

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

ASSIGNED DETECTIVE/INVESTIGATOR'S FILE

- We are responsible for what is in the detective's file **even if it is not available on PIIN**. In order to comply with our *Brady* obligations, each ADA must meet with the assigned investigator at the earliest opportunity.
- Please meet with the assigned detective and personally review their file at the **scheduling conference**. If you are not able to do that at the scheduling conference, **this should be done within two weeks of the scheduling conference (or when you are assigned the case)**.
- If you are unsure as to what gets passed from the investigator's file, see a supervisor immediately – please do not guess or assume the item should not be turned over.
- Please be advised that often SVU and DV detectives will get a portion of medical records, such as discharge papers from the ER or a portion of PSARC records (but pages will be missing and the DVD of photos will not be included etc). **When it comes to medical records, it is our responsibility to make sure we obtain a complete set of records**. This means we should be subpoenaing the records directly from the health care provider and making sure we ask for any photos that were taken as well.
- **Files must be marked as to the date you reviewed the detective's file. While this may seem tedious, these notations in your file are what will salvage the case at a 600 motion or appellate hearings.**

BENCH WARRANTS AND MATERIAL WITNESS PETITIONS

- Bench warrants for victims and material witness petitions should not be obtained or executed without approval from a supervisor.

COMMANDER

- Defendant's statements are usually recorded and in the Commander System.
- You must watch the defendant's statement prior to putting on a witness at a specially assigned preliminary hearing or trial. Once you know what the defendant claims in his statement, you can tailor your direct exam of your witnesses appropriately.

CONSULTATION WITH SUPERVISORS

- Unit supervisors are here to help advise and guide you. We are available to review any and all cases with you. When coming to a supervisor to discuss a case, please be familiar with the facts of your case.
 - If you wish to discuss an offer, please be familiar with the defendant's prior record. Familiarity with the defendant's prior record includes knowing if the defendant has previous arrests and convictions, and if so, if those arrests and convictions were of a domestic/sexual assault nature. If priors involve domestic/sexual assault crimes, please use the RAP sheet in the file as well as PIIN to determine whether the defendant has previously assaulted the victim in your case.
- If you call from court to request a change in the offer, please note the date, time, and brief summary of the content of the conversation on the inside of the file. (For example, called Branwen/Cheryl from court on this date, discussed_____, offer of_____ approved).
- **All pleas must be approved by a supervisor.** This includes no contest pleas and all terms involving them.

CRIME SCENE DISCOVERY

The Crime Scene Unit (CSU) is a separate Unit within the PPD and may have been contacted by the assigned Detective to process a crime scene in your case. CSU are not called to every crime scene but generally are called to process shootings, cases that may result in homicide, stranger rapes, home invasion rapes, and SVU cases investigated by SIU (Special Investigations Unit of SVU).

It is your responsibility to find out if CSU responded to the crime scene in your case. This can be done one of several ways: (1) During your SC file review with the Detective – ask him/her/them if they called in CSU to process the scene; (2) Calling CSU at 6-3120/3121 with a DC number to find out if they responded to a scene; (3) It says in your discovery that CSU responded (usually in PARS for sight arrest, APC, or 75-49/52 in all arrests. It may also say it on property receipts. Often CSU is not mentioned in the discovery so you must always inquire as to if they responded to the scene.

CSU will almost always hold on to their discovery and not turn it over to your detective. This means you **cannot assume** that if it's not in PINN or in your detective's file, it does not exist. It is your responsibility to obtain them from the CSU officer via a subpoena to the SC or a subpoena for a prep. You can also ask the officer if he/she/they can drop it at the DAO front desk or have a fellow officer who has court to drop it at the front desk. This discovery must be passed to defense like all other discovery.

CSU officers are subpoenaed like all other police officers using their payroll numbers. They will place themselves on call so always reach out to the CSU officer in advance when you know that you need them to come in. Where you have attempted to contact a CSU officer with no success, please see a supervisor

DECLINATION REQUESTS

- If you have a file with any indication that SVU initially asked for a declination (an email in the file, a note on the file, a notation in the 49 etc), please see Branwen ASAP. We need to make sure we are passing documents related to the declination.

DHS RECORDS

- DHS records should be subpoenaed **within two weeks of receiving a new file** (if it has not yet had a scheduling conference) and **immediately** if the case already has a trial date and DHS records are not in the file.
- You should only be subpoenaing the investigative file, but specifically requesting the inclusion of the progress notes.
- HOW TO SUBPOENA: Subpoenas should be sent to Denise Aidens Parnell (Denise.Parnell@phila.gov) with Meghan Goddard (Meghan.Goddard@phila.gov) copied. Please use a subpoena duces tecum and add in all relevant and necessary information (child's name, DOB, mother's name & DOB, date range of records requested)
- Within a few days after sending the subpoena, please email Denise Adens Parnell to confirm receipt of the subpoena and inquire which assistant city solicitor has been assigned to review and provide you with the file.
- Please regularly follow up with that assistant city solicitor until you receive the file. Some solicitors will not start working on the request until they hear from you. Keep a log of every time you spoke with them on the phone and print out all copies of emails.
- Once you have the file, immediately pass it to the defense.

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

- Please note – DHS records may be subpoenaed by either side. These records are not solely within the custody/control of the Commonwealth. However we do subpoena them in every case and pass them when we receive them.
- It is best to keep a chart organizing all the DHS subpoenas you have sent so you can keep track of what is still outstanding and regularly follow up. An example is included in this packet, but you can use whatever format you prefer.

DISCOVERY CONTROL/RECORDS

- If you are specially assigned a case, you will receive an email asking you to approve the release of discovery. Please make sure to review and approve the discovery within 24 hours of receiving the email.
- Each ADA should keep a log of all discovery that has been passed. For example, the paralegal's will put confirmation sheets in the file showing they have uploaded items to the e-discovery system. As you obtain additional pieces of discovery – such as scientific reports, additional interviews taken by DADs etc – pass these to the defense ASAP and keep a copy of your email to them, the signed discovery control sheet, or whatever proof you have that you complied with the discovery rules in a timely and diligent manner. If there is ever a time when your compliance with the rules of discovery is called into question, you should have those confirmation documents easily accessible to prove all discovery has been passed.
- MC Trials (currently 903) Discovery:
 - **It is the assigned ADAs responsibility to make sure discovery is given to defense as soon as you receive a file listed for MC trial.** Please get discovery together and bring it to the lobby to be picked up by defense counsel and immediately email defense counsel that discovery is downstairs ready to be picked up. Please print this email for your file. Please also make sure to get email confirmation when discovery is picked up and make sure a copy of that email makes it into the file as well.
 - For PD cases, please email ARWilliams@philadefender.org, KSquadrito@philadefender.org, and SRivera@philadefender.org to let them know that discovery is ready to be picked up downstairs from the lobby.

DISPOSED CASES

***** All disposed cases must be placed in the proper location within 72 hours of the disposition *****

- **DV Waiver room** disposed cases should be placed on the shelves outside of Cheryl and Zach's offices.
- **Majors** disposed cases are placed in Branwen's office on the first book shelf to the left as soon as you enter the office.
- **903 withdraws/nolle pros/DLOPs** –should be placed in Branwen's office on the first book shelf to the left as soon as you enter the office.
- **903 convictions** should be placed in Cheryl's office on the bookshelf so that they are easily accessible to us in the event of an MC Appeal.

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

DNA/TRACE EVIDENCE

***** Each ADA is responsible for requesting the evidence in the case be tested. Even if you see that the police have requested the analysis *****

- **Use at trial:** DNA and Trace analysts **MUST** be used at all trials. Stipulations should **NOT** be used in place of live testimony unless authorized by a supervisor. At a minimum, these witnesses should be prepped via telephone in advance of their testimony. There are often issues they need to be prepped on – such as a judge ruling that evidence that would violate rape shield is precluded. These witnesses are scientists, not lawyers, so they need to be told what not to mention. Similarly, there will be scientific issues we as lawyers do not understand, so advanced prep is required.
 - Analysts are city employees so their email addresses are firstname.lastname@phila.gov
 - A list of employees and payroll numbers is attached to this document.

- **What's needed to get your DNA report?:** In order for DNA testing to be completed, the lab needs a reference sample from the victim and the suspect. Ordinarily during the rape kit examination, the SANE nurse will take a reference sample from the victim. Often evidence (such as a rape kit or clothing) will be collected and submitted for testing, but the police will not obtain a reference sample from the defendant. If the lab does not have both reference samples, no testing will be completed. We cannot wait until the trial approaches to find out if the lab has what they need to begin testing –will lose cases on speedy trial grounds. We are responsible and required to be proactive and find out right away what the lab needs to begin testing.

- **How to order:**
 - Prior to the scheduling conference, call the **DNA/trace lab**. **The trace lab's number is 215-685-3149. The DNA lab's number is 215-685-3161.**

 - You should ask the lab what evidence/property receipts they have and do not have, and ask them what reports have been generated and which ones are still pending. Most importantly, find out if they have the defendant's reference sample. If they do not and if your victim received a rape kit (or if physical evidence was seized), you must get the judge to sign a court order for a reference sample to be taken from the defendant. It is best to ask the scheduling conference judge to give you a date 30 days prior to trial for status of DNA. The lab uses CPCMS to check on court dates and will ensure the DNA is completed well in advance of trial.

 - Once the judge signs the order, please keep a copy in your file and give the original to your assigned DA detective. The following chart/information should be included in your request to the DAD to swab the defendant. You must submit **both** the DNA sample request and the DNA Comparison Request Form (attached at the end of this document) to Meg Lynch when you request a defendant to be swabbed. The assigned DAD will be required to give the comparison request form to the lab when they turn in the swab. (Please note we used to be able to do this after submitting the sample, but the lab is no longer accepting samples without the form submitted at the same time)

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

- Once the swab is completed, the detective will give you a copy of the property receipt. A copy of that property receipt should be passed to the defense along with a copy of the court order for the swab.
- The fax number to the DNA lab is 215-685-3158.
- Call the DNA lab to confirm they received your request, and follow up with the lab every few weeks to make sure they are working on it and give you status updates.
- It is best to keep a chart in your office of all cases where the trace/DNA is outstanding so that you can call regularly to check on these cases. An example is attached to this document, although you can use whatever organizational system you prefer.

EXPERTS

- Prior to a scheduling conference or as soon as you receive a file, contact your treating doctor or doctor you plan to use an expert witness (i.e. lack of trauma) and check their availability.
 - **CHOP:** A list of all CHOP attending physicians and fellows and their contact information is attached to this document.
 - **St. Chris:** Dr. Atkinson is the lead child abuse pediatrician at St. Chris. She may be reached at Norrell.atkinson@towerhealth.org
 - If you have an older case from St. Chris in which you need Dr. Lind, her contact information is mlind@pennstatehealth.psu.edu
- **An expert expense request memo** should be filled out and submitted to Branwen for all child abuse doctors, and any other experts we are required to pay. If you are unsure of when to fill out this form, just ask a supervisor. Once Branwen has signed the form, you will need Bob Listenbee to sign it. Once the form is returned, please keep a copy in your file and give Branwen a copy. When the bill comes in, it goes to the Finance Department to be paid – but it cannot be paid without the signed expert expense request.
- **NOTICE:** Notice must always be given to the defense when you intend to call an expert. Additionally, you will need to disclose what you expect the doctor to testify to – for example – lack of trauma. There are examples on the H drive. Please see a supervisor with any questions. Notice should be given at the earliest possible opportunity.

FIU Reports

- FIU examination will not be completed unless and until you contact Ann Barnes and request the FIU testing and report. She is a civilian supervisor and her email pops up in Outlook

H Drive

- Training materials are available on the FVSA H drive. Each FVSA ADA is required to be familiar with the materials on the H drive. If you ever have any questions about these materials or their subject matter, please see a supervisor right away.

JUDGES

- Each judge has a different set of rules and policies for their courtroom. If you are not familiar with a particular judge, please speak to the room ADA to find out when the judge takes the bench and the judge's preference on trial and motion expectations.

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

JURY INSTRUCTIONS

- Jury instructions should be pulled prior to opening. They should guide you throughout the trial. Additionally, judges will be pleased with your organization. As the trial progresses you may need to add or supplement the ones you have ready. However, knowing in advance of opening what the jury instructions say (and knowing what you have to prove) will significantly improve opening and closings and overall trial strategy. Use the language from the jury instructions – this will allow the jury to hear them repeatedly, not just once. Additionally, this will give you credibility with the jury when they hear the same language you used coming from the judge during the charge.
- Supervisors and Senior ADAs should be consulted on jury instructions. Sometimes there are instructions out there that you may not be aware of and collaboration is always helpful.
- If you have a case where you have multiple forms of penetration and are moving on rape and IDSI, you can tailor your instructions so that eventually you can argue for consecutive sentences on them if appropriate. For example, you would make the language in the rape jury instruction only include vaginal penetration, and the language in IDSI only include oral. See a supervisor or senior ADA with questions.

MANDATED REPORTING

- **ADAs are mandated reporters** (see 23 Pa.C.S § 6311 attached)
- If there is an allegation of abuse disclosed to an ADA, the victim witness coordinators are trained to call it into Childline. Please make sure that you immediately follow up with one of them to make sure this is done.
- Below are instructions on how to make a report:

ChildLine Report Checklist

Mandated reporters are required to make a report when there is any “reasonable” suspicion of child abuse. Reports should be made *immediately* following the disclosure of abuse. If the parent or guardian claims that they will take the child to the police and make the report themselves, you are still required as a mandated reporter to call ChildLine directly.

To make a report call ChildLine at 1-800-932-0313

You will need:

- Child’s first and last name
- Date of Birth
- Location of the abuse, if known
- Current address for the child
- Parent/guardian’s information
 - Date of Birth
 - Phone Number
 - Address

You will then provide a summary of the abuse you were made aware of in as much detail as you have. It is helpful to have offender information but not required to make the report.

Offender information needed if provided:

- Offender’s first and last name
- Date of Birth
- Current address
- They may also ask for offender’s contact information

At the conclusion of the report, the ChildLine operator will ask questions related to the child’s overall wellbeing. Provide answers to those questions only if you know, do not make inferences. It is okay to not have the answers to all of the questions.

For additional information:

http://keepkidssafe.pa.gov/cs/groups/webcontent/documents/document/c_137646.pdf

MEDICAL RECORDS

- Ultimately, it is each trial ADA’s responsibility to make sure that we obtain and pass the medical records. We are fortunate to have the assistance of support staff with subpoenas and redaction, but please remember it is your case and you are responsible for complying with the rules of discovery.
- Please remember that you cannot rely solely on medical records from the assigned detective’s file and must subpoena these on your own to ensure you have a complete copy, including all photos.
- The ONLY thing that should be redacted from medical records are the complainant’s personal information (such as social security number, address, phone number, etc). Information that may be inadmissible at trial (such as mental health information or consensual sexual partners) CANNOT be redacted. That information must be available to the defense and the burden is on the Commonwealth to motion it out.

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

- The subpoena for medical records should be sent at the time of the scheduling conference if not before. You should follow up with the hospital two-three weeks after the subpoena is sent if you have not received the medical records. Continue to follow up with them regularly and keep a chart of all outstanding medical records to keep you organized. An example of this chart is included in this document. You do not have to use this one, but some mechanism of organization should be used so that we get the medical records well in advance of trial.
- Please remember that a child may have been treated at various locations. For example, a child may have been treated in the Emergency Department, as well as a follow up visit to one of the children's clinics. Often times the PCA report will assist you in gaining this information. You should also check with the child's caregiver. We MUST have all medical records – ED and Clinic. If you are unsure of where a child was subpoenaed or what records to request, please see a supervisor or senior ADA – we are happy to assist you! It's better to ask and have what you need than not ask and not have extremely important evidence.

