

IN THE SUPREME COURT OF PENNSYLVANIA
MIDDLE DISTRICT

No. 97 MAP 2022

COMMONWEALTH OF PENNSYLVANIA,

Appellant,

v.

GEORGE J. TORSILIERI,

Appellee.

BRIEF OF AMICUS CURIAE PENNSYLVANIA COALITION AGAINST
RAPE filed in support of Appellant Commonwealth of Pennsylvania from Order of
Chester County Court of Common Pleas, Criminal Division, dated August 23,
2022, at CP-15-CR-0001570-2016

December 15, 2022

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STATEMENT OF THE CASE

PCAR incorporates by reference the Statement of the Case entered by Appellant in this case.

STATEMENT OF INTEREST OF AMICUS CURIAE

The Pennsylvania Coalition Against Rape (PCAR) is a private nonprofit organization. Founded in 1975, PCAR is the oldest anti -sexual violence coalition in the country and is widely respected at both the state and national levels for its leadership in efforts to prevent sexual violence and to provide support and justice to survivors. Over the past 40 years, PCAR has successfully worked as an agent of change-educating the public, the courts, police, prosecutors, healthcare professionals, educational institutions, and other professionals and entities about the severe and long-lasting impact of sexual violence on victims and their communities.

At the core of PCAR's success is its statewide network of rape crisis centers that provide counseling, crisis intervention, and referral services; hospital, court, and police accompaniment; prevention education; and community outreach. PCAR member centers offer confidential crisis support 24 hours a day, seven days a week. PCAR has been at the forefront of collaboration with our allied stakeholders

in the healthcare and justice systems, with a particular focus on providing prosecutors with available resources to try these complex cases.

PCAR is committed to ending sexual violence and believes that sexual violence can be prevented. Prevention is the responsibility of the community at large and is possible when we work to promote healthy and positive relationships based upon respect, safety, and equality. PCAR believes that every adult has the responsibility to learn the facts about child sexual abuse to help keep children safe. Because this issue significantly impacts children, our most vulnerable citizens, and adult survivors of sexual violence, PCAR offers this Amicus Brief in support of the Appellant in this case. PCAR verifies that no person was paid in part or in whole for the preparation of the amicus curiae brief.

SUMMARY OF THE ARGUMENT

The PA Coalition Against Rape is frequently contacted by survivors asking how their perpetrator can be added to Megan's list so that the public is warned and can act accordingly to protect themselves. These survivors have so few tools to cling to for some hope that what happened to them will never happen to anyone else. The registry is one of these rare tools. Frequently, survivors, concerned citizens, and responsible adults use the registry to prevent sexual assault and sexual abuse in a manner that cannot be captured through statistical studies. Recidivism

rates are inadequate tools for measuring the impact of the sexual offender registry because recidivism rates fail to account for critical components of the equation. For example, recidivism rates do not consider the vast number of unreported acts of sexual violence, nor sexual assault cases that are reported, but not prosecuted, or sexual assault cases that are re-named when charges are reduced or dropped. Most importantly, recidivism rates are incapable of documenting the number of sexual assaults that are prevented when a community learns that an individual is named on the sexual offender registry and takes action.

ARGUMENT

I. The rate and cost of sexual violence prevalent in our communities cannot be ignored.

National statistics reveal that 81% of women and 43% of men in the United States have reported experiencing some form of sexual assault.¹ The 2018 National Crime Victimization Survey estimates 734, 630 people were raped in 2018.²

National studies repeatedly demonstrate, however, that these crimes are dramatically underreported to law enforcement. Nearly 80% of rapes and sexual assaults go unreported according to the U.S. Department of Justice.³ Pennsylvania

¹ Retrieved from: <https://www.nsvrc.org/resource/facts-behind-metoo-movement-national-study-sexual-harassment-and-assault>

² Retrieved from: <https://www.nsvrc.org/resource/criminal-victimization-2018>

³ Retrieved from: <https://bjs.ojp.gov/content/pub/pdf/cv16.pdf>

faces the same alarming reality. According to the Pennsylvania State Police Uniform Crime Reporting System the 2022 offense count for rape has reached 2,566.⁴ PCAR works with a network of rape crisis centers providing services to survivors of sexual assault in every county of the Commonwealth. Between July 1, 2021 – June 30, 2022, those centers collectively provided services to 28,753 individuals dealing with sexual assault traumas. This huge disparity in the number of sexual assaults reported to Pennsylvania law enforcement versus the number of Pennsylvania survivors seeking supportive services at PCAR rape crisis centers during the same time period starkly illustrates the degree to which underreporting occurs in our Commonwealth. When a crime is overwhelmingly not reported it is impossible to accurately estimate rates of recidivism.

What cannot be disputed is that recovery from sexual assault is often a lifelong journey with overlapping implications that disrupt or impact daily life functions. A sexual assault can impact a person's ability to safely live in community with other people, to successfully return to work, to complete higher education, and to maintain mental stability and optimal physical health. According to the 2016/2017 National Intimate Partner and Sexual Violence Survey released this year by the CDC, 67% of female victims reported concern for their safety as an immediate need following the assault. 37% of female victims participating in

⁴ Retrieved from: <https://www.ucr.pa.gov/PAUCRSPUBLIC>

the survey suffered a physical injury as a result of the sexual assault and 15.9% were infected with a sexually transmitted disease.⁵ Understanding the immediate needs of survivors is only the beginning of the complexity we face. An in-depth study by the CDC on the economic impact of rape reveals the long-term consequences of sexual assault victimization on individual survivors and discusses how society at large bears the weight of many of those costs in manners that may not often be clearly recognizable. For example, the 2017 study found that rape costs \$122, 461, per survivor, with overall costs in the trillions of dollars. Lost work productivity, property damage, and medical cost are included as sources of the economic impact faced by communities.⁶

A great deal of discussion in this case centers on data, percentages, and attempts to accurately opine on recidivism by offenders of possibly the most underreported crime in the Commonwealth of Pennsylvania. We respectfully request that, as the Court reviews the record, intentional focus be given to the human beings who are the survivors and who are forever impacted by the criminal actions and choices of others. These survivors are citizens of the Commonwealth

⁵ Basile, K.C., Smith, S.G., Kresnow, M., Khatiwada S., & Leemis, R.W. (2022). The National Intimate Partner and Sexual Violence Survey: 2016/2017 Report on Sexual Violence. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.

