2014, we still see this issue occur on a regular basis because there is little to no enforcement of these failures.

We represent five minor females who were sexually abused by the same perpetrator at two different school districts in this Commonwealth because the school districts didn’t share information about the teacher after being terminated from his prior school for suspected abuse. There was no system in place to ensure that someone had confirmed with every prior employer that the applicant had no incidents of misconduct regarding children. This can be fixed if there is a system or database shared by schools throughout the state, such that allegations of abuse or exploitation are on a record shared by all. This is not a privacy violation. Parents, children and staff deserve to know of someone who is a potential danger coming to their school. There is also no statewide system set up to ensure that a school has gone through the proper vetting of individuals before hiring them, such as a statewide system that documents that an administrator has spoken to all prior employers of an applicant and confirmed the applicant had no prior complaints, allegations or suspicions of abuse or inappropriate conduct with students. We need accountability in this regard as well.

There also needs to be transparency with regards to allegations of abuse among the school community. That means letting the community know of an allegation being made against the

individual at issue and what has been and is being done about it. This is factual and not defamatory, nor does it violate any privacy rights or concerns.

Too often in the school setting as well, there are no safeguards set up or established to prevent victims from being in close proximity or around their suspected abuser, which Title IX is meant to prevent. This is re-traumatization for the survivor when that occurs. We have seen children unable to continue in school because the school has failed to protect them from the abuser while on school property. Accommodations need to be made for survivors.

Additionally, there is no Commonwealth equivalent to the Clery Act that requires reporting of incidents of violence including sexual violence, along with a mandated publication of policies and procedures to deal with same. This type of law needs to be introduced so that school districts are held accountable and are being transparent about the problem of abuse at its schools, along with informing its residents of what the district is doing and has done to combat the problem. This means having designated individuals who receive reports who are then required to report incidents of abuse or assault. These reports should then be compiled so that they can inform institutional response as well, such as providing a victim or their family with an explanation of rights and options and analyzing whether there is a serious or ongoing threat that would warrant a timely warning. If the Commonwealth had a Clery Act equivalent for schools, it could require institutions to also provide victims or their families options for, available assistance in, and how to request changes to academic accommodations, as well as other protective measures. And it could require, like the Clery Act, for these options to be provided if requested and reasonably available, regardless of whether or not the person or their family chooses to report to law enforcement.

Title IX can be instructive as well. Under Title IX, any report of suspected abuse results in specific actions by the school, including outreach to explain what supportive measures are available and schools are required to provide those supportive measures. Both Title IX and the Clery Act require extensive training for administrators and employees involved in the reporting process as well.

#### Expand Access to Criminal Records for Victims of Crime

Another area of the law which can be improved is the Criminal History Record Information Act. While recent changes that have been made as a result of Representative Stephen's amendment now allow Commonwealth agencies to share protected information, it needs to be expanded. For example, schools should be entitled to protected information that exists pertaining to an applicant. Additionally, victims should be entitled to obtain protected information regarding their own case. We are seeing a chilling effect where a victim or their family will report to police an assault or abuse and then the family or victim cannot obtain those records for any purpose. So they are not getting help and information from law enforcement, even though they had the courage to come forward and report. This also significantly hinders a victim's access to justice or to pursue civil remedies; this fails not just the victim, but also, shields administrators and institutions who allowed the abuse to occur. We need more transparency.

Protecting our children starts with all of us being better educated, followed by action in the form of better policies, systems, enforcement and improving our existing laws so we have more clarity, transparency and accountability. The safety of our children depends on it. Members of the committee, I sincerely thank you for addressing this issue and allowing me to participate in this process so we can make our institutions safer for our children.