- **PRISON MEDICAL RECORDS:**
 - The list of STD tests that we run during intake at the Philadelphia Prison System are:
 - Gonorrhea
 - Chlamydia
 - Syphilis
 - HIV

- **HOW TO SUBPOENA:**
 - St. Chris:
 - St. Chris protection program meds: Fax a subpoena duces tecum with all relevant information (child's name, DOB, dates of treatment) to 215-427-5264.
 - Main hospital meds: Fax a subpoena duces tecum to 215-427-6747
 - Photos for **all** St. Chris records are handled by the same person, Tamika. Please fax a subpoena to 215-427-3805. Her telephone number is 215-427-8352. You should check with her on all physical abuse cases to see if photos exist.
 - To check in on medical records that you have sent a subpoena for, you should call the medical records department at 215-427-5207.
 - CHOP: Fax a subpoena duces tecum to 267-426-8654.
 - To follow up on a subpoena please call 215-590-3640. This is the direct number to the records department on the 8th floor of the Wannamaker building. Records can be picked up directly from them if you are in a rush to get them.
 - PSARC: Email a subpoena duces tecum to Mike Boyle at mjb442@drexel.edu.
 - Note: **Please make sure to reach out to Mike on all cases with PSARC records to see if there are additional nurse's notes and to get a strangulation page.** Mike brought to our attention that these are not automatically included in the records we subpoena and it is our duty to make sure that we get them and pass them. Please remember a conviction can be reversed if these documents are not passed pretrial.

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

MEDIC REPORTS/MEDIC TESTIMONY

- Any time medics responded in a case, you should immediately subpoena the medic report. You will see in the police paperwork, Medic 33 (or whatever Medic was called to scene) responded.
 - Please use a subpoena duces tecum and include all relevant information (patient name, DOB, where the medics responded to, the date, time, where the patient was transported to, etc.) The subpoena should be sent via email to PFDEMSRECORDS@PHILA.GOV
 - Communications to this email address must be from your city email. They will not accept anything from your personal email account.
- Please make sure this report is also passed to defense, and subpoena the medics for trial if appropriate.
- Medics are often extremely important witnesses at trial. Subpoenas for medics/EMTs may be faxed to **215-686-1162, attention Angela Washington**. Please also email a copy of the subpoena to PFDEMSRECORDS@PHILA.GOV

MISSING FILES

- Before contacting a supervisor for assistance, please make sure the following steps and information is available:
 - 1. Check DAO CMS to see if case is specially assigned & check with that ADA
 - 2. Know all listing dates the case had and where the case was listed
 - a. Confirm those are FVSA case rooms (not diversion, MH ct, etc.)
 - b. FVSA SMART room PTC day is 1005 every Tuesday (and occasionally a few on Friday)
 - c. If NOT an FVSA room, check with ADA who handled last listing per docket in non-FVSA room as to if they had the physical file
 - 3. FOR DV/Adult Victim Rape Cases (405/905/806):
 - a. Ask FVSA paralegal Victoria Sample if she prepared the Bills of Information for DV/806 cases
 - b. If Victoria Sample did prepare the bills, that means she had the physical file so continue to look on 12th floor FVSA
 - c. If Vicky did not prepare the bills, that means that DV/806 file never made it to her after HFC
 - i. DV Cases
 - 1. Check with 14th floor to see if they have file for DV cases
 - 2. Email the MC ADA who got the case HFC per the docket and CC MC DV Supervisor ADA Eleni Belisonzi
 - ii. 806 Cases
 - 1. Check with last FVSA ADA who got 806 case HFC
 - 4. FOR Child Victim/Adult Offender Cases (5F):
 - a. Ask Juvenile paralegal April Beppel-Mari if she prepared the Bills of information for 5F cases
 - b. If April prepared the bills then the file is likely on the 12th floor
 - c. If April did not prepare the Bills. That means the 5F file never made it to her after it was HFC

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

- i. Check with last Juvenile Unit ADA who got case HFC & CC 5F Supervisor
ADA Adara Combs
- 5. Check DAO-CMS VW Services notes
 - a. If there is an entry by FVSA VWC check to see if they had physical file when they made DAO entry
- 6. Check all VWC workspaces for file b/c they might be calling victim about an offer
- 7. Check with Lexi as to if SMART offer has been posted for case
 - a. Means Branwen/Cheryl had the physical file then gave to Lexi and the file is on the 12th floor
 - b. Check Cheryl's boxes and small table or desk for file
 - c. Check Branwen's boxes at office door for file
- 8. 806 cases will almost always be on the 12th floor unless they were continued into 806 from a non-FVSA MC Room
 - a. If they were continued into 806 by MC then check with DA who continued the case into 806 and CC ADA Eleni Belisonzi
- 9. MC Appeals
 - a. IF from 806: Check Cheryl bookshelf in office for MC trial file
 - b. IF from 405/906: Check with MC ADA who secured conviction or 8th floor disposed
 - c. NOTE: Victoria will need the file to create the CP Bills
- 10. MC Refiles
 - a. Check with motions court last ADA on docket if not S/A in DAO-CMS
- 11. Check 8th floor disposed in case accidentally put in disposed
- 12. IF ALL ABOVE FAILS, email unit for file & consult with Supervisor

MOTIONS

- FVSA cases are **often won or lost during the motion stage**. There are certain motions that should be filed/argued in every case. Motions should also be filed at the earliest opportunity. If they are filed too close to the trial date, a judge may refuse to hear the motion.
 - **Tender Years:**
 - A Tender Years Motion **MUST** be filed **in every case** where the child is under the age of 13 – **even if** you believe the child will not have issues testifying. Additionally, please include a short paragraph putting the defense on notice of the fact that the Commonwealth may request to proceed via CCTV.
 - If one was filed at the preliminary hearing stage, you must still file one in CP Court. This must be filed in advance of trial because the statute requires advance notice to the defense.
 - Do not assume that judges understand the Tender Years Statute. Make sure to bring the statute and case law with you to court.
 - **Motions to Consolidate**
 - If you have more than one transcript, do not assume the defense attorney will agree to consolidation. A consolidation motion should be filed.
 - **404(b)/Prior Bad Act/Other Act Motions**
 - A close review of the defendant's prior arrests and conviction must be completed as soon as you receive the file. You should use the RAP sheet in the file and the PIIN system to determine the nature of the defendant's prior cases – including the identity of previous victims.

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

- If you see a prior Philadelphia case on the defendant’s extract, that archive file may be ordered by emailing Lucille.Randolph@phila.gov. The archived police file may also be ordered. DA Detective Cathy Seiple can assist you with that request.
- The case law is extremely favorable to the Commonwealth for admitting prior bad acts where a defendant has previously committed an act of domestic violence against the current victim. If this is present in your case, a PBA motion should **always** be filed. Even if you are not sure if you will introduce this evidence later on, the motion itself should be filed. This may result in a plea and spare your victim from having to testify. If you cannot find the prior discovery on PIIN, try and get the PARS reports using the PARS system, and request assistance from Sgt. Lynch in ordering prior 75-48s. Sgt. Lynch and the other DA detectives are able to run a “premise history” check on the address as well. This will show you the number of times the police have been called to the address, and whether that call was of a domestic nature.
 - You should pass the defense all available discovery re: the prior bad act. This should be completed at the same time the motion is sent to counsel.
- **“Dillon Motions”**
 - Commonwealth v. Dillon permits evidence of domestic violence in the home to be admitted at trial to help explain a delay in disclosure. Please be familiar with this case, and file the motion when appropriate. There are plenty of example motions available to you.
- The case law is also favorable allowing in prior bad acts of a sexual nature – particularly with cases involving child victims. Again, **do NOT wait** to see if you can find the prior victim, or wait to see if you will use the evidence –file the motion at the earliest opportunity. You can always decide not to use that PBA evidence at trial – but the motion should always be filed.
- **Rape Shield – Be PROACTIVE**
 - The Rape Shield statute requires that defense counsel file their motion in writing. HOWEVER, do NOT assume that if they have not filed a motion seeking to pierce rape shield that they will not attempt to do so during your trial. If you wait to address the issue – you will not be able to “unring that bell.” Prior to jury selection, make an oral motion in limine letting the court know that defense has not filed a motion to pierce rape shield, so you assume there will be no attempt to violate this law, but in an abundance of caution you are seeking to preclude any reference to anything that would violate the Rape Shield statute. This can be done orally unless you are in front of a judge that requires all motions to be in writing.
- **Motions in Limine – BE PROACTIVE**
 - Never assume that opposing counsel will not try to introduce evidence that you view as irrelevant, prejudicial, and inadmissible. Remember that the defense attorney’s job is to zealously represent his client, and that attorney may not agree that the evidence is inadmissible. Always move in limine to preclude any evidence that should not be admitted. Be sure to bring the relevant case law/statute that supports your arguments.
 - It is always good practice to do a brief motion in limine seeking to preclude any mention of the consequences of convictions. Jurors are instructed that they should not concern themselves with punishment, however every now and then in the heat of arguments, an attorney may mention a mandatory minimum, a lengthy jail sentence, or the possibility of registering as a sex offender. To avoid being unable

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

to “unring the bell” you may want to briefly place that motion on the record prior to the start of the trial.

- **Commonwealth v. Minich** allows the Commonwealth to motion out specific instances of conduct (such as misbehavior in school) by the complainant. A defense attorney may seek to argue that because the victim misbehaved in school in some way, they cannot be a trusted or reliable witness. While the defense has the right to present “reputation evidence” – Minich precludes specific instances of conduct from being admitted. Please be familiar with this case and file the necessary motion when appropriate.

PCA

- **Videos**

- In all cases where a PCA interview was conducted, the video should be in the file. If it is not, please subpoena it immediately by emailing a subpoena to the custodian of records. Subpoenas should be sent to Krystal@philachildrensalliance.org.
- The PCA video **MUST** be watched prior to meeting and prepping your child witness. Preparing the child without watching the video is a complete waste of time. You must have watched the video to be aware of any inconsistencies, memory lapses, etc. Do not be afraid to show the video to the child during prep if there are discrepancies you want to explore with the child, or need to follow up/seek more information on something discussed in the video.
- As soon as you receive the file for a scheduling conference, please contact the assigned forensic interviewer to check their availability. A list of all interviewers and contact information is included at the end of this document.
- Additionally, each case has a victim advocate from PCA assigned. That advocate may have updated contact with the victim and family. Please keep the advocates updated as to the status of your case. This can be done with a brief email and may greatly assist you in locating your witnesses. Their contact information is also included at the end of this document.
- **How to subpoena the Interviewer:** Immediately after receiving the trial date (or the file in case of a reassignment), reach out to the assigned interviewer letting them know the date they will be needed to testify. You should also attached a subpoena to your email. **That subpoena should include:** the name of the forensic interviewer, the name and date of birth of the child interviewed, and the date the forensic interview was conducted.
 - Occasionally, you may have a case where the interviewer is no longer employed with PCA, or is out on leave. If that occurs, please send an email and attach the subpoena to Colleen@philachildrensalliance.org with the name of the person who conducted the interview, and a note requesting a substitute interviewer’s testimony. The custodian will then give that request to Colleen Getz, who will make sure someone is available for you. If you have questions about which interviewers are still employed at PCA, please see Branwen.
- Please contact your interviewer in advance of trial and prep with them. The interviewers have varying levels of experience but all interviewers should be given the courtesy of preparing with them in advance. This can be done over the phone or in person, but should **before** the day of testimony. Some of the interviewers find it helpful for the ADAs to send them a list of questions they plan to ask or an outline of points they plan to cover during a direct exam. Find out what works best for you and your interviewer. If questions are sent to the interviewer, follow up conversations should be via telephone or in person. The entire prep should **not** be conducted via email.

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

PFA's

- To obtain a certified PFA, email Jennifer.Kelly@courts.phila.gov & RichardMattia2@pacses.com with the defendant's name, plaintiff's name, and the PFA number (this can be obtained by going into PFAD)
- They will email you once it's ready for pick up in Family Court. Stacey Deng from MC can pick them up for you since she staffs the contempt room.

Police Subpoenas

- **FEDERAL AGENTS:**
 - Prior to calling an FBI agent to testify, you must notify Agent David Joanson (djoanson@fbi.gov) that the agents you need are necessary witnesses. This applies to both prelims and trials. You should email Agent Joanson, copy the agents you need, and attach the subpoena to your email. Additionally, please draft and send a *Touhy* letter and attach that to your email as well. An example of that letter is attached.
 - When Agent Joanson receives the subpoena and letter, he will forward the letter to the US Attorney's Office, Civil Division. They review and then the US Attorney has to authorize the proposed testimony/production of documents etc.
 - Please do this as soon as you know you will need the agent(s) to testify. This should not wait until the last minute. Please regularly follow up with Agent Joanson (copying the agents you need) to make sure the approval is granted long before your trial date. Please do not simply send the email and wait for the reply. It is our obligation to have the case ready for court and telling the Court that the US Attorney's Office has not responded yet is not an acceptable reason for our case not being prepared for trial. Keep your agents in the loop on the status because they may be able to follow up with the US Attorney's Office for us and streamline the process.
 - **All federal agents have these requirements, so if you have a HSI agent etc, please contact the agent and find out their process for approval of their testimony.**
 - ***One final note for all of your LEO witnesses, in particular federal agents. If GrayKey was used to unlock the phones, prep with your agents early to determine what they can and cannot testify to. There are restrictions involving GrayKey and your agents will be able to educate you on what they can testify to ***
- PSP:
 - Email a subpoena for the necessary troopers to Trooper Thomas Falcon @ tfalcon@pa.gov
 - Note: This changes regularly, but if the contact person does change, Trp. Falcon should respond and let you know. This is only for matters within troop K.
- UPenn:
 - All subpoenas for Penn PD must be emailed to the below address and should no longer be faxed. **The court date for which the subpoena is being sent must be entered in the subject line of the email.**
 - Penn PD Subpoena email: subpoenas@publicsafety.upenn.edu
 - You may contact Deputy Chief Morrin at mmorrin@publicsafety.upenn.edu if there are any issues.

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

PRISON CALLS

- Please subpoena prison calls on all custody cases. It is better to have them just in case, even if you are not able to listen to every call.
- Please remember that prison calls must be passed just like all other discovery
- How to subpoena:
 - Local custody: email Teresa Paris with the defendants name and PID:
Teresa.Paris@prisons.phila.gov
 - To check in with her on the status of prison calls, her phone number is 215-685-8735
 - State custody: email a subpoena duces tecum to Captain Antonio Olivarez:
aolivarez@pa.gov

PSIs

- **If your defendant enters an open guilty plea or is convicted after a trial, please make sure to request a presentence investigation report.** These are extremely useful tools for sentencing. These can be waived if the plea is negotiated, but all sides must put on the record the PSI is waived. At times, you may be asked to waive the PSI and go right to sentencing after an open guilty plea or waiver trial. There are only very limited circumstances we would want to do that – please call a supervisor if this occurs. Please note if you plan to ask for state time, you must get a PSI – see **Rule 702 of the Rules of Criminal Procedure.**

RUNDATES

- **When a case gets continued as Commonwealth time or as joint time you must be mindful of your run date and ask for an earlier one if the new trial date is past your run date.** If there is not an earlier date available you must ask the court to mark the time excludable or extendable and the docket must reflect that. Where a case is a defense request always ask that the time be ruled excludable.
- Please make sure the docket indicates the correct status of discovery. Often cases that say discovery is complete in 1104/1005 then the next listing it will say discovery incomplete then no further indication if discovery was ever deemed complete. **When it comes to 600 motions the accuracy of the docket is the record** so you need to make sure that is correct to avoid having to call witnesses to say the docket is wrong which usually does not go well for us.

