



Testimony of the Pennsylvania District Attorneys Association

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Good afternoon, and thank you for the opportunity to speak with you about House Bill 77 and to discuss ways to improve safety measures for survivors and for communities where sexual offenders reside.

By way of background, convicted sexual offenders in Pennsylvania are required to register with the Pennsylvania State Police. Our registration system is often referred to as Megan's Law or SORNA. Pennsylvania law tracks federal requirements, and the Department of Justice has found that Pennsylvania is in substantial compliance with federal law. SORNA requires convicted offenders of designated sexual offenses to register information, including addresses, with the Pennsylvania State Police. Some information can be accessed through a public website, allowing the public, including parents and school officials, to see where offenders are living in the area.

There is a statutorily defined process about how a convicted sex offender can be found to be a sexually violent predator (SVP). In a nutshell, the law defines an SVP as a person who has been convicted of a sexually violent offense and due to a mental abnormality or personality disorder, the person is likely to engage in future predatory sexually violent offenses. Our SOAB evaluates each convicted sex offender and then determines whether that person meets that definition. If it does, then there will be a hearing in common pleas court, and the Commonwealth must prove by clear and convincing evidence that this definition has been met. SVPs are subject to lifetime registration with quarterly in-person verifications, lifetime counseling, and community notification. According to PSP, there are about 2,500 SVPs, representing a small percentage of overall sex offenders.

It is also important to note that presently, restrictions (including residency restrictions) can be placed on convicted sex offenders as a term of state parole or county probation, depending on whether they have been sentenced to parole or probation. None of these requirements is mandatory, however.

We would also like to discuss some areas where Pennsylvania laws and practices have helped victims of interpersonal violence, especially sexual assault, often where the victims are children.

Our child advocacy centers are child-friendly places where a multidisciplinary team of professionals, including police, forensic interviewers, victim or family advocates, child protection services caseworkers, prosecutors and mental and medical health professionals, work together to provide a child-focused and trauma informed response to allegations of child sexual and physical abuse. PDAA has been proud to be a leading advocate of our CACs, and we know they play a critical role in helping to hold sexual offenders accountable and to begin the healing process to victims and their families. Despite the existing funding streams that exist, our CACs need more. Indeed, they sought additional funds in the FY 22-23 Budget, but were not successful. We believe a great bipartisan budget item for next year's budget could be a dedicated line-item to our CACs.

We should also explore how to create more and empower Sexual Assault Nurse Examiners (SANE Nurses). They are registered nurses who have received special training so that they can provide comprehensive care to sexual assault victims. They are also able to conduct a forensic exam and may provide expert testimony if a case goes to trial. Any opportunity to expand access to SANE nurses would help survivors of sexual assault. SB 414 by Senator Vogel unanimously passed the Senate recently, and while the bill is in a different House Committee now, it represents an important step in better protecting our victims.

There is also a robust workgroup with subject matter experts, to assess and evaluate Pennsylvania's approach to medical consultation during child abuse investigations, including child sexual abuse cases, with a goal to increasing collaboration between medical providers and the MDIT and improving the quality of investigations of child abuse. This funding was awarded to the PA Chapter American Academy of Pediatrics, and the project started in the fall of 2022. Discussions from these will help inform a strategic plan that will be written by the end of the project.

With regard to HB 77, it is well-intentioned and appropriately limited to SVPs. If you are going to enact legislation, focusing on the SVPs represents the best approach. However, we also want to identify some policy issues that we hope could foster some discussion following the hearing as you all continue to consider the legislation. One concern is whether this legislation would unintentionally force SVPs underground, meaning that they would not live in a principal residence and not register under SORNA. The primary purpose of SORNA is to allow PSP and the public to track sexual offenders and for the public to have access to certain information about the sexual offender. We do not want to diminish that important policy achievement. We also know that the vast majority of cases involving sexual assault, including among children, are committed by individuals known to the victim.

There are legal considerations to consider with regard to the legislation as well if it were to be enacted. There is a possibility under existing caselaw that the process of determining whether a sex offender is an SVP would have to change and become far more cumbersome. That is because a court could conclude that the residency restriction constitutes punishment. Currently, what SORNA imposes on a sex offender is considered to be a collateral civil consequence. If a residency restriction were punishment, then, as a matter of law, the elements leading to the conclusion that the person is an SVP would have to be proven to the factfinder during a trial beyond a reasonable doubt. Which would mean that we would see formal trials with juries tasked with determining whether the sexual offender is an SVP. This can be done, but county prosecutors, defenders, and court systems would need additional resources to handle what could be a significantly changed process. And, ultimately, we would likely see fewer findings that convicted sex offenders are SVPs. Additionally, if a residency restriction were found to be punishment, that restriction cannot be applied retroactively, as it would constitute an ex post facto violation.

