

APPENDIX

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New Jersey Legislative Select Oversight Committee February 26, 2019

I want to thank the Chairs, Co-Chairs, and members of the Committee for giving me an opportunity to be here today. My name is Patricia Teffenhart and I'm the executive director for the New Jersey Coalition Against Sexual Assault (NJCASA).

NJCASA is a non-profit, non-governmental, organization founded in 1981 and we represent the state's recognized 21 county-based sexual violence service programs and the Office of Violence Prevention and Victim Assistance at Rutgers University, New Brunswick. Our comprehensive approach includes elevating the voice of survivors and service providers, advocating for survivor-centered legislation, training allied professionals, and supporting statewide prevention strategies that work to defy the socio-cultural norms that permit and promote rape culture. We are the *only* New Jersey organization dedicated exclusively to working with issues of sexual violence and to supporting the county-based organizations that provide essential services to survivors and their loved ones.

I am thankful for the opportunity to lead this incredible organization, particularly at this moment in time. As #MeToo, #TimesUp, and #BelieveSurvivors shed light on the impact and prevalence of sexual violence, NJCASA has found increased opportunities to share our expertise and shape the public narrative. This, in many ways, is my dream job.

But, I didn't get here overnight. When I was in elementary school, my parents gave me a mug that read, on one side, "A Woman's Place is in the House" and on the other, "Senate and Supreme Court" ... and so it began.

For undergraduate studies, I attended Douglass College, where I studied Political Science and Sociology. Eventually I continued my education and received my master's in public administration from Rutgers University, Newark.

Following completion of my undergraduate degree, I spent 3 years as a community health educator working with HIV+ women in Newark, Paterson, Trenton, and Jersey City. I spent the next 7.5 years working for a national non-profit dedicated to strengthening the health promotion infrastructure for Latinas and their families. But I missed working with a specific focus on New Jersey, so I next spent some time working as the Assistant Executive Director of one of our county-based domestic violence organizations, leaving only because this opportunity became available and it's always been my goal to influence state policy. I have now been with NJCASA for over 5 years.

The anti-sexual violence movement is about social justice. The right to live freely without fear of violence is a human right. A right that's been denied to roughly 25% of incoming first year female students attending Rutgers University, according to their 2014 campus climate survey. A right that's been denied to the thousands of victims of clergy abuse. A right that's

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been denied to the 10,000 survivors and their loved ones who seek services from New Jersey's county-based rape crisis centers each year. A right that was denied to Katie Brennan.

NJCASA has attended every one of these committee hearings, and I've reviewed all the relevant testimony and I'm here today to shed light and context on the issues we've been discussing. My hope is that as we consider my expert testimony, in relation to that others from whom we've heard, we will commit to the hard work of making New Jersey safer for all 9M residents.

Let me be clear, I am not here to offer any band-aid solutions or quick remedies. But I am here to offer our ongoing commitment to working with the legislature, the administration, and any/all allies and stakeholders who want to engage in the work of building our sexual violence prevention infrastructure *and* a survivor-centered, trauma-informed response to sexual violence.

So, let's start by grounding our conversation in facts:

- The FBI recognizes sexual assault as the second most violent crime, the first of which is murder.
- The majority (75-80%) of sexual assault survivors know the person who caused them harm.
- The Centers for Disease Control and Prevention estimate that the lifetime cost for sexual assault victimization is \$122k *per survivor*. This includes medical and mental health services, lost wages, withdrawal from higher education (resulting in lost tuition payments), drug and alcohol addiction services, etc.
- Victims of sexual violence attempt suicide 13x more frequently than non-victims.
- The most recent CDC data indicates that over 1.3M women and over 500,000 men living in New Jersey have experienced contact sexual violence in their lifetime. That's 1.8M living survivors in New Jersey – roughly the entire population of the state of West Virginia.
- Sexual violence is a power-based crime that is 100% preventable.
- Sexual violence is *not* a partisan issue.