SANE NURSES

- SANE nurses should be contacted as soon as you receive the case and consulted regarding scheduling of the trial. A list of SANE nurse contact information is attached to this document.
- There is a very delicate balance between having the SANE nurse available for testimony (understanding that the exact time of the testimony cannot be determined months in advance) and minimizing the inconvenience to the SANE nurses. SANE nurses are not employed by PPD – they all have regular jobs and can't block out time (using their vacation leave) easily. Please keep them updated regarding continuances and narrow down their testimony to one day and a range of hours as best you can.

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

- **How to subpoena:**
 - DO NOT put the SANE nurse in CMS.
 - Subpoenas should be emailed to Mike Boyle – mjb442@drexel.edu
 - All subpoenas must include the patient name & date of visit, and the SVU case number.
 - **If your SANE nurse is not available or is no longer working for SARC, please see a supervisor about finding a substitute.**

SCHEDULING CONFERENCES

- Meet with the **assigned detective and personally review their file** at the scheduling conference. If you are not able to do that at the scheduling conference, this should be done within two weeks of the scheduling conference (or when you are assigned the case). We are responsible for what is in the detective's file even if it is not on PIIN. Please see additional information under the "Assigned Detective/Investigator" section.
- Prior to the scheduling conference, call the **DNA/trace lab**. The trace lab's number is 215-685-3149). The DNA lab's number is 215-685-3161.
 - You should ask the lab what evidence/property receipts they have and do not have, and ask them what reports have been generated and which ones are still pending. Most importantly, find out if they have the defendant's reference sample. If they do not and if your victim received a rape kit (or if physical evidence was seized), you must get the judge to sign a court order for a reference sample to be taken from the defendant. It is best to ask the scheduling conference judge to give you a date 30 days prior to trial for status of DNA. The lab uses CPCMS to check on court dates and will ensure the DNA is completed well in advance of trial.
 - Once the judge signs the order, please keep a copy in your file and give the original to your assigned DA detective. Once the swab is completed, the detective will give you a copy of the property receipt. A copy of that property receipt should be passed to the defense along with a copy of the court order for the swab. As soon as you have the property receipt, fax over a request to have the evidence (rape kit, clothing etc) analyzed. An example of this form is attached at the end of this document.
 - The fax number to the DNA lab is 215-685-3158.
 - Call the DNA lab to confirm they received your request, and follow up with the lab every few weeks to make sure they are working on it and give you status updates.
 - It is best to keep a chart in your office of all cases where the trace/DNA is outstanding so that you can call regularly to check on these cases. An example is attached to this document, although you can use whatever organizational system you prefer.
- Prior to the scheduling conference, you should have the officer's **vacation schedule**, and all bad dates for your witnesses. You should also touch base with **professional witnesses**, such as PCA, SANE nurses and the treating doctor/expert to find out their **availability**.
- Please make sure to comply with the PMD police when sending officer subpoenas and make sure to keep documentation in your file that the PMD information and materials were passed.

SEX OFFENDER PROBATION

- Please make sure to always ask that the supervision on your cases is "Sex Offender Probation/Parole with Sex Offender Conditions."
 - For cases involving state sex offender probation, the language needed to ensure they will be supervised by the sex offender unit is "State Sex Offender Probation – Defendant to Comply with PA Board Special Conditions for Sex Offenders."

SOAB EVALS

- Please be familiar with what crimes trigger SORNA Registration
- When you discuss a pre-trial offer with a supervisor also discuss SVP at that time
- When seeking to have a defendant evaluated by the SOAB, make sure to get a 90 day sentencing date
- Have the judge sign the Court Order (sample attached to this document) to have the defendant evaluated
- Fill out the Information Sheet (attached to this document) and email it, along with the Court Order to: RA-PMCOURTORDER@PA.GOV) within 10 days of conviction.
- The assigned SOAB investigator will reach out to the ADA to request the case information and provide his or her contact information at that time.
- Once you know who the assigned investigator is, we must get the below materials to them ASAP. Please email Allante, Christina, Eileen, Lexi, and Vickie to let them know you have a case that has materials that are needed to be sent to the SOAB. They will let you know who will be handling this request. You should then give the file to them so they can work on getting the materials to the assigned investigator.
- The SOAB needs copies of certain documents and case information from the Philadelphia District Attorney's Office in order to complete a Sexually Violent Predator assessment. While they understand that all of this information may not be available in every case, here's the list of documents and information they would like to receive:
 - Docket Information
 - Criminal Complaint and Affidavit
 - Complete Police Reports
 - Victim Statements / Reports
 - Witness Statements
 - Evidence Information
 - Victim Identifying Information (name, sex, date of birth, etc.)
 - Pending Case Information / Companion Case Information/ Prior Sex Offense Case Information
 - Juvenile Criminal History Information
 - DHS Records (regarding offender behavior or receiving services from DHS)
 - Prior Pre-Sentence Investigations
 - Any Mental Health Evaluations
 - Any Sex Offender Treatment or Evaluation Information
 - Protection From Abuse information
- Please Note: No illegal materials, such as child sexual exploitation images, should be sent to the SOAB.
- All materials can be emailed to the Investigator assigned to the case or can be mailed to the SOAB's Central Office in Harrisburg:

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

1101 South Front Street, Suite 5700
Harrisburg, PA 17104

- After receiving the information, in some cases, if necessary, the assigned Investigator may reach out to the attorney prosecuting the case with questions or to seek further information or clarification.
- You will receive a report from the SOAB Investigator. Should your defendant be deemed an SVP, please request that the Court sign a Praecipe (sample attached) granting an SVP hearing.

SORNA

- For crimes that occurred after December 20, 2012, defendants are required to register under SORNA.
 - Please note that we **CANNOT** negotiate away a defendant's responsibility to register as a sex offender if he/she has pled or been convicted of a SORNA offense.
 - Please make sure to have the defendant sign the written colloquy (on the H drive) and to colloquy the defendant on the record.

SUPPORT CENTER FOR CHILD ADVOCATES

- How to refer a case and have a child advocate appointed:
 - Please check with a supervisor before requesting that a child advocate be appointed and obtain their approval.
 - Please make every attempt to contact Jodi Schatz, Director of Intake and Pro Bono Services, at 267-546-9228 before asking the Court to appoint a child advocate
 - You will need to have an order appointing counsel signed by the judge and send a copy of that along with a referral form and discovery to Jodi Schatz at fax (267-546-9201) or email (jschatz@sccalaw.org). **Please do this the same day that the order is signed.**
 - Order Appointing Counsel
 - For children ages birth through 15 years, Child Advocates serves as counsel and guardian ad litem for child victims, by appointment and order of court. A separate Order Appointing Counsel (OAC) should be signed by the court for each child victim, even if they are siblings in the same household. A form Order is attached, CRIM – Order To Appoint (birth to 15 yrs). **Please note there is a separate form to use for J. Lynn with additional language he requested (attached- it is the last of 3 orders below)**
 - For children 16 years or older, Child Advocates may serve as counsel only. A form OAC is attached, CRIM – Order To Appoint (counsel only, 16 yrs plus) (attached- the second of 3 orders below)
 - Procedure:
 - Each ADA who requests and receives an OAC for a Child Advocate shall immediately give the signed OAC to the clerk of court in the courtroom for filing.
 - The ADA shall request that the docket reflect the appointment of a Child Advocate.
 - Upon receiving notice of appointment from the ADA, Child Advocates will confirm that the clerk of court filed the OAC by specifically asking the ADA if such filing was accomplished. Child Advocates will also check the docket to ensure that the appointment is documented.
 - If, for any reason, Child Advocates is unable to confirm that the OAC has been filed and/or that the docket does not reflect the appointment, Child

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

Advocates shall immediately provide written notice of the OAC to defense counsel.

TRANSFER MEMOS

- If a case is being reassigned – a transfer memo must be done. That memo should include – at an absolute minimum – what prep has been completed already, what is outstanding, and contact information for your victim.
- A note indicating to “treat the file as new” is not acceptable.

TRIAL MEMOS

- **Summary of Facts** – This should be concise. For example: The Commonwealth alleges that From July 2013 – August 2016 the defendant had unlawful sexual contact with his niece while inside of 123 Main Street, Philadelphia, PA.
- **What charges to move on?**
 - It is best to always check with a supervisor surrounding the strategy of what to move on. Be mindful that juries may sometimes compromise when reaching a verdict. You do not want to move on every single charge and give the impression of being overly zealous or overcharging. Additionally, if you are trying an attempted murder shooting, you will likely not move on simple assault for fear of a compromised verdict.
 - In general, you should NEVER be moving on charges that require proving force or disproving consent when your victim is a child.
 - For example:
 - If your child is 8, you **would move** on Rape of a Child/IDSI of a Child. You would NOT move on Rape Forcible Compulsion, Sex Assault, Stat Sex Assault, etc.
 - You should **not** be talking about force or consent with a child under 12 – adding those elements into your case will only complicate things and raise your burden.

VICTIM NOTIFICATION & CONTACT

- All DAO employees are required to use the attached Contact/Activity Log. This contact log must be in your file and updated at all times.
- The January 31, 2019 Office Policy Memo regarding communication with victims of crime is attached.

VICTIM WITNESS COORDINATORS

- We have three victim witness coordinators who assist in the preparation of cases in numerous ways. Please speak to Katie, Tia, and Angela about sitting in on preps, court accompaniment, resources for families, victim’s compensation claims, travel arrangements, etc. They are a tremendous resource – but please keep in them in the loop as your case progresses through the pretrial and preparation phases. The sooner they know to assist with preparation and travel arrangements, the better they are able to assist.
 - If you are requesting travel arrangements, please make sure the judge knows that your victims are coming in front out of town so your case can be prioritized or spun to a judge that can definitely hear the case. Once you ensure your case will be heard, work with your victim witness coordinator to prepare the travel memo. That memo must be signed by Branwen.

WHITE BOARD

- Please remember to update the white board daily. You are all busy with lots of cases and preps, so our white board should reflect all of your hard work. It also helps us find each other/know one another’s whereabouts.

911 CALLS

- 911 calls are extremely helpful evidence. The paralegals and detectives will order that the call be preserved. Once you order 911 tapes from police radio, they are no longer mailing us hard disc copies. Instead they are uploading it to the "Audio Reproduction" Folder on Commander. Access to that folder is limited, but Rob Hettinger has access and will transfer the files to our "Family Violence" cabinet upon request. Then all we have to do is download onto a disc.

PCA Directory

FORENSIC INTERVIEWERS	(215) 387-9500	
Colleen—Manager of Forensic Services	Ext. 3809	colleen@philachildrensalliance.org
Carolina Castano	Ext. 3806	castano@philachildrensalliance.org
Jillian Shainman	Ext. 3831	jillian@philachildrensalliance.org
Khushbu Patel	Ext. 3834	khushbu@philachildrensalliance.org
Kirby Gerlus	Ext. 3829	kirby@philachildrensalliance.org
Margaret Boccio	Ext. 3818	margaret@philachildrensalliance.org
Edith Cruz	Ext. 3861	edith@philachildrensalliance.org
VICTIM ADVOCATES		
Nuria Orsino—Manager of Victim Services	Ext. 3819	nuria@philachildrensalliance.org
Victoria Ginns	Ext. 3808	victoria@philachildrensalliance.org
Zuleika Vazquez-Bonilla	Ext. 3828	zuleika@philachildrensalliance.org
Roberto Mejia	Ext. 3833	roberto@philachildrensalliance.org
Tyshera Maddox	Ext.	tyshera@philachildrensalliance.org

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

PSARC STAFF LIST

Ralph Riviello **no longer active	856-981-2451	Rriviello68@gmail.com
Barbara Osborn DNP, WHNP, BC, CRNP	856-375-3056	bro24@drexel.edu
Mike Boyle	215-882-3614	Mjb442@drexel.edu
Donald Thomas Noah Brophy	215-600-5396	Noah.brophy@drexel.edu
Christine Campbell – **No longer active	267-246-2116	chrisjrn@verizon.net
Shana Williams-Chappell	610-352-4560, Land line 215-833-8504, Cell Preferred contact number	Sjoy26@aol.com
Karen Dougherty	302-690-7383	Kdougherty26@gmail.com
AnnMarie Jones-Gonzalez **No longer active	215-510-0577	Ajonesrn518@yahoo.com
Joseph Kelly	609-702-1658	Joekelly02@comcast.net
Christine McDermond	856-829-2152	Regis2002@comcast.net
LaTia Rivera – **no longer active	302-345-8545	latiarn@yahoo.com
Patricia Roussel	215-880-8646	Parmom78@aol.com
Toni Seibert Cataldi – **no longer active	609-221-9226	Tonilous1@verizon.net
Stephanie Shields – **no longer active	215-421-2015	Stephanieshields24@gmail.com
Jenny Smith **No longer active	215-280-0529	Jmsmith0917@gmail.com
Annamarie Scannapieco – **no longer active	239-287-4752	Bella080807@hotmail.com
Kelly Troiano	215-868-2325	Tayls413@hotmail.com
Bethany Ammon	609-320-4260	Bethany775@verizon.net
James Owens	610-323-2979	jfo37@drexel.edu
Elizabeth Harbuck	215-617-1300	lizharbuck@gmail.com
Dylan Wallace	908-347-1171	Wallace.dylan@gmail.com
Shannan Hanshaw	484-832-5629 610-328-2589	hanshaw@comcast.net

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

Ramona (McCrary) Vellucci	215-485-2351	monaucch@aol.com
Kim Haug	973-945-7675	Kim.lyko@gmail.com
Monica Devito	609-560-4580	Monica795@yahoo.com
Sara Bryan **No longer active	856-237-3079	Kirkendollwedding2017@gmail.com
Annette Tucker	267-767-2774	Annettedavis1@icloud.com
Jordana Popovich	412-417-2303	Jordana.popovich@gmail.com
Shelby Weiss	215-520-8310	Shelby.weiss22@gmail.com
Laura Kopach	302-377-5947	Kopachlaura@gmail.com
Laura Sinko	973-214-0617	Pending hire
Delorie, Shaunna	508.212.4409	scd74@drexel.edu
Hoover, Alyssa	267.234.4566	alyssahoover91@gmail.com

DNA/TRACE LAB PAYROLL LIST

Payroll	Analyst
219684	PATRICIA LANE
221988	BRIAN PFLEEGOR
238790	DANIELLE IMES
240901	LAURIE CITINO
250890	BENJAMIN LEVIN
251010	GAMAL EMIRA
251963	CONNIE CYWINSKI
257527	FATIMOT ADEKANMBI
259537	RYAN GALLAGHER
259665	JOSHUA TYSON
261054	MODUPE ADEWUMI
263770	JANEISHA HUTLEY
264578	DAVID HAWKINS
269702	BRYNE STROTHER
269740	DEANNA ZARZECKI
271426	LISETTE VEGA
271433	HUNG LE
271520	JAMILA HOWARD
271587	ELISHA ODOOM
271679	LYNN HAIMOWITZ
274396	JEAN HESS
279056	JALEELA SAMUEL
279074	CHRISTIAN VELLANI
279080	BRITTNEY REHRIG
281672	MELISSA O'CONNOR JESSICA
281761	WINKELSPECHT
281898	ERNEST DRUMMOND
281874	CRAIG JUDD
281875	RUI FEN HUANG