⁶ Peterson C, DeGue S, Florence C, Lokey CN. Lifetime Economic Burden of Rape Among U.S. Adults. *Am J Prev Med.* 2017 Jun;52(6):691-701. doi: 10.1016/j.amepre.2016.11.014. Epub 2017 Jan 30. PMID: 28153649; PMCID: PMC5438753.

with the right to live safely within their communities. The sexual offender registry contributes to that safety. Ignoring the weight of the safety gleaned from the registry for victims is a cost that the Commonwealth cannot afford.

II. The needs of sexual assault survivors are paramount in determining the significance of the Sexual Offender Registration and Notification Act.

PCAR is uniquely positioned to elevate the needs of sexual assault survivors and those in our communities interested in prevention. The relationship PCAR shares with local rape crisis centers providing services to survivors of sexual assault and sexual abuse in every county of the Commonwealth contributes to our understanding of the multifaceted layers of services warranted to build resiliency and empower survivors to progress along their healing journeys. Safety is a fundamental component of the healing journey. In many ways, SORNA provides a layer of safety and protection for individual survivors and for community members who care about the safety of others, often children, who rely on adults to keep them safe. For instance, in Butler County, it is the practice at the Young Men's Christian Association (YMCA) to check the SORNA registry immediately before allowing visitors to purchase a day pass or membership. This step is taken to instantly gain information which protects children who are using the facilities for day care, after school programs, and other activities.

Rebuilding a sense of safety is a crucial element in survivor and community recovery and offender registration is a tool that contributes to safety. Knowledge enhances safety. Victims use knowledge gained through the registry to plan for their safety. They plan to eliminate re-traumatization through unwanted contact with offenders, like chance meetings at local establishments. They plan to avoid known offender neighborhoods. They choose schools and daycares that they feel are safe distances away from known offenders. The information provided through the registration and notification act empowers survivors to make these informed choices about their safety daily. For example, recently a sexual assault survivor called PCAR for assistance using the SORNA registry. The individual explained that she checked it frequently as part of her safety plan to avoid any potential contact with her perpetrator and unexpectedly began to experience difficulty accessing the online data. PCAR was able to resolve the issue to the great relief of the victim. It was clear that having the offender registry available as a tool was essential to maintain this individual's safety and continued recovery from the aftermath of the crime.

Public safety, including the safety of our most vulnerable, our children, will be impacted by the decision of the Court. The CDC reports 1 in 4 girls and 1 in 13 boys are victimized by childhood sexual abuse.⁷ It is imperative that safety

⁷ Retrieved from: <https://www.cdc.gov/violenceprevention/childsexualabuse/fastfact.html>

measures be in place to easily assist parents, schools, and communities to protect children. An example of how communities rely on the registry to safety plan occurred in 2021 at a school district located in Schuylkill County. There staff noticed a man showing up at the Friday night high school football games with a camera taking pictures of the cheerleaders. His behavior was unusual. The individual was not a known member of the school community. The superintendent was able to get the man's name and immediately did a search of the sexual offender registry and found him listed. Instant access to information on the sexual offender registry empowered the community to move into action. The school district and parents strategized and built a response to keep students safe. The sexual offender registry provides an avenue for responsible adults to instantly gain information which helps keep children safe from the devastating impacts of sexual abuse.

CONCLUSION

Sexual Offender Registration and Notification laws assist in providing protections to communities by making the identity and prior sexual offense history of previously convicted sexual offenders known to the public. Failure to provide ease of access to this information strips a layer of prevention from Pennsylvania communities and deprives victims of information for safety planning that is a critical component of their recovery. Weighing the need for the information in the

registry against the constitutionally protected right of reputation of a convicted sex offender, must account for the unique dynamics of sexual violence as related to underreporting and the needs of the adult or child who was victimized. PCAR respectfully request that the needs and interests of surviving victims, and the public policy concerns for community safety, be at the forefront of any decision on the applicability of SORNA to convicted sexual offenders.

December 15, 2022

Respectfully submitted,

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CERTIFICATES OF COMPLIANCE

I, Andrea M. Levy, certify that this filing complies with the provisions of Public Access Policy of the Unified Judicial System of Pa. R. App. P. 127 and the word count requirement of Pa. R. App. P. 531(b)(3).

December 15, 2022

/s/ Andrea M. Levy
Andrea M. Levy (Pa. 73260)

CERTIFICATE OF SERVICE

I, Andrea M. Levy, hereby certify that on December 15, 2022, I caused a true and correct copy of the foregoing Brief for Amicus Curiae, Pennsylvania Coalition Against Rape in Support of Appellant Commonwealth of Pennsylvania Office of Attorney General to be served via electronic filing upon all counsel of record, in compliance with Pa. R. App. P. 121.

December 15, 2022

/s/ Andrea M. Levy
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