Over the last few years, New Jersey has made considerable strides in bridging gaps in law, therefore expanding rights for survivors and increasing opportunities to hold perpetrators accountable, for example:

- Despite there being NO criminal statute of limitations for sexual assault since the 1990's, for years, the Attorney General's policy required that the critical evidence contained in a rape kit only needed to be retained for a mere 90 days. In 2014, NJCASA worked closely with the New Jersey Office of the Attorney General to

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increase the minimum amount of time a survivor's sexual assault forensic evidence (rape kit) needed to be held from that unacceptable 90 days to five years – a more trauma-informed policy that provides more time for survivors to consider pursuing the criminal justice process.

- In 2015, NJCASA successfully advocated to pass the **Sexual Assault Survivor Protection Act**, enabling an increased number of survivors to pursue protective orders. Prior to passing this legislation into law, only survivors with charges or convictions in their cases were eligible for protective orders, andgiven the low percentage of perpetrators held accountable, few survivors could pursue this path to safety, leaving them vulnerable to ongoing harassment, intimidation, and at-risk for repeat victimization.
- That same year, NJCASA advocated for the creation of the **Campus Sexual Assault Task Force**, a multidisciplinary team appointed by the Governor and co-chaired by NJCASA to address sexual assault on college campuses. In the summer of 2017, it issued policy considerations and recommendations to the Governor's Office and the New Jersey Legislature, which are now serving as the foundation for a day-long campus sexual assault conference hosted by Rutgers University on March 28th.
- In 2017, NJCASA successfully advocated for **mandatory sexual violence response training for members of our law enforcement community and expanded opportunities for survivors to testify against their perpetrators via closed-circuit television.**
- In 2018, Governor Murphy signed the "Safer Schools Bill" into law which **specifically addressed** that sexual abuse and violence often go unreported and even worse than that, disclosures are often ignored or dismissed by individuals and/or systems protecting their own interests. **This bill affirmed much of what we've been discussing here, in these committee hearings, *background checks don't work if we're not holding perpetrators accountable through the criminal justice system.***
- And in November, Attorney General Grewal issued the release of updated **crisis response standards** for New Jersey's 21 county-based Sexual Assault Response Teams. For *two years* (yes, starting back under the Christie administration), I sat in conference rooms in the Justice Complex with a multidisciplinary team of professionals dedicated to updating these standards to reflect what we understand about the neurobiology of trauma, and best practice crisis response. These standards, which hadn't been formally updated since 2004, should never have sat on a shelf for so long with New Jersey's "home rule" mentality allowing interpretation of these standards to influence implementation from county-to-county. EVERY

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survivor in New Jersey should have access to the same system's response – whether they're seeking services in Sussex or Cape May Counties. While I'm endlessly grateful for the release of these standards, and the time both administrations dedicated to their updating, one could infer that *perhaps* sexual assault survivors remained, for 14 years, very low on the list of administrative priorities.

So here we are today, and we've been here now for a number of days, to talk very specifically about what happened in relation to Katie Brennan, Al Alvarez, and Governor Murphy's transition. But, while the focus of this legislative oversight committee is rather narrow in scope, the testimony we've heard to date, paired with what we continue to hear reported in the news in relation to this case, only begins to skim the surface about the horrific and systemic barriers that exist for survivors of sexual violence.

Let me share a little story. Back in 2006, as I walked from my office in Newark, to my car in the valet lot across the street, I was mugged at knife point. Men followed me, in their car, to my car and parked behind me – making it impossible for me to leave as other cars were parked on all sides. They were smart and waited until I opened my car door to make their intentions known – essentially trapping me. Even as the passenger approached from his car, I felt calm – thinking maybe I dropped something, or they needed help. And as he pressed the knife into my side, and asked for my money, I thought I must've heard incorrectly – that this couldn't possibly be happening to me.

When it was over, I sat in my car in the rain, with my new husband on my earpiece unable to fully articulate what happened. He kept asking if I was okay and I was able to mumble, "yes". I wanted to flee – I wanted to get in that car and drive home and never come back. But, I didn't – but only because my husband was literally in my ear, walking me through every next step.