St. Christopher’s Hospital for Children

Child Protection Program Staff List

Main Number 215-427-6869

Fax Number 215-427-8993

Norrell Atkinson, MD Section Chief, Child Protection Program

Child Abuse Pediatrician Norrell.atkinson@towerhealth.org

215-427-3806 (desk) 215-873-4342 (cell)

Michelle Dominguez, MD

Child Abuse Pediatrician Michelle.Dominguez@towerhealth.org

215-427-8589 (desk)

Rachel McCormick, CRNP

Pediatric Nurse Practitioner

Rachel.McCormick@towerhealth.org

215-427-8532 (desk)

Ife Ford, MSW

Social Worker Ife.ford@towerhealth.org

215-427-6869

Heather Faust

Administrative Assistant/Scheduler Heather.faust2@towerhealth.org

215-427-6869

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

SAFE PLACE CONTACT LIST		
NAME	PHONE	EMAIL
ATTENDING		
Cindy Christian	Office: (215) 590-5694 Cell: (215) 300-8007	christian@email.chop.edu
Philip Scribano	Office: (215) 590-5357 Cell: (267) 414-4186	scribanop@email.chop.edu
Joanne Wood	Office: (267) 426-3107 Cell: (215) 900-3632	woodjo@email.chop.edu
Maria (Kate) Henry	Office: 215-590-2351 ext: 42351 Cell: 215-531-5214	HenryM2@email.chop.edu
Kristine Fortin	Office: (267) 426-5048 Cell: (267) 398-8297	fortink@email.chop.edu
Colleen Bennett	Office: (267) 426-3927 (ext 63927) Cell: 267-303-1678	bennettc1@email.chop.edu
OFFICE ADMINISTRATOR		
Christina McCloskey	267-426-3111	mccloskev@email.chop.edu
SOCIAL WORK		
Laura Popma	Office : (215) 590-7175 Cell: (215) 776-8829	popmal@email.chop.edu
Angela Lamb	Office: (215) 902-2164 Cell: (215) 219-4446	generellia@email.chop.edu
FELLOWS		
Barbara Chaiyachati	Office: 267-425-4630 ext:54630 Cell: (267) 760-7723	Chaiyachati@email.chop.edu
Maria (Rosario) Aldana Sierra	Cell: (215)-313-0426	ALDANASIEM@EMAIL.CHOP.EDU
Anish Raj	Cell: (267)854-6047	Raja1@email.chop.edu
BEHAVIORAL HEALTH		
Nancy Braveman	Office: (267) 426-2896 Cell: (215)-605-0444	braveman@email.chop.edu
Teresa Brieck	Office: (267) 426-5163 Cell: 484-362-3506	brieckt@email.chop.edu
SPECIALTY NURSE		
Judy Dawson	Office: 267-426-0982 Cell: 267-290-3826	Dawsonj@email.chop.edu
*OCCUPATIONAL THERAPY		
Jordan Porter	Cell: 404-405-6087	porterj@email.chop.edu
Anne Ashley Fields	Cell: 267-254-6203	Fieldsa@email.chop.edu
*ATTENDING		
Susan Friedman	215-219-4452	friedmansu@email.chop.edu
*Provides care in within Safe Place Section clinical services, but main effort is elsewhere.		

**IN THE COURT OF COMMON PLEAS AND MUNICIPAL COURT
FOR THE FIRST JUDICIAL DISTRICT
CRIMINAL DIVISION**

COMMONWEALTH OF PENNSYLVANIA : **CP 51 CR** _____

v. : **PP#** _____

DEFENDANT NAME :

ORDER
(Defendant In Custody)

AND NOW, to wit, this ____ day of _____ 2017, it is hereby ORDERED and DECREED
that:

1. For good cause shown and with the counseled consent of the Defendant, the defendant shall provide a biological sample (blood and/or buccal swab) in sufficient quantities to permit DNA typing.
2. The sample shall be taken by a representative of the Philadelphia Police Department or District Attorney's Office for purposes of DNA analysis, entry into CODIS, and comparison.
3. The representative of the Philadelphia Police Department or District Attorney's Office shall be permitted access to the defendant while incarcerated in order to obtain a buccal swab and/or blood sample for purposes of DNA analysis and comparison.
4. The representative of the Philadelphia Police Department or District Attorney's Office shall be permitted access to defendant in the Sheriff's Cell Room in order to obtain a buccal swab and/or blood sample for purposes of DNA analysis and comparison.

BY THE COURT:

**IN THE COURT OF COMMON PLEAS AND MUNICIPAL COURT
FOR THE FIRST JUDICIAL DISTRICT
CRIMINAL DIVISION**

COMMONWEALTH OF PENNSYLVANIA :

CP 51 CR _____

v. :

DEFENDANT NAME

PP# _____

ORDER

AND NOW, to wit, this ____ day of _____, it is hereby ORDERED and DECREED that:

1. For good cause shown, and with the knowing and counseled consent of the defendant, the medical staff at Tenet-Hahnemann Hospital shall draw blood or DA detectives shall perform an oral swab from the defendant in sufficient quantities to permit DNA typing.
2. Such blood or oral swab samples will be delivered to a representative of the Philadelphia Police Department or District Attorney's Office for purposes of DNA analysis and comparison.
3. Defendant will surrender to members of the Philadelphia Police Department or detectives from the Philadelphia District Attorney's Office for transportation to Tenet-Hahnemann Hospital or DA's Office for such purposes, and released forthwith.

It is so Ordered.

BY THE COURT:

J.

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

DNA SAMPLE REQUEST	
INFORMATION NEEDED TO ACCOMPANY COURT ORDER	
DNA PROVIDER'S NAME	
DATE OF BIRTH	
DEFENDANT'S PPN	
IS OFFENDER INCARCERATED AND WHERE	
IF OFFENDER IS OUT ON BAIL – CURRENT ADDRESS/PHONE NUMBER	
DEFENSE ATTORNEY'S INFO	
LOCATION OF OCCURRENCE	
LEAD CHARGE	
CP#	
DC#	
SVU#	
LAB#	
PROPERTY RECEIPT #'S FOR SAMPLE TO BE COMPARED WITH	

Requested by:

Date Requested:



PHILADELPHIA POLICE DEPARTMENT
CRIMINALISTICS UNIT



DNA Identification Laboratory, 215-685-3161, 62
Criminalistics Laboratory, 215-685-3149, 50 Fax Number:
215.685-3158

DNA COMPARISON REQUEST FORM

Requested By: _____ Date Requested: _____
#: Supervisor's approval: _____ Contact Phone _____
Unit/Dept. Name: _____ Unit Control #: _____

Address/Fax:

PLEASE FILL OUT AS MUCH OF THE FOLLOWING INFORMATION AS POSSIBLE

LAB#: _____ D.C. #: _____
Property Receipt #: _____ Complainant's Name: _____
Defendant's Name (s): _____
Court Date: _____ Court Room #: _____ MC/CP/JC #: _____
Type of evidence (clothing, kit, etc.): _____

Comments: PLEASE SEND ME REPORT BY _____ AT THE LATEST

DEPARTMENTAL USE ONLY

Entered Into DNA Request Database Name: _____ Date: _____
Criminalistics Analyst Assigned: _____ Date: _____
DNA Analyst Assigned: _____ Date: _____

OUTSTANDING MEDICAL RECORDS

<u>Defendant</u>	<u>Patient Info</u>	<u>Hospital & Number</u>	<u>Date Ordered</u>	<u>Last Call</u>	<u>Trial Date</u>

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

OUTSTANDING DHS RECORDS

<u>Case Info:</u> CP Number DHS Number Child Name & DOB	<u>When Ordered</u>	<u>Last call to check status</u>	<u>Case next listed</u>

SAMPLE PFA ORDERS

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FAMILY COURT DIVISION

ON BEHALF OF _____ :
_____ : ___ Custody ___ Partial Custody
Plaintiff _____ Visitation ___ Support

Docket No. **xxxVxxxx**

_____ :
Defendant _____ :

ORDER

AND NOW, this ___ day of _____ 2017, upon consideration of the attached PETITION FOR ACCESS TO THE DOMESTIC RELATIONS CASE RECORD OF THE ABOVE-CAPTIONED MATTER, filed by _____ pursuant to the provisions of Family Court Administrative Regulation 97-1, it is hereby ORDERED, ADJUDGED and DECREED that:

___ The PETITION FOR ACCESS TO THE DOMESTIC RELATIONS RECORD IS DENIED.

___ The PETITION FOR ACCESS TO THE DOMESTIC RELATIONS RECORD IS GRANTED. The individual or entity requesting access to the domestic relations case record in this matter may contact the following individual or their designee to make arrangements to review the case record (this Order must be presented at the time of record review, if applicable):

___ PROTECTION FROM ABUSE RECORDS Richard Mattia, Supervisor,
Domestic Violence Unit, 1501 Arch Street – 8th Floor, Philadelphia, Pa. 19102 (215) 686-3515

___ ALL OTHER DOMESTIC RELATIONS RECORDS ___ Fred Keller, Clerk of Court, 1501 Arch Street – 11th Floor, Philadelphia, Pa 19102 (215) 686-3805

___ The attached Rule is being served upon the following party(s) to the domestic relations case to show cause why the relief requested in the PETITION FOR ACCESS TO DOMESTIC RELATIONS CASE RECORD should not be granted:

_ Plaintiff/Petitioner _ Defendant/Respondent

___ A certified copy of the record is to be provided to _____

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

at _____ 1501 Arch Street, Room ____, on _____, at ____ . M.

at _____, Room ____, on _____, at ____ .M.

__ Other: _____

BY THE COURT:

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

ON BEHALF OF :
MARITZA TABORA SARAVIA :
:
Plaintiff : Docket No. **1706V8357**
:
TABORA, FREDY :
Defendant

PETITION FOR ACCESS TO DOMESTIC RELATIONS CASE RECORD
(PURSUANT TO FAMILY COURT ADMINISTRATION REGULATION 97-1)

TO HONORABLE, MARGARET T. MURPHY,

The petition of District Attorney Krasner, by his Assistant District Attorney, Vilma Cubias respectfully represents:

1. PETITIONER is District Attorney Krasner, by his Assistant District Attorney, Vilma Cubias, who is neither a party to the above-captioned domestic relations case, nor the attorney of record in the domestic relations case, for a party to the case;
2. PETITIONER's business address is: Three South Penn Square, 12th floor, Philadelphia, PA 19107
3. Pursuant to the provisions of Family Court Administration Regulation 97-1, PETITIONER is seeking access to the domestic relations case record in the above-captioned matter, which is:
a Protection From Abuse matter
4. Petitioner is seeking access to the domestic relations case record to Obtain A Certified copy of the following: **Family Court Docket Report, Affidavit of Service, PFA Petition, & Temporary Order & Final Order**
5. PETITIONER is seeking the indicated access of this domestic relations case record for the following reason(s): This evidence is crucial for the Commonwealth v. Fredy Tabora MC-51-CR-0028521-2017, next listed in **Courtroom 1104 on November 13, 2017** in the Criminal Justice Center at 1301 Filbert Street.

WHEREFORE, the Petitioner prays this Honorable Court to GRANT the relief requested in this Petition.

Vilma Cubias
Assistant District Attorney

I verify that the statements made in this Petition for Special Relief are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. 4904 relating to unsworn falsification to authorities.

Vilma Cubias

Date of Filing: 10/30/2019

Assistant District Attorney

DAO 000592

FVSA PROCEDURES AND PROTOCOL – Updated January 2021

Contact Log/Activity Log

Complainant: _____

Relationship with A: _____

Complainant Contact Information: _____

Restitution Needed? Yes No \$ _____ Email: _____

Email: _____

Interpreter Needed? [2 Yes No

Language: _____

Transportation Needed? Yes No

Pick-up Location: _____

Date/Time:	# Call	# Call from:	Contact (who spoke with/result of call/action taken etc.)	Initial

1 If communication is not a call document the communication type (e.g. email, letter, or in-person)



DISTRICT ATTORNEY'S OFFICE
THREE SOUTH PENN SQUARE
PHILADELPHIA, PENNSYLVANIA 19107-3499 215-686-8000

POLICY MEMO – January 31, 2019

IMPROVING ASSISTANT DISTRICT ATTORNEY COMMUNICATION WITH VICTIMS OF CRIME

One of the most important responsibilities you have as an Assistant District Attorney is timely communication with victims about the criminal court process and potential outcomes of the case. Principles of procedural justice (fairness in the process) must guide your interactions with victims because fairness in the process improves public perception and trust. Research shows that a criminal justice system that grants victims representation and a sense of accuracy in the process creates a higher level of satisfaction for a victim.

Procedural Justice has several key components:

- (1) Voice: The victim's opportunity to be heard.
- (2) Respect: The preservation of dignity in interactions with victims and defendants.
- (3) Trust and Neutrality: A decision-making process that is unbiased and consistent.
- (4) Understanding: Making sure the victim has an understanding of the court process throughout the case.
- (5) Helpfulness: Re-assuring the victim that the justice system has an interest in the needs of victims, witnesses, communities, and defendants.

Incorporating procedural justice principles by applying these key components into your communication with victims makes prosecutions more effective and increases victim satisfaction in your decisions and outcome of the case.

¹For a comprehensive discussion about Procedural Justice as it relates to stakeholders in the criminal justice system see FJP "Issues at a Glance: Procedural Justice: Enhancing the Legitimacy of the Justice System" brief at <https://fairandiuslprosecution.org>. See also "Procedural Justice is for Victims Too" at www.proceduralfairness.org.
Pennsylvania Crime Victims Act

In addition to the principles of procedural justice, your interactions with victims must also be guided by the PA Crime Victims Act (18 P.S. § 11.102).² You as a member of the District Attorney's Office are to honor the following victims' rights:

FVSA PROCEDURES AND PROTOCOLS

- (1) To be notified of significant actions and proceedings within the criminal justice system pertaining to the victim's case. § 11.201(2)
- (2) In cases involving a personal injury crime or burglary, to submit prior comment to the prosecutor's office in the potential reduction or dropping of any charge or changing of a plea in a criminal proceeding or diversion of any case. § 11.201 (4)
- (3) To have an opportunity to offer prior comment on the sentencing of a defendant, to include the submission of written and oral victim impact statements detailing the physical, psychological, and economic effects of the crime on the victim and the victim's family. § 11.201(5)
- (4) To be restored, to the extent possible, to the pre-crime economic status through the provision of restitution. § 11.201(6)

The PA Crime Victims Act § 11.213 further lays out the responsibilities of a Prosecutor's Office including, but not limited to:

- (1) PLEADING: In cases involving a personal injury crime or burglary, the prosecutor's office shall provide notice of and offer the opportunity to submit prior comment on the potential reduction or dropping of any charge or changing of a plea in a criminal proceeding or diversion of any case. § 11.213(b)
- (2) SENTENCING: The prosecutor's office shall provide notice of the opportunity to offer prior comment on the sentencing of an adult which includes the submission of oral and written impact statements. § 11.213(c)

Ultimately, the responsibility of victim communication falls on you as the assigned Assistant District Attorney. You and your supervisor(s) will be accountable for making reasonable efforts to comply with the Pennsylvania Office of Victim Advocate. Following the policies outlined in this memo will ensure that you have honored victim' rights and applied these rights to the principles of procedural justice.

-
- For the complete text of the Crime Victims Act, refer to the PA crimes code 18. P.S. § 11.201-216.

I. Documentation of conversations with {he i'ictim in*the cont*

FVSA PROCEDURES AND PROTOCOLS

The trial file is the most important place to find all information pertaining to the history of your case. Every trial file has a contact log fastened to the flap. This log provides a history of all interactions with victims.