As you consider some of the consequences of the legislation, you might also consider trying to achieve the goals of the legislation through an enhanced process by the Parole Board and/or county probation offices regarding GPS and electronic monitoring would likely avoid such a constitutional challenge.

Thank you again for having us speak with you today, and for considering our views. We look forward to continuing to be part of the discussion as consideration of the legislation and other ideas to help protect Pennsylvanians from sexual offenders continues.

Good afternoon and thank you for the invitation to testify on this very important issue today. My name is Brandi Stewart, I am a PA licensed psychologist, practicing in the fields of sexual abuse and trauma for the past 22 years. I currently hold the Deputy Executive Director position at Joseph. J Peter's institute in Philadelphia, where I have been for the past 9 years. Since 1955, JJPI has been nationally recognized for providing expert clinical care for individuals who have experienced trauma as well as individuals who have engaged in sexually abusive behaviors and intimate partner violence. I have also had my own private practice for since 2007.

In addressing today's topic of Sexually Violent Predators (SVP) and residence restriction, it is important to clarify that Public Safety, above all else, is the primary goal for any mental health practitioner providing treatment and services to men and women who have engaged in sexually offensive and illegal behavior. And because of this primary goal, I feel it is my ethical and professional duty to address the many reasons why this proposed legislation does not promote public safety. Moreover, this legislation undermines SVP's treatment and successful reintegration into society which in turn increases their risk of further criminal behavior.

My colleague, David, will speak more directly about risk assessment and the specific risk factors for future sexual recidivism that become elevated when such laws are enacted. However, I am going to give a broader overview of some research and data that do not support this bill.

To be clear, there is no evidence that supports the notion that residence restrictions prevent sex crimes, protect children, or that registered sex offenders who live closer to child-oriented locations are more likely to reoffend than those who live further away. The primary goal, with good intentions, of this legislation is to minimize the opportunity of minor attracted individuals or pedophiles from preying upon children. The truth, supported by repeated research, is that very few sex offenders search for child victims in the type of settings this bill is referring to. Research is clear that most (93%) of children who have been sexually abused are abused at the hands of an acquaintance known to them and their families. Sex offenders who abuse children don't do so because they live near a school, park, or playground. They nurture relationships, build trust, and use positions of authority to do so. It is not physical proximity but social proximity that can lead to future offenses. In 2007 there was a study out of Minnesota that looked at 224 Child Sexual Offenders who had sexually recidivated, and they found that not one of these cases would have been prevented by residence restrictions.

Furthermore, not all sex offenders pose the same risk nor are all sex offenders' crimes against children. Of those individuals who do have sexual crimes against children, less than half meet criteria for pedophilia or an exclusive sexual interest in prepubescent children (Ackerman, 2011; APA, 2013, etc.). There is also a collective belief that a vast majority of sex offenders repeat their crimes, but this just isn't supported by research. Sex offense recidivism averages between

5 and 15% across multiple studies. And newer research has found that sex offense recidivism risk significantly declines over the years that an individual remains in the community offense-free. In fact, a low-risk sex offender is less likely to commit another sexual offense than a general criminal offender (someone who has committed a non-sexual crime). Most Sex offenders do not pose a long-term, serious danger to community members. (Hanson et. al., 2014; Harris and Hanson, 2012).

Let me again state that our collaborative goal is public safety. In the treatment of sexual offenders, there are several evidenced based treatment modalities/frameworks with increasing support for the Good Lives Model (GLM), developed by Tony Ward in the early 2000. Dr. Ward developed this strength-based approach/framework in response to the short comings of past treatment that mainly focused on reducing/eliminating risk factors. While the GLM does focus on reduction of risk factors it strongly takes into account the importance of developing meaningful and fulfilling lives in order to remain offense free. This was inspired by Maslow's idea of self-actualization. These primary goals in treatment include healthy living and functioning, excellence in work, agency, inner peace, relatedness (including family and friends), community, and happiness. This legislation on residence restriction directly builds obstacles for achieving these treatment goals by increasing housing instability/homelessness/transience for reentrants (Rydberg et. al., 2014). These individuals are forced to often move away from their family, friends, and community, making it more difficult to find steady employment, leading to financial instability and in some cases, difficulty getting to treatment because they are farther away from transportation hubs. Research has also shown that transient sex offenders are more likely to abscond from registration (Levenson et. al., 2013).

