

**Respecting Confidentiality while Preserving Accountability:  
Protecting Students and Staff in Our Schools**

**House Children and Youth Committee**

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**Montgomery County, PA**

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**and**

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Thank you for the opportunity to appear before you today. Chairs Delozier and DeLissio, we along with our colleagues from the District Attorneys Association appreciate both of you convening this hearing to discuss important topics related to keeping our students and teachers safe by ensuring accountability but respecting privacy. We are also grateful for Representative Stephens' interest and commitment to this important topic. Please allow us to introduce ourselves:

My name is Jack Stollsteimer, and I am the District Attorney in Delaware County. The issue of safety in schools is critically important to me and an area in which I have significant professional expertise. In 2006, Governor Rendell appointed me as the Pennsylvania Safe Schools Advocate for Philadelphia, a position I held through 2009. In that position, I identified and reported on the many challenges of the Philadelphia School District's failures to report violent crimes properly. Identifying and trying to make meaningful structural and wholesale changes was not easy and was not always greeted warmly. But District officials ultimately began to make policy changes to protect school children and teachers better. One of the great lessons I learned from that experience that continues to hold true today is that those involved with schools, school safety, and the safety of students must appropriately share data and affirmatively avoid falling into a silo mentality when it comes to the sharing of information. And as I will explain in a few minutes, this is an issue I believe we will face in Delaware County as we try to address mental health issues involving our school-aged children.

And my name is Ed McCann. I am the First Assistant District Attorney here in Montgomery County. It is a pleasure to join you today and to be sitting with Jack as we talk about student safety. Over the course of my career, I have tried many homicide or near homicide cases involving young children. Indeed, 10 years ago, when I was Chief of the Homicide Unit in the Philadelphia District Attorney's Office, I tried a horrific case involving the torture, starvation and ultimate death of Danieal Kelly, who was disabled due to cerebral palsy and could not care for herself. What was particularly noteworthy was that justice in this case meant convictions for not just her father, but convictions of two other individuals: one who worked for Philadelphia DHS and another who worked for one of its social services contractors. In this tragedy, their abject neglect in their professional roles also led to Danieal's death. Two of the many lessons learned in that case hold true today, and they echo what Jack just said: sometimes we need to proactively shine a light on our institutions and demand that they do better, and in just about all cases information must flow to and from those involved with our children, especially our vulnerable children.

The General Assembly recognized a similar reality in the context of sharing information related to child abuse. Act 42, by Representative Stephens, amended the Criminal History Record Information Act (CHRIA) to permit a criminal justice agency to disseminate information relating to an allegation or instance of child abuse to CYS or DHS for the purpose of investigating the allegation or instance of abuse or to a children's advocacy center for the purpose of providing services to the investigating agencies, or to a multidisciplinary review team, multidisciplinary investigative team or child fatality or near fatality review team for the purposes specified in Section 6365 of Title 23. We are deeply grateful to both Chairs of this Committee for moving that legislation so quickly through the House at the end of last session. It was an example of excellent bipartisan collaboration.

This new law is important in at least two ways. First, it allows our multidisciplinary review teams to have access to important and critical information to improve our collective responses to horrific child abuse. Second, it provides us a roadmap on how to tightly provide exemptions in CHRIA to allow similar information sharing, information sharing designed to improve the responses of institutions to significant acts of abuse or trauma.

As a general matter, it is important we keep in mind that a student's home life and his or her school life are not completely separate. What occurs in the home often affects that student's behavior and performance at school. And that student's behavior at school can affect other kids at school as well. Additionally, what occurs at school can affect home life.

In the context of schools, we must ask ourselves if there is a report of abuse where the student lives, can we ensure that the appropriate individuals at that person's school are informed? That student may be suffering from the effects of trauma and may act out at school. The school's response might very well be different and more appropriate if school officials knew something bad happened at home that explained or otherwise provided insight into the behavior. Such information might obviate the need to bring in law enforcement; it might help inform and provide context to the student's teacher and/or counsellor. The District Attorneys Association has had conversations with Representative Napoleon Nelson about this issue, and we hope that that the continuing conversation can be a part of the larger discussion we are having today.

In different situations, there may be instances where a student has committed a violent act at school. In such cases, the information should be shared with law enforcement, and if the student is required to enroll at a different school, the appropriate individuals there should know as well. A response that we prefer not to hear from a school is that

appropriate information cannot be shared because of the existence of specific laws. If that is the case, the laws need to change, and we look forward to working with you in that important endeavor. If the reality is that our laws do not prevent the sharing of such information, we need to make sure that solicitors for school officials understand what the law allows. This is not meant as a criticism of anyone. It is simply a recognition that applicable laws are not necessarily crystal clear, and that part of our collective responsibility is to be sure the intent of these laws is clear and unambiguous. Moreover, the result of any change in law should be explicit language that in such circumstances certain information can be shared with law enforcement, especially when the underlying act relates to the commission of a violent crime.

We are not suggesting that we expand the footprint of the criminal justice system in our schools. Law enforcement should be called when there is a serious incident, such as a violent physical assault or a sexual assault, or if a student brings in a firearm. Less serious incidents can and should be resolved through other means. No one benefits when law enforcement gets involved in less serious incidents. Unfortunately, there are times when schools have included law enforcement in matters where we do not belong, and there are times we are not involved when we should be.

In Delaware County, we recently launched the Delco Healthy Kids, Healthy Schools Initiative, a collaboration between county government, the District Attorney's Office, and schools across Delaware County to improve the way mental and behavioral health services are provided to our school-aged children. We are doing this because educators unequivocally told us that the biggest challenge they faced in keeping our kids safe was the untreated or inadequately treated mental and behavioral health needs of their students.

There are and will be many challenges and hurdles we face as we implement this collaboration. Information sharing is one potential hurdle. Think about the layers of information sharing that is absolutely necessary for this project to work: information must be shared among and between agencies involved with schools, mental health, drug and alcohol treatment, child and youth services, and law enforcement. Among other statutes regulating information sharing are CHRIA, FERPA, HIPPA, Pennsylvania's Human Services Code, and CAPTA. In Delaware County we have the advantage of having designed the program collaboratively, acutely aware of these and other statutes that affect our ability to share information with one another. But despite our best intentions and shared goal of addressing the mental and behavioral needs of our students, we will face challenges. My partners in this important endeavor and I welcome the challenge,

because the outcome has so much potential to help our children. As your work continues, ours will as well, and please use me as a resource so I can talk through any issues and challenges my partners in Delaware County and I face together as we continue our important collaboration.

It is our hope that from this hearing we will identify specific areas where existing law or existing interpretations of the law effectively blocks the sharing of important information related to students and school safety. As we suggested earlier, we hope that part of the work we can all do is not just to work to change the law where necessary, and to provide clarification or to make legislative intent more clear, so that we can spend less time debating the meaning of what we think a statute means and more time trying to better the lives of our students.

On behalf of the two of us and the PDAA, thank you for your thoughtfulness and interest in this important yet challenging topic. We are both happy to answer any questions you may have.