YOU MUST:

- (1) Use this contact log to document all victim/witness communication and attempts at communication, including the following:
 - The date on which the call is made, email sent, letter mailed out, or in person conversation took place.
 - Phone number you called from and the number you called.
 - Purpose of your call to the victim.
 - Name of the person you spoke with.
 - Result of the call (e.g. will attend court).
 - Additional action taken, if any (e.g. CW will email ADA photos of injury). ● CMS address updates.
- (2) Sign your name next to the entry in the contact log so that anyone reviewing the file knows you spoke with the victim.
- (3) Document all in-court appearances on the outside of the file in the disposition box including:
 - Name of witness who appeared for court (e.g. NAME - P)
 - Name of witness who testified (e.g. NAME - P+T)
 - Name of witness who failed to appear (e.g. NAME - FTA)

11. Notifying the victim of upcoming court listings

The Case Management System (CMS) will automatically generate a subpoena and mail it to the victim's address listed on the PARS (Preliminary Arraignment Reporting System) arrest paperwork. This occurs in every case except for cases in the Homicide Unit and cases in the Investigations Division Units (Special Investigations, Economic Crime, Insurance Fraud). CMS tracks all documents sent out from the office in the section titled "output history." Output history shows you the case specific date when the witness subpoena was generated, how it was delivered, and the exact address to which the subpoena was delivered.

FVSA PROCEDURES AND PROTOCOLS

YOU MUST:

- (1) Call the victim prior to an upcoming court listing to discuss:
 - What to expect at the next court listing,
 - Victim impact statement where the case is set for trial and • Any input the victim may offer.
- (2) Confirm that the victim has the same phone number and address.
 - If the victim's contact information has changed, update CMS with the new information.
- (3) Ask for alternative contact information for the victim.
 - Email address
 - Work phone number and address
 - Family or friend's phone number and address
 - Any phone number and address that the victim believes will not change in the near future
- (4) Document all conversations with the victim on the contact log and any follow up actions you take.
- (5) Check your voicemail for messages from a victim and provide a summary of that message on the contact log including date, time, and the call back number that the victim left.

Prior to the first court listing, the victim will receive an initial contact letter from the Victim Witness Services Unit. This letter outlines the victim's rights, including directions to a safe witness waiting room at the Criminal Justice Center, financial reimbursement, transportation to and from court, changes in defendant's custody status, and a phone number/email to Victim Witness Services for all other concerns. Accompanying the letter is a separate restitution form and victim impact statement that the victim can complete and return to the Victim Services Unit. CMS output history tracks the sent date and the address where the letter is mailed.

Victim Witness Coordinators are responsible for making sure that information, including the returned restitution/victim impact statement, from any victim in response to this initial letter reaches the case file.

111. Victim information gathering and documentation at the preliminary hearing

FVSA PROCEDURES AND PROTOCOLS

In a felony case, the preliminary hearing listing is the only in-person opportunity you have to gather input for a plea bargain that will be made in the Court of Common Pleas.

YOU MUST:

- (1) Ask the victim for input on the case in an open-ended way.
 - Allow the victim to express themselves without steering or directing the input.
 - Specifically inquire about physical consequences and restitution requests.
 - Specifically advise on their right to give a victim impact statement.
- (2) Confirm with the victim that the contact information has not changed.
 - If changed, update CMS and notate this action on the contact log.

YOU MUST NOT: Decide what the offer will be on felony cases listed for preliminary hearing. If asked about this, explain to the victim that the exact terms of the offer will be decided at a later point in the case.

- EXCEPTION:
 - (1) You make a pre-preliminary hearing offer with supervisor approval
 - (2) Vertical assignments where the preliminary hearing ADA is making the SMART offer

Filling out the BIF form to include the victim 's input

There will be one uniform Municipal Court Unit Bills of Information (BF) sheet that you will fill out for each held for court case following a preliminary hearing.

YOU MUST:

- (1) Document your conversation with the victim in the top section of the BF sheet.
- (2) Include all information gathered.

Conveying an offer in the SMART room after considering victim input

FVSA PROCEDURES AND PROTOCOLS

The initial offer on a felony case is made in the pre-trial SMART¹ room within three weeks after the held for court date.

YOU MUST:

- (1) Consider victim input when formulating a plea offer in a case, referring to the following:
 - BF sheet for this information.
 - Contact log for this information.
 - Information mailed or emailed to the office.
 - Information that is input into CMS following phone contact with a victim - a copy of this entry will be placed in the file on the left flap by a Victim Witness Coordinator (VWC) or Trial Listing Clerk (TLC).
- (2) Call the victim to notify them of the terms of the offer.
- (3) Ask if the victim would like to give a victim impact statement at sentencing.
 - The victim can submit via written statement or in-person testimony.
- (4) Document this conversation and all attempts at victim contact on the contact log.
- (5) Send a "no contact letter" where you cannot reach a victim via phone or email.
 - You can generate this letter in CMS and mail to the victim.

Prior to the first SMART listing, the victim will receive an arraignment contact letter from the Victim Witness Services Unit. This letter states that a plea offer will be made in the case and reminds the victim of their right to provide comment and request restitution prior to the offer being made.

CMS output history tracks the date that this arraignment letter is mailed out and the address where it is mailed. Victim Witness Coordinators are responsible for making sure that any information from a victim in response to this letter reaches the case file.

Ongoing duty of the trial attorney to notify the victim and allow
for prior comment

¹ In all Common Pleas Court cases except Homicide and Indicting Grand Jury cases, pre-trial offers are extended to defense counsel prior to the pre-trial conference listing in the SMART rooms. SMART stands for Strategic Management Advance Review and Consolidation, Readiness, and Trial. SMART rooms are staffed by attorneys in the Pre-Trial Unit.

FVSA PROCEDURES AND PROTOCOLS

Where the offer is rejected in the SMART room, the case is spun out for a waivers trial or a majors scheduling conference to pick a trial date. All future victim interaction is with the trial attorney.

YOU MUST:

- (1) Call victims prior to court listings and update them on the status of the case.
- (2) Familiarize yourself with the victim's input.
 - BF Sheet
 - Contact log
 - Information mailed or emailed to the office
 - Information that is input into CMS following phone contact with a victim - a copy of this entry will be placed in the file on the left flap
- (3) Notify the victim when there is a change in the plea offer.
 - If you cannot reach the victim, you must mail the victim a no contact letter that you generate by CMS.
- (4) Provide the victim a chance to give a victim impact statement and request restitution on their behalf at the sentencing where your case is a guilty plea or conviction.
- (5) Document all victim conversations on the contact log in proper format.

VII. Common Pleas Court Case disposition notification to the victim

YOU MUST:

- (1) Mail a disposition letter to the victim upon completion of a CP case.
 - Generate this letter via CMS by going to "participants" and clicking the drop down box next to the victim and selecting from the disposition templates
 - Template options are Nolle Prose, Not Guilty, Probation, and State Custody
 - (2) Put a copy of the disposition letter in the file after you send the original to the victim
 - (3) Document the contact log that a disposition letter has been sent
-

FVSA PROCEDURES AND PROTOCOLS

Victim Witness Coordinators will assist attorneys with victim communication

Every unit has victim witness coordinators available to assist you in carrying out the policies and tasks in this memo. On the H drive is a list of Victim Witness Coordinators in each unit and their assigned courtrooms. When you designate a Victim Witness Coordinator to perform any of the above tasks there are a few things to keep in mind.

YOU MUST:

- (1) Clearly state the task and the timeline in which you need it accomplished.
- (2) Document on the contact log that you designated the VWC to complete the task.
- (3) Give the file to the VWC to complete the task and update the contact log.
- (4) Confirm that the VWC updated the contact log when the file is returned.
- (5) Remember that you gave the file to the VWC.

SOAB MATERIALS:

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
TRIAL DIVISION – CRIMINAL SECTION

COMMONWEALTH OF PENNSYLVANIA v. _____
CP-51-CR-_____

:
:

O R D E R

AND NOW, to wit this ____ day of _____, 2020, it is hereby ORDERED and DECREED that the defendant having pled/been found guilty of ___(crime)___ on _____(date)_____ and in accordance with 42 Pa.C.S. 9795.4, it is hereby ORDERED and DECREED that the defendant shall be assessed by the State Sexual Offenders Assessment Board and a written report containing the Board's assessment be submitted to the District Attorney of Philadelphia no later than __(date)__(90 days from the conviction date).

BY THE COURT:

FVSA PROCEDURES AND PROTOCOLS

<u>SEXUAL OFFENDERS ASSESSMENT BOARD</u>	
INFORMATION NEEDED TO ACCOMPANY COURT ORDER	
NAME	
OFFENSE(S) AND INDICTMENT #	
DATE OF BIRTH	
SOCIAL SECURITY NUMBER	
IS OFFENDER INCARCERATED AND WHERE	
IF OFFENDER IS OUT ON BAIL – CURRENT ADDRESS/PHONE NUMBER	
PROSECUTING ATTORNEY	
PHONE	
EMAIL	
FAX	
DEFENSE ATTORNEY	
PHONE	
EMAIL	
FAX	
MAILING ADDRESS	
JUDGE'S NAME	
CONTACT EMAIL	
ACTUAL DATE OF CONVICTION	
SENTENCING DATE	
PSI ORDERED – AGENCY PREPARING	
OFFENDER PARTICIPATING	YES NO

Please Email (RA-PMCOURTORDER@PA.GOV) or Fax (717-705-2618) Court Order and this form to the SOAB within 10 days of conviction.

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY

FVSA PROCEDURES AND PROTOCOLS

TRIAL DIVISION – CRIMINAL SECTION
COMMONWEALTH OF PENNSYLVANIA v. _____
CP-51-CR-_____
Praecepte Pursuant To 42 Pa. Con. Stat. § 9799.58(e)

AND NOW, comes the Commonwealth of Pennsylvania, who hereby gives notice to the above-captioned defendant that pursuant to 42 Pa. Con. Stat. § 9799.58(e), the Commonwealth is requesting a hearing to determine whether the above-captioned defendant is a sexually violent predator as defined by 42 Pa. Con. Stat. § 9799.58 by averring the following:

1. On _____, the defendant entered a guilty plea to _____
2. Thereafter, this Honorable Court ordered an assessment by the Pennsylvania Sexual Offender Assessment Board (hereinafter the "SOAB").
3. The Defendant was directed to appear for sentencing on _____
4. On November _____, the Commonwealth was notified Defendant meets the criteria of a sexually violent predator.
5. On _____, the Commonwealth provided defendant's counsel, Esquire, a copy of the SOAB Sexually Violent Predator Assessment.
6. The Commonwealth is filing this motion in compliance with the statutory provisions in 42 Pa. Con. Stat. § 9799.58(e).

WHEREFORE, the Commonwealth respectfully requests a hearing be held on this matter to determine if defendant is a sexually violent predator with sentencing to occur immediately thereafter.

Respectfully submitted,

FVSA PROCEDURES AND PROTOCOLS

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
TRIAL DIVISION – CRIMINAL SECTION
COMMONWEALTH OF PENNSYLVANIA v. _____
CP-51-CR-_____

AND NOW, this ___ day of _____, 2020, a hearing is scheduled for the ___ day of _____, 20__ at ___ o'clock in _____. Sentencing will occur immediately after the hearing.

NOTICE: The Commonwealth is seeking to have the defendant declared to be a Sexually Violent Predator as defined under 42 Pa. Con. Stat. § 9799.58 at the aforementioned hearing. The Commonwealth has the burden of establishing by clear and convincing evidence that the defendant is a Sexually Violent Predator. At that hearing the defendant shall have an opportunity to be heard, the right to call witnesses, the right to call expert witnesses, the right to cross-examine witnesses and the right to an attorney pursuant to 42 Pa. Con. Stat. § 9799.58(e).

By the Court,

FVSA PROCEDURES AND PROTOCOLS

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
TRIAL DIVISION – CRIMINAL SECTION
COMMONWEALTH OF PENNSYLVANIA v. _____
CP-51-CR-_____

CERTIFICATE OF SERVICE

I hereby certify that this day I have served a copy of the foregoing Commonwealth's Praecipe on the following person and in the manner indicated below:

Service by first class mail to:

Service by Email to:

Dated: _____

FVSA PROCEDURES AND PROTOCOLS

Order to appoint, Victim 16+

IN THE COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY

Commonwealth :
 :
 v. :
 : #
 _____ # _____

Appointed for: _____

ORDER APPOINTING COUNSEL

AND NOW, this _____ day of _____, 20 _____, the

Support Center for Child Advocates and attorneys whom it may designate are hereby appointed counsel to the above captioned individual, pursuant to Pennsylvania Rule of Criminal Procedure 122 (A) (3), to represent said individual's interests in connection with the above criminal proceeding.

BY THE COURT:

J.

FVSA PROCEDURES AND PROTOCOLS



**IN THE COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY**

Commonwealth

v.

:
:
:

#

Appointed for:

Minor

ORDER APPOINTING CHILD ADVOCATE

AND NOW, this _____ day of _____, 20____, the Support Center for Child Advocates and attorneys and social workers whom it may designate are hereby appointed counsel and guardian *ad litem* ("Child Advocate Attorney") to the above captioned minor, pursuant to 42 Pa.C.S.A. § 5983(a), to represent said minor's interests in connection with criminal and civil proceedings related to abuse, neglect, dependency, termination of parental rights, adoption and/or custody.

It is ORDERED and DECREED that police departments, school districts, district attorney's offices, hospitals, medical professionals, mental health and substance abuse inpatient/outpatient facilities, social services agencies, foster care agencies, adoption agencies, residential treatment facilities, group homes, SCOH agencies and schools, who have records, reports or test results pertaining to these children relevant to abuse, dependency and/or custody of said minors, shall grant said Child Advocate Attorney and Child Advocate Social Worker access to all files and records in its possession, custody, or control.

These files and records may include but are not limited to medical/psychiatric charts, records, x-rays, photographs, tests, intake and discharge summaries, medication logs, progress and treatment notes, individual assessments, visitation logs, school attendance records, individual education plans, incident reports, individual service plans, health information records, consultations, treatment plans, clinical assessments, psychological evaluations, test evaluations, and all other records relevant to abuse, dependency, delinquency and/or custody of said minors. Child Advocate Attorney and Child Advocate Social Worker have the right to copy any part of the files and records maintained in connection with the above captioned minor.

It is further ORDERED and DECREED that the Department of Human Services and its provider agencies will provide any information in its possession provided this information is in accordance with the Child Protective Services Law, 23 Pa.C.S.A. § 6301, the Adoption Act, 23 Pa.C.S.A. § 2101 et seq. and/or the Juvenile Act, 42 Pa.C.S.A § 6301 et seq that does not violate confidentiality provisions contained in these Acts.

It is further ORDERED and DECREED that said Child Advocate Attorney and Child Advocate Social Worker shall be and are hereby permitted to see and consult privately with the child, and to take all steps appropriate to and consonant with the representation of said minor in this matter.

This order supercedes an agency's requirement for either a parent's or child's consent. This order does not apply to confidential records pertaining to the alleged perpetrator(s) or caretaker(s) who are parties to the dependency proceedings. **Where a criminal matter is pending, notice of this order shall be given to defense counsel by way of electronic filing and/or written communication, in addition to information provided on the court docket.**

BY THE COURT:

J.

FVSA PROCEDURES AND PROTOCOLS



**IN THE COURT OF COMMON PLEAS OF
PHILADELPHIA COUNTY**

Commonwealth

v.