These factors: 1) Housing instability 2) financial instability 3) lack of support system and 4) increased stress and turmoil are known risk factors for individuals who have committed sexual offenses. Residential restrictions will inevitably increase homelessness, and these identified high-risk factors, leading to a greater probability of criminality. Reducing homelessness is crucial for public safety. What this bill proposes to do, works against treatment and against successful integration for these individuals. Successful treatment and re-integration are vital for community safety. This bill directly undermines what I (and other mental health professionals) do in treating these individuals so that they can be productive members of society. It also undermines the very purpose of registration.

I'll circle back around to our common goal of community safety – It is in my professional and expert opinion that proposed laws and legislation should be based on research and data, and not emotionality. I once again thank you for allowing me to testify today.

Good afternoon and thank you for the invitation to testify on this very important issue today. My name is David Attryde, and I am a PA licensed professional counselor. For 25 years I have provided forensic clinical services to juveniles and adults including specialized assessment and treatment of individuals with sexual offense convictions. I currently hold the position of Clinical Director of Safety and Responsibility Programs at Joseph. J Peter's institute (JJPI) in Philadelphia. I also have a private forensic practice.

While as a community member with a family I can appreciate the face validity of residence restrictions for Sexually Violent Predators (SVPs), as a clinician I can only view it through the lens of public safety. On this basis I cannot support HB77 as no evidence exists to indicate that such legislation protects children, prevents sexual assaults or makes our communities safer. In particular I would like to discuss SVP residence restrictions in relation to evidence based risk assessment and treatment and argue that such restrictions actually reduce public safety.

The assessment and treatment of SVPs and other sexual offenders is based on extensive research into dynamic (changeable) recidivism risk factors that clinicians can address with the offender. These factors include the offender's emotion management, impulsivity, using sex as coping, cooperation with treatment, cooperation with community supervision, employment, residence and social influences. Using evidence-based tools to measure an individual's risk levels across multiple domains, the clinician can individualize treatment to reduce an offender's risk while elevating known protective factors (such as interpersonal skills, healthy coping strategies). At JJPI and elsewhere, clinicians therefore endeavor to improve the offender's ability to manage their sexual urges, regulate emotions, manage stress, engage in healthy relationships, negotiate effectively, and maintain family and community supports systems. The Good Lives Model, developed by Tony Ward provides a framework for reducing risk with a strength-based approach to replacing criminogenic behaviors with more healthy, prosocial attitudes, relationships, and activities.

To the extent that residence restriction legislation elevates an offender's risk factors to reoffend and undermines opportunities for more healthy prosocial experiences, that legislation has the unintended consequence of jeopardizing public safety. Research indicates that existing residence restriction laws are indeed having such effects across the country. Existing laws have been shown to increase homelessness in sex offenders because of the ubiquity of schools, day care centers, playgrounds etc. make it difficult, sometimes impossible for the offender to find housing in their community. This problem is exacerbated by a dynamic in which one jurisdiction passing a residence restriction law encourages neighboring jurisdictions to do the same lest they become a haven for sex offenders. As a result, sex offenders are frequently unable to return to their homes after incarceration or live with other family members. Many offenders find affordable housing difficult to obtain in their community and are forced farther

from transportation hubs, mental health facilities, and social service agencies. (Levenson, 2008, Levenson & Hern 2007). Thus, offenders may face not only homelessness but estrangement from family members, friends or partners who could support and encourage them, but live in a restricted area. They may lose stable employment due to lack of transportation, and experience financial stress, while living further from friends, family and familiar social services and treatment centers. Housing instability is a known to increase criminal recidivism and absconding and makes the task of supervision and treatment compliance more difficult and thus directly decreases public safety by elevating sexual recidivism risk.

Even in the absence of current residence legislation, many offenders at JJPI struggle to reintegrate back into the community during their time in treatment. They struggle to find housing and stable employment due to their criminal record and to integrate the skills to manage their stress in healthy ways after years of incarceration. These struggles increase their likelihood of returning to substance use, illegal means of earning money, unhealthy sexual practices and relationships with negative peers. I am confident that restrictive residence legislation in Pennsylvania would further exacerbate these unhealthy dynamics among the offenders at JJPI and elsewhere and jeopardize public safety accordingly. These laws render more difficult the task of clinicians working with sex offenders to integrate into society in healthy, prosocial ways and as such they are more likely to reoffend.

In summary, it is apparent that existing residence restriction laws create conditions that elevate recidivism risk factors in sex offenders. It is therefore my professional opinion that restrictive residence laws such as the proposed HB77 while well intentioned, in practice undermine community safety because they are not rooted in available research.