⋮
⋮
⋮

#

Appointed for:

Minor

ORDER APPOINTING CHILD ADVOCATE

AND NOW, this _____ day of _____, 20____, the Support Center for Child Advocates and attorneys and social workers whom it may designate are hereby appointed counsel and guardian *ad litem* ("Child Advocate Attorney") to the above captioned minor, pursuant to 42 Pa.C.S.A. § 5983(a), to represent said minor's interests in connection with criminal and civil proceedings related to abuse, neglect, dependency, termination of parental rights, adoption and/or custody.

It is ORDERED and DECREED that police departments, school districts, district attorney's offices, hospitals, medical professionals, mental health and substance abuse inpatient/outpatient facilities, social services agencies, foster care agencies, adoption agencies, residential treatment facilities, group homes, SCOH agencies and schools, who have records, reports or test results pertaining to these children relevant to abuse, dependency and/or custody of said minors, shall grant said Child Advocate Attorney and Child Advocate Social Worker access to all files and records in its possession, custody, or control.

These files and records may include but are not limited to medical/psychiatric charts, records, x-rays, photographs, tests, intake and discharge summaries, medication logs, progress and treatment notes, individual assessments, visitation logs, school attendance records, individual education plans, incident reports, individual service plans, health information records, consultations, treatment plans, clinical assessments, psychological evaluations, test evaluations, and all other records relevant to abuse, dependency, delinquency and/or custody of said minors. Child Advocate Attorney and Child Advocate Social Worker have the right to copy any part of the files and records maintained in connection with the above captioned minor.

It is further ORDERED and DECREED that the Department of Human Services and its provider agencies will provide any information in its possession provided this information is in accordance with the Child Protective Services Law, 23 Pa.C.S.A. § 6301, the Adoption Act, 23 Pa.C.S.A. § 2101 et seq, and/or the Juvenile Act, 42 Pa.C.S.A § 6301 et seq that does not violate confidentiality provisions contained in these Acts.

It is further ORDERED and DECREED that said Child Advocate Attorney and Child Advocate Social Worker shall be and are hereby permitted to see and consult privately with the child, and to take all steps appropriate to and consonant with the representation of said minor in this matter.

This order supercedes an agency's requirement for either a parent's or child's consent. This order does not apply to confidential records pertaining to the alleged perpetrator(s) or caretaker(s) who are parties to the dependency proceedings. **Where a criminal matter is pending, notice of this order shall be given to defense counsel by way of electronic filing and/or written communication, in addition to information provided on the court docket.**

BY THE COURT:

J.

FVSA PROCEDURES AND PROTOCOLS

**REFERRAL
to the Support Center for Child Advocates**

Transmitted to: Jodi Schatz

Support Center for Child Advocates

Phone #: 267-546-9228 Fax #: 267-546-9201 Email: jschatz@SCCAlaw.org

From: Name: _____ Number of Pages (including cover sheet)
Phone #: _____ in transmission: _____
Fax #: _____ Email: _____

Child's Name: _____ Age: _____ DOB: _____

Child's Address: _____ Phone #: _____

Caretaker's Name & Relationship to Child:

Next Court Date & Time: _____ Courtroom _____

Case Caption: _____ Docket:

Defendant: _____ PP# _____ Relation to child: _____

MC/CP #: _____

Charges: _____

I. Reason for referral, including specific concerns about child's safety with caregiver:

II. Is DHS involved? Y / N Please call the DHS Information and Referral Desk at 683-6120 to find

out. If an open case, list name of DHS worker: _____ phone number: 683-

_____. After speaking with the DHS worker regarding the case, briefly summarize your conversation.

FVSA PROCEDURES AND PROTOCOLS

III. If there is an open DHS case, then there may be a dependency case that is court involved. Call Dependent Court Operations at 686-4027 with child's DOB and/or mother's name to find out if there is already a child advocate. If so, refer the case to that advocate. If *Child Advocates* has already been appointed in the current matter, but there is a child advocate in dependency, please name.

IV. Important Case Information:

Did child appear at listing? Y / N If yes, who brought the child? _____ If no, why was the child not brought to court? _____

Is the defendant in custody? Y / N If not, did he/she appear in Court? _____

Is there a stay away order? Y / N If so, please fax a copy with the discovery.

Who does child live with? What occurred in Court? What contact did you have with the family and/or child prior to the last listing? Reason for referral to Support Center for Child Advocates:

****PLEASE SUPPLEMENT WITH MEMO IF INSUFFICIENT SPACE ABOVE TO EXPLAIN****

Did you send the discovery with this fax/email? Y / N

With whom did you speak at the Support Center for Child Advocates to verify that the fax was being sent? _____

Will you be specially assigned to this case? Y / N

FVSA PROCEDURES AND PROTOCOLS

Sample Touhy Letter:



DISTRICT ATTORNEY'S OFFICE
3 South Penn Square
Philadelphia, Pennsylvania 19107
215-686-8000

February 1, 2019

Honorable William McSwain
United States Attorney for the Eastern District of Pennsylvania
615 Chestnut Street
Suite 1250
Philadelphia, PA 19106

Re: Commonwealth of Pennsylvania vs Chad Rannels
Case No: CP-51-CR-0002281-2012

Dear United States Attorney McSwain:

Pursuant to Title 28, Code of Federal Regulations, section 16.21 et seq., this office is requesting the appearance of Special Agent (SA) William Shute to testify as an expert witness in the area of Historical Cell Site Record Analysis in the above referenced case. It is expected that the requested FBI employee's testimony will be needed sometime between April 1, 2019 and April 10, 2019, in the Court of Common Pleas for Philadelphia County.

The referenced case is a homicide. SA Shute's testimony has been requested because he analyzed cell site records and his testimony and report are critical to the prosecution of the above-referenced case.

This office understands that due to the regulations cited above and relevant case law, a State court subpoena, even if properly served, is legally insufficient to compel the production of investigative files or the testimony of a U.S. Department of Justice/FBI employee in State Court, notwithstanding the language of the subpoena.

This office also understands that SA Shute is not authorized to testify beyond the scope of the testimony described above, and that the testimony actually authorized may be less than described above and desired by this office. It is further understood that if any other information is sought, whether by the District Attorney's Office, the defense, or the Court, such as information concerning sensitive investigative techniques, current investigations, confidential or classified information, informants or security programs such as the Federal Witness Security Program, SA Shute is prohibited from disclosing said information unless explicit authorization to answer such questions has been provided. If such authorization has not been provided, SA Shute has been instructed to respectfully decline to answer.

FVSA PROCEDURES AND PROTOCOLS

It is further understood by this office that should the requisite authorizations to testify not be issued by the United States Attorney's Office, or if SA Shute respectfully declines to testify on issues that are beyond that authorized, SA Shute cannot be held in contempt of court for refusing to testify due to the supremacy clause of the U.S. constitution. This maxim was upheld by the United States Supreme Court in *U.S. ex rel Touhy v. Ragen*, 340 U.S. 462 (1951).

Additionally, should the requested information be derived from criminal investigative files in support of a civil matter, notarized disclosure authorizations from the individuals identified in the file or a Privacy Act Order will be required from an appropriate court prior to the information being released.

If you have questions or concerns arising from this office's need for SA Shute, please contact me by telephone or e-mail as provided below.

Sincerely,



Matthew W. Krouse
Assistant District Attorney
Homicide Unit
215-686-8067
Matthew.Krouse@phila.gov

FVSA PROCEDURES AND PROTOCOLS

23 Pa.C.S § 6311.

Persons required to report suspected child abuse.

(a) **Mandated reporters.**—The following adults shall make a report of suspected child abuse, subject to subsection (b), if the person has reasonable cause to suspect that a child is a victim of child abuse:

- (1) A person licensed or certified to practice in any health-related field under the jurisdiction of the Department of State.
- (2) A medical examiner, coroner or funeral director.
- (3) An employee of a health care facility or provider licensed by the Department of Health, who is engaged in the admission, examination, care or treatment of individuals.
- (4) A school employee.
- (5) An employee of a child-care service who has direct contact with children in the course of employment.
- (6) A clergyman, priest, rabbi, minister, Christian Science practitioner, religious healer or spiritual leader of any regularly established church or other religious organization.
- (7) An individual paid or unpaid, who, on the basis of the individual's role as an integral part of a regularly scheduled program, activity or service, is a person responsible for the child's welfare or has direct contact with children.
- (8) An employee of a social services agency who has direct contact with children in the course of employment.
- (9) A peace officer or law enforcement official.
- (10) An emergency medical services provider certified by the Department of Health.
- (11) An employee of a public library who has direct contact with children in the course of employment.
- (12) An individual supervised or managed by a person listed under paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (13), who has direct contact with children in the course of employment.
- (13) An independent contractor.
- (14) An attorney affiliated with an agency, institution, organization or other entity, including a school or regularly established religious organization that is responsible for the care, supervision, guidance or control of children.
- (15) A foster parent.
- (16) An adult family member who is a person responsible for the child's welfare and provides services to a child in a family living home, community home for individuals with an intellectual disability or host home for children which are subject to supervision or licensure by the department under Articles IX and X of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

23 Pa.C.S § 6303

Definitions

"**Law enforcement official.**" The term includes the following:

- (1) The Attorney General.
- (2) A Pennsylvania district attorney.
- (3) A Pennsylvania State Police officer.
- (4) A municipal police officer.



MONTCLAIR STATE
UNIVERSITY

Montclair State University
**Montclair State University Digital
Commons**

Department of Justice Studies Faculty
Scholarship and Creative Works

Department of Justice Studies

Spring 4-2020

Resentencing of Juvenile Lifers: The Philadelphia Experience

Tarika Daftary-Kapur

Montclair State University, daftarykaput@montclair.edu

Tina Zottoli

Montclair State University, zottolit@montclair.edu

Follow this and additional works at: <https://digitalcommons.montclair.edu/justice-studies-facpubs>



Part of the [Criminal Law Commons](#), [Law and Race Commons](#), and the [Social Policy Commons](#)

MSU Digital Commons Citation

Daftary-Kapur, Tarika and Zottoli, Tina, "Resentencing of Juvenile Lifers: The Philadelphia Experience" (2020). *Department of Justice Studies Faculty Scholarship and Creative Works*. 84.

<https://digitalcommons.montclair.edu/justice-studies-facpubs/84>

This Paper is brought to you for free and open access by the Department of Justice Studies at Montclair State University Digital Commons. It has been accepted for inclusion in Department of Justice Studies Faculty Scholarship and Creative Works by an authorized administrator of Montclair State University Digital Commons. For more information, please contact digitalcommons@montclair.edu.



RESENTENCING OF JUVENILE LIFERS: THE PHILADELPHIA EXPERIENCE

Tarika Daftary-Kapur, Ph.D. and Tina M. Zottoli, Ph.D.



MONTCLAIR STATE
UNIVERSITY

Please direct all correspondence to:
Tarika Daftary-Kapur

Montclair State University
1 Normal Avenue, Montclair, NJ 07043
Phone: 973-655-4142
Email: daftarykaput@montclair.edu

DAO 000616

EXECUTIVE SUMMARY

We examined the Philadelphia District Attorney Office's approach to juvenile lifer resentencing, which began in 2017 under the administration of District Attorney Seth Williams and has continued under the administration of District Attorney Larry Krasner. For cases resentenced as of December 31st, 2019, we describe similarities and differences between the Williams and Krasner administrations in decision making and sentence length reductions, and we report on the recidivism rate and estimated cost savings for Pennsylvania as a result of release.

In June 2012, the Supreme Court of the United States (SCOTUS) ruled in *Miller v. Alabama* that mandatory life without-parole (LWOP) sentences were unconstitutional for individuals who were under the age of 18 at the time of their offense (hereafter, juveniles). In January 2016, SCOTUS, ruled in *Montgomery v. Louisiana* that *Miller* applied retroactively. Following *Montgomery*, individuals previously sentenced to mandatory LWOP as juveniles (hereafter, juvenile lifers) became eligible for resentencing. Accordingly, in almost all such cases, the district attorney's office makes an offer for a new sentence to the defendant, who is free to accept the offer or to have his new sentence decided by the judge.

At the time *Miller* was decided, Philadelphia had the largest number of juveniles sentenced to LWOP in the country (approximately 325). Yet, they have been at the forefront of the resentencing process nationally, and at the time of this writing have only 10 juvenile-lifers left to re-sentence; the main reasons for delay being an open Post Conviction Relief Act petition or a pending appeal.

In Philadelphia, re-sentence offers are decided by The Juvenile Lifer Resentencing Committee ("The Lifer Committee"), which comprises 8 members of the executive staff at the District Attorney's Office. The Lifer Committee's decisions are based primarily on the consideration of case-summary memos prepared for the Committee by the Assistant District Attorney leading the resentencing process. Memos include information on the facts of the original case, demographic information on

the victim and offender, mitigating information, the offenders' prison adjustment (e.g. misconducts, rehabilitative programming), information on acceptance of responsibility and remorse, the victim's family's perspective on release, and reentry plans.

In January 2018, as the resentencing process was underway, Larry Krasner was sworn in as the District Attorney of Philadelphia after having run on a reform platform, ushering in dramatic change to the culture and policies of the District Attorney's Office. This change in administrations, during a crucial resentencing project, provided us with a unique opportunity to examine how the priorities and policies of the new administration have affected prosecutorial decision making. Moreover, in light of the growing recognition that addressing the incarceration epidemic will necessitate re-evaluation of long-term prison sentences for individuals who were convicted of violent offenses, these outcome data have implications far beyond just those that pertain to the resentencing and release of juvenile lifers.

This project had 3 objectives:

1. To understand the process by which the Lifer Committee arrives at resentencing offers.
2. To quantify recidivism rates of released juvenile lifers and potential cost savings of release.
3. To identify and quantify differences between the prior and current administrations in terms of factors considered by the Lifer Committee, the weight assigned to these factors and, controlling for case-specific differences, the average difference in resentencing offer lengths.



METHODS

We conducted semi-structured interviews with four members of the Lifer Committee to understand the resentencing process and then performed a content analysis of the case-summary memos prepared by the lead ADA for each case to identify the case facts that were available for consideration by the Lifer Committee. Resentence offers were obtained from records maintained by the Philadelphia District Attorney's Office, and recidivism data were compiled from public records. We employed regression analyses to identify the case factors that best predicted resentence offer lengths for each administration.

KEY FINDINGS

- Pennsylvania has resentedenced 88% of its juvenile lifers as compared to Michigan (52%) and Louisiana (approx. 15-22%); the three states in combination account for 2/3rd of all juvenile lifers in the United States.
- Juvenile lifers can be considered low-impact releases in terms of risk posed to public safety. At the time of our analyses, 269 lifers have been re-sentenced in Philadelphia and 174 have been released. Six (3.5%) have been re-arrested. Charges were dropped in four of the cases and two (1%) resulted in new convictions (one for Contempt and the other for Robbery in the Third Degree). In comparison, nationally, an estimated 30% of individuals convicted of homicide offenses are rearrested within two years of release¹.
- A subset of 38 cases were considered for resentencing by both the prior and current administrations. The average sentence offered in these cases by the prior administration was 38.8 years; under Krasner, the average offer in these cases was 27.6 years. Across all cases, this difference equates to an additional reduction of 394 years.
- Overall, release of Philadelphia's juvenile lifers, to date, will result in an estimated minimum \$9.5M savings in correctional costs for Pennsylvania over the first decade.
- For both the Williams and Krasner administrations, Lifer Committee offers were explained by years in custody at time of resentencing, charge severity, whether the defendant was the primary actor, and whether a re-entry plan is in place. There were some differences. While both administrations considered the maturity of the offender, the Williams administration relied on defendant age at the time of the offense and the level of planning, whereas the Krasner administration relied on a more holistic evaluation of the juvenile nature of the crime (e.g., involvement of an adult co-defendant, presence of peers, context in which the murder was committed). Prior convictions also weighed more heavily under Krasner than the prior administration.

¹ <https://www.bjs.gov/content/pub/pdf/rprts05p0510.pdf>

RESENTENCING OF JUVENILE LIFERS: THE PHILADELPHIA EXPERIENCE

The national movement to end the crisis of mass incarceration has focused almost exclusively on non-violent felony offenders. Little to no consideration has been given to individuals serving long-term sentences for violent crimes, even though these individuals make up more than half of those who are in prison and tend to be the most well-adjusted segment of the prison population (Kazemian & Travis, 2015). In fact, research shows that individuals released after having served very long sentences, including life-sentences, have the lowest recidivism rates of any category of previously incarcerated individuals (Weiberg, Mukamal, & Segall, 2011).

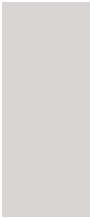
There are over 160,000 individuals across the country serving life sentences, and approximately another 45,000 serving “virtual life” (longer than 50 years). Considering that the overwhelming majority of individuals who commit crime—even serious crime—“age out” of criminal behavior, the societal benefits of continued incarceration are called into question, especially in comparison with the costs. A 50-year

sentence for a 16-year old can cost a state approximately \$2.25 million (Henrichson & Delaney, 2012).

Although the idea of releasing lifers has not gained momentum among policymakers or the public at large, the U.S. Supreme Court (SCOTUS) forced consideration of this question for one sub-group of inmates. In 2012, SCOTUS held in *Miller v. Alabama* that mandatory life without parole sentences for juvenile offenders violate the Eighth Amendment. Specifically, the Court emphasized that adolescence is marked by “transient rashness, proclivity for risk, and inability to assess consequences²,” and that courts must consider such developmental factors when sentencing juvenile defendants. Then, in *Montgomery v. Louisiana* (2016), the Court retroactively invalidated all juvenile life-without-parole (JLWOP) sentences that had been mandated by statute. Pennsylvania, which had incarcerated more juvenile lifers than any other state (521 individuals, with 325 in Philadelphia), has become the nation’s leader in releasing them. At the time of this



² *Miller v. Alabama* 132 S. Ct. 2455 (2012), at 2465.



report, 459 juvenile lifers (88%) have been resentenced in Pennsylvania across all counties. Of these, 323 have become parole eligible and 230 of those eligible have been released, for a parole rate of 71%³. Other states have not moved as quickly toward resentencing and release. For example, Michigan has resentenced 52% of its 363 juvenile lifers⁴ and estimates for Louisiana range from 15-22% percent of their 300 juvenile lifers (the state does not track resentencing). Additionally, both Michigan and Louisiana have requested continued life sentences for a significant proportion of the juvenile lifers that have been resentenced (66% in Michigan and 33% in Louisiana), as compared to only a handful in Pennsylvania⁵. Along with Pennsylvania, Michigan and Louisiana account for 2/3rd of all juvenile lifers in the country⁶. As states grapple with the reality that ending mass incarceration will eventually require releasing individuals who are serving long sentences for violent crimes, policymakers can look to Philadelphia as a test case.

In Philadelphia, offers are decided by The Lifer Resentencing Committee (hereafter "the Lifer Committee"), which comprises 8 members of the District Attorney's Office, all of whom are attorneys. The Lifer Committee members include the District Attorney, the two First Assistant District Attorneys, the Supervisor of the Conviction Integrity Unit, the Juvenile Unit Supervisor, two policy advisors, and is chaired by the Assistant Supervisor of the Homicide and Non-Fatal Shootings Unit (who was also involved in the resentencing process during the Williams administration). The Committee bases its decisions on the consideration of case-summary memos prepared for the committee by the lead-ADA. Memos include information on the facts of the original case, demographic information on the victim and offender, mitigating information, the offender's prison adjustment (e.g., misconducts, rehabilitative programming), information on acceptance of responsibility and remorse, the victim's family's perspective on release, and reentry plans.

In an effort to make Philadelphia's approach accessible to other jurisdictions, we partnered with the Philadelphia District Attorney's Office to document and investigate how they arrive at resentencing recommendations and to examine whether there have been significant changes in process and outcomes from the prior administration.

This project had 3 objectives:

1. To understand the process by which the Lifer Committee arrives at resentencing offers.
2. To quantify recidivism rates of released juvenile lifers and potential cost savings of release.
3. To identify and quantify differences between the prior and current administrations in terms of factors considered by the Lifer Committee, the weight assigned to these factors and, controlling for case-specific differences, the average difference in resentencing offer lengths.

³ <https://www.cor.pa.gov/About%20Us/Initiatives/Pages/Juvenile-Lifers-Information.aspx>

⁴ https://www.southbendtribune.com/news/local/michigan-s-juvenile-lifers-get-a-second-look-and-maybe/article_bfc8a82c-33c4-11ea-b9f0-e7d5c32a448b.html

⁵ https://www.theadvocate.com/baton_rouge/news/crime_police/article_ade5f902-c282-11e8-9ed0-ab7428f9acf9.html

⁶ *The Rest of Their Lives: Life without Parole for Child Offenders in the United States*, Human Rights Watch and Amnesty International, October, 2005, p.1, available at: <https://www.hrw.org/report/2005/10/11/rest-their-lives/life-without-parole-child-offenders-united-states>



METHODOLOGY

We reviewed 269 cases from Philadelphia that had been resentenced at the time this project launched. At the time of our analyses, 174 juvenile lifers had been released.

Phase I:

*Administrative data analysis and interviews
with the Lifer Resentencing Committee.*

- Collection of Administrative Data: We worked with the District Attorney's Transparency Analytics (DATA) Lab to cull data from existing administrative datasets including demographic characteristics of the juvenile lifers, offer lengths, release dates, rearrests and convictions (cross referenced with public records).
- Contextualizing the resentencing process and its impact: We conducted semi-structured interviews with 4 of the 8 members of the Lifer Committee to contextualize this work.

Phase II:

*Analysis of factors considered by the Lifers Resentencing
Committee in their decision making process.*

- We conducted a content analysis of the case-summary memos prepared by the lead ADA for the Lifer Committee and on which the Committee's offer decisions are largely based. Each memo was coded for approximately 100 variables which were subsequently reduced to a subset of 14 non-redundant variables. These variables were subjected to regression analyses to identify those that best explained resentence offer lengths for each administration.



A PORTRAIT OF JUVENILE LIFERS

The case-summary memos provided the Lifer Committee with various factors to consider, including information on charges, case facts, information about the juvenile’s living situation at time of the arrest, and information on prison adjustment. Demographic information available to the committee included age at the time of arrest and resentencing, and gender. In order to avoid any potential bias, race of the lifer was not included on case summary memos. This practice was followed by both administrations.

AGE AT ARREST AND RESENTENCING

Of the 269 Lifers included in our analyses, the average age at the time of offense was 16 years and 4 months, ranging from 13 years to 17 years and 11 months. The average age at the time of resentencing was 45 years, ranging from 17 years to 66 years. The average age at the time of release (of the 174 that have been released) was 51 years and ranging from 35 years to 68 years.

CHARGES

Forty-nine percent of the juvenile lifers were first time offenders and 48% had one prior adjudication. Only 3% of the sample had more than two prior adjudications.

Sixty-two percent of the juvenile lifers were convicted of 1st degree murder and 38% were convicted of 2nd degree murder. First degree murder generally requires proof of malice, and is the intentional killing of another person that is willful, deliberate, and premeditated. In contrast, a defendant can be convicted of 2nd degree murder (sometimes referred to as felony murder) for any level of participation in a felonious crime that results in a death. Pennsylvania’s statute reads: “a criminal homicide constitutes murder of the second degree when it is committed while defendant was engaged as a principal or an accomplice in the perpetration of a felony.” A 2nd degree murder conviction can occur when an individual was present during a felony that resulted in death, but played an auxiliary role. For example, serving as a getaway driver in a convenience store hold-up—even if one never enters the store—can result in a felony murder charge if someone is killed during the course of the robbery. Felony murder convictions involving multiple defendants typically result in identical punishments for all involved, even if only one defendant committed the actual homicide. Of the juvenile lifers convicted of felony murder, the top-charged felonies were robbery (78%), home invasion (16%) and drug-related offenses (6%). In 55% of the cases the juvenile lifers were charged with multiple felonies.

MITIGATING FACTORS

As is typical among criminal justice involved youth (OJJDP, 2015), the majority (80%) of the juvenile lifers in our analysis had been exposed to one or more developmental and psychosocial risk-factors for criminal behavior, with 42% exposed to three or more⁷. The cumulative risk model (Dean, Fuller-Rowell & Evans, 2012) posits that an accumulation of risk factors (as opposed to any one individual factor, no matter how severe), increases the risk for negative behavioral, cognitive and psychological outcomes in adolescents, including juvenile offending. Table 1 displays the various risk/mitigating factors reported across the cases and the percentage of juvenile lifers exposed.

Table 1. Risk/Mitigating Factors and Frequency

Risk Factor	Percent
Family instability	42%
Exposure to drugs/alcohol	40%
Parent(s) had drug/alcohol addiction	34%
Parent(s)/family criminality	34%
Witnessed domestic violence	27%
Exposure to violence	24%
Experienced physical abuse	22%
Limited adult supervision as a child	20%
Personal use of drugs/alcohol	17%
High-crime neighborhood of residence	15%
Removed from home as a child	8%
Experienced sexual abuse	8%
Gang involved	7%
Parent(s) had mental health issues	5%
Incarcerated parent	5%

⁷ Risk factor information was missing for approximately 20% of the population making these estimates highly conservative. Additionally, oftentimes risk factors are not reported and available in official records, and tend to be significantly underestimated. This does not mean that there were no risk factors present in those cases. This information was gathered by the ADA from secondary sources (e.g. Department of Correction records, mitigation packets prepared by defense attorneys) and may be incomplete.



CASE FACTS

We coded for case facts that might have been relevant to sentencing decisions under *Miller*, for all juvenile lifers resentenced in Philadelphia as of this report:

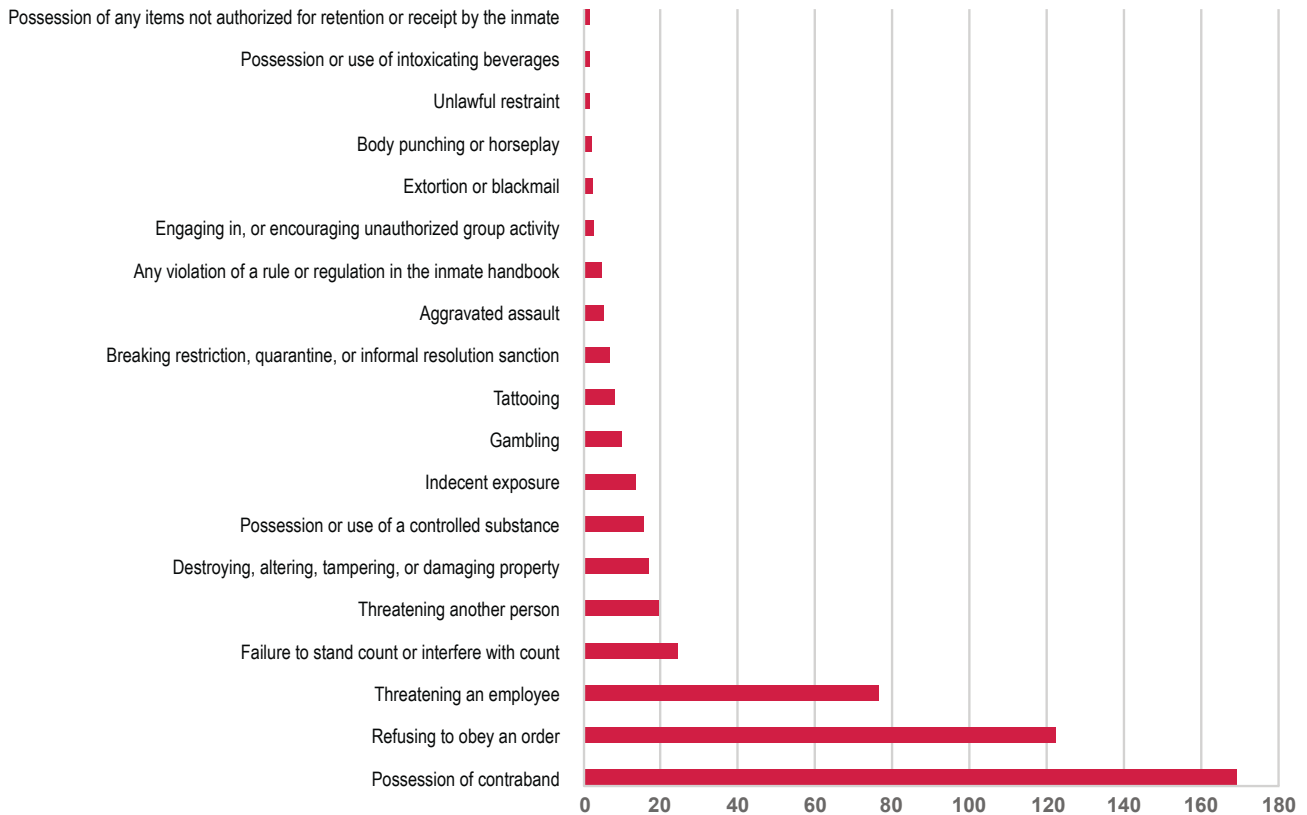
- The juvenile lifer was the primary actor in 82% (n = 220) of the cases. Primary actor was defined as the individual who planned the murder, or was the lead actor in an unplanned murder.
- The majority of the cases (64%, n = 172) involved multiple defendants. This is in line with existing research findings that most adolescent offending occurs in groups.
 - The number of co-defendants varied from one to nine, with a single accomplice the most common (40% of cases).
 - In 39% of the cases involving multiple defendants, the co-defendants were same-age peers.
 - In 59% of the cases involving multiple defendants, at least one co-defendant was an adult.
- When an adult co-defendant was involved (n = 102), the juvenile lifer was the primary actor in only 28% of the cases.
- Approximately 66% of the murders were unplanned. This data point comports with consistent research findings that, in emotionally charged and time-pressured situations, adolescents are at increased risk for impulsive decision-making that fails to account for long-term consequences (Casey, 2015).
- There was no documented evidence of drug or alcohol intoxication in 97% of the cases.
- Ten percent of the murders were gang related, and one was classified as a hate crime.
- In the overwhelming majority of cases (95%, n = 246) there was one murder victim. In 4% of cases (n=10) there were two victims. Three cases (~1%) involved more than two victims.

PRISON ADJUSTMENT

During their incarceration, the majority (approx. 90%) of juvenile lifers participated in some form of rehabilitative programming. These programs included violence prevention, self-help (e.g. coping skills), drug and alcohol education, vocational training and anger management. On average, those that engaged in programming participated in four programs during their incarceration. Additionally, 65% (n = 137) completed their GEDs.

The modal number of misconducts reported was 7 (ranging from 0 to 107). On average, the last incident reported was approximately 8 years prior to resentencing (ranging from 1 to 31 years). Figure 1 shows the type and number of misconducts reported, aggregated across all cases⁸.

Figure 1. Total number of each misconduct across cases, as reported to the District Attorney's Office by the Department of Corrections



⁸ Misconduct data were available for 236 of the 269 cases we reviewed. All data on prison misconduct comes from the Pennsylvania Department of Corrections records, which were requested by the Philadelphia District Attorney's office during the re-sentencing process. We did not independently verify this information with DOC.

FINDINGS

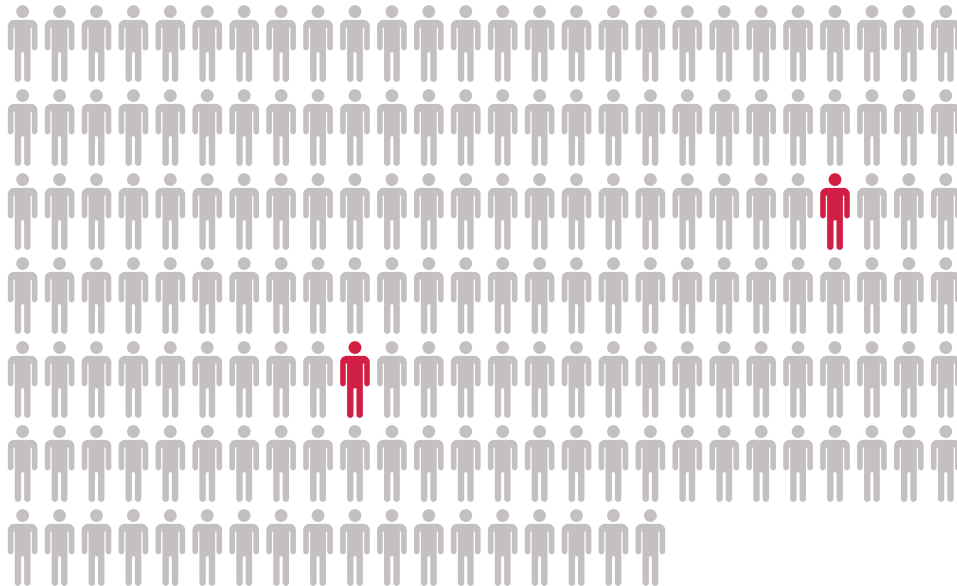
RECIDIVISM AND COST SAVINGS

Recidivism

In terms of risk to public safety, **juvenile lifers can be considered low-impact releases**. We analyzed data from 174 releases and as of December 2019, only 3.45% (n=6) have been re-arrested. Four cases were dismissed. The other two cases resulted in convictions, one for Contempt for Violation of Order of Agreement and one for Robbery, yielding a reconviction rate of 1.14%. The remaining 168 individuals (96.5%) have been living in the community for an average of 21 months (as of December 2019) without any known law enforcement contacts. In comparison, among persons convicted of homicide offenses nationally, an estimated 30% are rearrested within two years of release, a rate that is 8.72 times higher than that of juvenile lifers released in Philadelphia⁹.

The rearrest rate of released lifers is 3.45%; in comparison, among persons convicted of homicide offenses nationally, an estimated 30% are rearrested within two years of release.

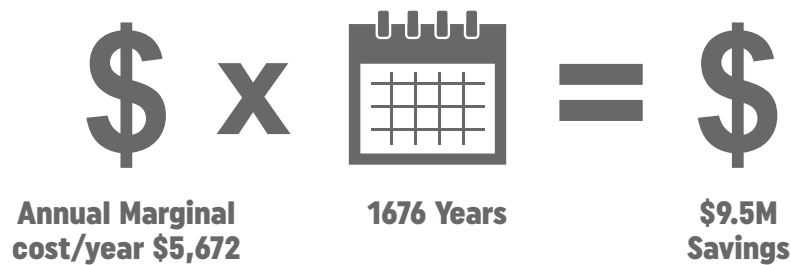
Only **2** of **174** people released were re-convicted



⁹ <https://www.bjs.gov/content/pub/pdf/rprts05p0510.pdf>

Cost Savings

The release of lifers will result in approximately \$9.5M savings in correctional costs over the first decade. The average age of the 174 juvenile lifers released to date in Philadelphia is 51 years. To estimate costs savings linked to release, we relied on per capita mortality rate data for state prisons, broken out by age demographics, published by The Bureau of Justice Statistics (February, 2020)¹⁰. Accounting for the number of deaths expected in each year of the next decade, we estimated that 1,676 years of incarceration will be saved¹¹. Using the estimated annual short-run marginal cost of \$5,672 for housing an inmate in Pennsylvania¹², release of these 174 juvenile-lifers in Philadelphia can be expected to save Pennsylvania an estimated \$9,506,272 in correctional costs over the first decade. This does not take into account the increased cost associated with the incarceration of elderly prisoners. A recent report by the American Civil Liberties Union¹³ found that annual costs could be expected to roughly double for prisoners over age 50; thus, savings for the State could be significantly higher.



¹⁰ Carson, E. A. & Cowhig, M.P. (2020) Mortality in State and Federal Prisons, 2001-2016 – Statistical Tables. Retrieved from <https://www.bjs.gov/content/pub/pdf/msfp0116st.pdf>

¹¹ We used the average per capita mortality rate (converted to percentage) over the years reported in the BOJ report for each age demographic relevant to this population (>55 years, 44-55years, 34-45 years, 24-35 years) to estimate the expected number of deaths in each year for each demographic group. For each year's calculation, we accounted for prior year changes in age-demographic group membership (i.e., aging) and the reductions based on the prior year's estimated deaths. A death in a given year was counted as a loss in the subsequent year, such that a death in year three, for example, resulted in a decrement of one from the total population in years four and beyond, and counted as saving the city three total years of incarceration. For simplification of calculations, we assumed the same release date for all 174 individuals, but used their age at time of release.

¹² Collins, K., Kulick, E., Zhou, C., & Dalton, E. (2014). Calculating Unit Costs in Allegheny County: A Resource for Justice System Decision-Making and Policy Analysis. Available here: (<https://www.alleghenycountyanalytics.us/wp-content/uploads/2016/06/Calculating-Unit-Costs-in-Allegheny-County-A-Resource-for-Justice-System-Decision-Making-and-Policy-Analysis.pdf>). The average cost to house an inmate for one year in Pennsylvania has been estimated at \$42,727 (Vera Institute of Justice), however, this average cost per inmate includes many fixed costs such as administrative services and facility maintenance, which do not change with small decrements to the population. When the population decreases by one person, a state's savings comes from variable costs, which include things like food, clothing, laundry, and health care payments. Short-run variable costs are those most immediately impacted by a small number of releases. Long-run variable costs are associated with changes that have a larger impact on workload, such as a substantial reduction in beds. Short-run marginal costs are most likely to be impacted by the release of juvenile lifers.

¹³ ACLU (2012, June 13). "At America's Expense: The Mass Incarceration of the Elderly." Available at <https://www.aclu.org/criminal-law-reform/report-america-expense-massincarceration-elderly>.



WILLIAMS & KRASNER ADMINISTRATIONS: DIFFERENCES IN OUTCOMES AND PROCESS

Sentence Length Outcomes

Of the 269 cases analyzed, 140 were resentenced under the Williams administration, and 112 were resentenced under the Krasner administration. Seventeen cases were decided by the interim administration; these cases were excluded from all analyses directly comparing the Williams and Krasner administrations.

Controlling for length of time-served at resentencing, the average sentence offer made under the Williams administration was 33 years and the average offer made under the Krasner administration was 27 years. At the time of Krasner's election, a subset of 38 cases had already been considered for resentencing by the Williams administration and remained to be finalized by the new administration. For each case, an initial offer had been made by Williams and a revised offer was made by Krasner. Thus, these cases provide a unique opportunity to directly compare differences in sentence length decisions between two administrations while controlling for potentially confounding case factors. The average sentence offered in these cases by the Williams administration was 38.8 years; the average revised offer under the Krasner administration was 27.6 years. This difference is equivalent to 394 years of incarceration, saving an estimated \$2.2M in correctional costs¹⁴.

Of the subset of 38 cases that were considered for resentencing by both the Williams and Krasner administrations, the average sentence offered by the Williams administration was 38.8 years and the average revised offer under the Krasner administration was 27.6 years, for an estimated savings of \$2.2M in correctional costs.

¹⁴ It is plausible that the initial offers made by the Williams administration would have been reduced further in negotiation with defense counsel. Based on our analysis of all cases processed by the Williams administration prior to these 38 cases, the typical range for reduction following negotiation was 1-3 years. Assuming all 38 cases would have been reduced by an additional three years under Williams (a liberal estimate), then the estimated cost savings following the offers made by Krasner reduces to \$1.6M. Both this estimate and the 2.2M reported in text refer to the explicit difference in years between the sentence offered by the Williams administration and the sentence offered by Krasner. As such, these figures reflect the actual cost (assuming no deaths) that the State would have incurred had these 38 lifers been resentenced under the prior administration. The estimated cost savings of \$9.5M reported on page 11 reflects the projected savings over the first decade of release for the 174 juvenile lifers that had been released as of the date of this report. None of the individuals in the 38 overlapping cases had been released at that time.



Decision Process

There was significant overlap in the factors that influenced resentence offers across the administrations. For both administrations, Lifer Committee offers were explained by years in custody at time of resentencing, charge severity (1st or 2nd degree murder), whether the defendant was the primary actor, and whether a re-entry plan was in place. There were some differences. While both administrations considered the maturity of the offender, the prior administration relied on defendant age at the time of the offense and the level of planning, whereas the Krasner administration relied on a more holistic evaluation of the “juvenile nature” of the crime¹⁵, considering whether the crime was committed with others, whether there was an adult co-defendant and the context in which the crime was committed. Prior convictions also weighed more heavily in cases resentenced under Krasner than the prior administration. Finally, the range of resentence offers under Krasner was wider than it was under Williams, and the explanatory factors we identified accounted for more of the variance in the decisions made by the Krasner administration than they did for the prior administration. These findings point to two important conclusions:

- Both administrations relied most heavily on factors that would have been relevant at the original sentencing hearings (i.e., charge severity & facts of the case, as well as the juvenile nature of the crime) as opposed to those that could not have been known at that time (e.g., prison adjustment).
- The differences in sentence variability and the explanatory power of case facts between administrations suggests that the William’s administration may have utilized case facts to make upward or downward adjustments from an initial sentence offer that was relatively consistent across cases, whereas the Krasner administration may have utilized case information in a more discretionary manner, arriving at sentence offers that were not tied as strongly to a pre-determined range. This increased use of discretion might have been due, in part, to the fact that the Krasner administration was by nature of the process, tasked with handling the more challenging cases; for example, cases in which offenders had been sentenced more recently, and had thus served a relatively shorter time in prison.

In sum, while the data suggest that the Krasner administration may have taken a somewhat more discretionary approach, both administrations appear to have approached resentencing in the spirit of *Miller*, in that they were primarily influenced by the developmental maturity of the offender and the facts of the case. The primary difference between the current and prior administrations is with respect to the length of resentence offers. Offers made under Krasner were considerably lower than those made under Williams, even after controlling for time served at resentencing. As a result, juvenile lifers were made eligible for release much sooner under the Krasner administration, saving considerable taxpayer dollars and with no adverse impact on public safety to date.

¹⁵ This term was used by the Lifer Committee to reflect their subjective evaluation of the facts of the case that suggested developmental immaturity: whether there was an adult co-defendant, whether the offense was committed with one or more accomplices the circumstances of the offense that led to an unplanned murder.

Table 2. Factors Explaining Resentencing Offers

Williams Administration	Krasner Administration
Years in custody at the time of resentencing	Years in custody at the time of resentencing
Charge severity (1st or 2nd degree Murder)	Charge Severity (1st or 2nd degree Murder)
Whether the defendant was the primary actor	Whether the defendant was the primary actor
Whether the defendant has a re-entry plan	Whether the defendant has a re-entry plan
Age of the defendant at the time of the original offense	Prior convictions
Whether the original offense was planned vs spontaneous	Juvenile nature of the crime

CONCLUSION

The purpose of this report was to conduct an independent evaluation of the juvenile lifer resentencing process in Philadelphia and make Philadelphia's approach to resentencing juvenile lifers accessible to other jurisdictions. As demonstrated in Philadelphia, resentencing does not guarantee release, but allows for the possibility of eventual parole for a juvenile lifer whose crime is deemed to have been the product of transient developmental factors and not incorrigible character. The similarities across the two administrations suggest that judgments regarding which factors are relevant under *Miller* are fairly straightforward. Philadelphia's experience also shows that when this review process leads to release, successful reintegration (as evidenced by negligible recidivism rates) is not just possible, but is the most likely outcome. Some of this success can most likely be attributed to strong community networks and reintegration programs that have absorbed these individuals back into the community. Understanding how

different factors combine to lead to this successful rate of reintegration (as evidenced by low recidivism) would be helpful for jurisdictions going forward.

These releases also come with substantial cost savings for the jurisdiction. We estimated a savings of \$9.5M in correctional costs for Pennsylvania over the first decade, just for the 174 juvenile lifers released. Release of the remaining 347 juvenile lifers will result in a multifold increase in savings, especially in light of the fact that many of these individuals are elderly.

Nationally, there are approximately 200,000 persons serving life and virtual life (50 or more years) sentences. Considering that the overwhelming majority of individuals who commit crime—even serious crime—“age out” of criminal behavior, the societal, financial, and public safety benefits of continued incarceration are called into question by the Philadelphia experience.



REFERENCES

- Alper, M., Durose, M. R., & Markman, J. (2018). 2018 Update on prisoner recidivism: A 9-year follow-up period (2005-2014). *Bureau of Justice Statistics*: <https://www.bjs.gov/content/pub/pdf/18upr9yfup0514.pdf>
- Casey, B. J. (2015). Beyond Simple Models of Self-Control to Circuit-Based Accounts of Adolescent Behavior. *Annual Review of Psychology*, 66, 295-319.
- Development Services Group, Inc. 2015. "Risk Factors for Delinquency." Literature review. Washington, D.C.: Office of Juvenile Justice and Delinquency Prevention. <https://www.ojjdp.gov/mpg/litreviews/Risk%20Factors.pdf>
- Doan, S. N., Fuller-Rowell, T. E. & Evans, G. W. Cumulative risk and adolescent's internalizing and externalizing problems: The mediating roles of maternal responsiveness and self-regulation. *Dev. Psychol.* 48, 1529–1539 (2012)
- Henrichson, C., & Delaney, R. (2012). *The price of prisons: What incarceration costs taxpayers*. New York: Vera Institute of Justice.
- Kazemian, L., & Travis, J. (2015). Imperative for inclusion of long termers and lifers in research and policy. *Criminology and Public Policy*, 14, 355-395.
- Weisberg, R., Mukamal, D. A., & Segall, J. D. (2011) *Life in limbo: An examination of parole release for prisoners serving life sentences with the possibility of parole in California*. Stanford, CA: Stanford Criminal Justice Center.



ABOUT THE AUTHORS

Tarika Daftary-Kapur

Associate Professor of Justice Studies
daftarykaput@montclair.edu

Tina Zottoli

Assistant Professor of Psychology
zottolit@montclair.edu

RESEARCH ASSISTANTS

Tristin Faust

Doctoral Student, Psychology

Ryan Schneider

Doctoral Student, Psychology

ACKNOWLEDGEMENTS

We thank our partner, the Philadelphia District Attorney's Office for allowing us to conduct this project in their office. We are grateful to the prosecutors who took time to speak with us, the cooperation of the DATA Lab, and the high level of transparency and data sharing by the Philadelphia DAO.

ABOUT MONTCLAIR STATE UNIVERSITY

Montclair State University is a research doctoral institution ranked in the top tier of national universities. Building on a distinguished history dating back to 1908, the University today has 11 colleges and schools that serve 21,000 undergraduate and graduate students with more than 300 doctoral, master's and baccalaureate programs. Situated on a beautiful, 252-acre suburban campus just 12 miles from New York City, Montclair State delivers the instructional and research resources of a large public university in a supportive, sophisticated and diverse academic environment.