He called my office and had a colleague come and meet me outside and together we called the police while my husband started the process of canceling my debit and credit cards.

When I called the police, nobody asked me to *prove* that I had been victimized, even though there were no cameras angled towards my car and no visual witnesses. I was treated with respect and compassion. The follow-up from the police was timely and accommodating, from the moment I filed my police report to the day of my court hearing.

I was the victim of a violent crime and I had little, if any, more evidence than many victims of sexual assault and not once did I feel as if I first had to prove a crime was committed before my account was taken seriously.

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Surely, if we're able to treat victims of *some* crimes with, at minimum, the belief that they were victimized, we can do this for sexual assault. We can begin by believing.

Throughout these hearings, each witness has been asked directly, "Did you believe Katie Brennan?" Each witness has replied, "Yes", whether they were an individual who received Ms. Brennan's disclosure directly, or if they heard her testimony before this committee. "Yes. Yes. Yes. I believe Katie Brennan," answered each witness.

And while one of the most popular and "catchy" questions to come out of these hearings has been, "Who hired Al Alvarez?", I firmly believe there's another, more poignant point we should be making. If, in fact, every witness who testified was telling the truth – that they did, in fact, believe Katie Brennan, then one incredibly important conclusion must be drawn. If they believed Katie Brennan, then they believed Al Alvarez was responsible for having committed a serious crime.

And, with those two established facts, I'm left wondering how so many important and influential professionals could *choose* to keep someone they believed capable of committing such a crime in their close circle. How he could continue to influence hiring decisions for the Administration. How he could seemingly slide into a senior level position in state government. How he could be aided to find another job from the very people who deemed it inappropriate for him to keep the one he had. The question that is reigning most important to me is, "If you believed Katie Brennan, then didn't you believe New Jersey deserved someone better than her perpetrator in our government? Didn't Katie Brennan deserve someone better than her perpetrator as a colleague?"

So, let's talk about "rape culture". Emilie Buchwald, *author of Transforming a Rape Culture*, describes that when society normalizes sexualized violence, it accepts and creates rape culture. In her book she defines rape culture as:

" a complex set of beliefs that encourage male sexual aggression and supports violence against women. It is a society where violence is seen as sexy and sexuality as violent. In a rape culture, women perceive a continuum of threatened violence that ranges from sexual remarks to sexual touching to rape itself. A rape culture condones physical and emotional terrorism against women as the norm . . . In a rape culture both men and women assume that sexual violence is a fact of life, inevitable . . . However . . . much of what we accept as inevitable is in fact the expression of values and attitudes that can change."

I've observed rape culture manifest at the League of Municipalities Annual Conference, the Walk to Washington, and various other political or networking events. Events where confident, drunken men and politicians put their hands on women's waists to move through

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the crowd. I've met with women, political operatives, who have shared share stories of elected officials following them to their hotel rooms without an invitation, and worse.

Rape culture manifests on campaigns. Where *who* you know is often more important than *what* you know, allowing those with privilege to maintain their concentration of power. Where the environment is so stressful that it's apparently acceptable to throw chairs across the room when a colleague says something you don't like.

Rape culture manifests here, in the State House. In committee hearings, when talking about legislation to protect students...children...from sexual predators and legislators say, with confidence, that some children "gin up charges" against their teachers because of bad grades. Or when a policy maker gets so angry at an expert's reference to the term "rape culture" in her testimony, that he proudly declares, with all of his privilege, his offense to the term because in all of his years on this earth, he has never witnessed rape culture and lectures her that her reference to it is "uncalled for...and ugly."

Rape culture manifests when a survivor of sexual assault comes forward and people in power try to smear her name. When, as reported, "sleazy men are making sleazy calls to people like" Tom Moran, from the Star Ledger "trying to discredit her in all the familiar ways". When not only one, but two, prosecutors' offices don't speak with her fresh complaint witnesses.

But, here's the reality. We can't legislate our way out of rape culture. Nope. Not that easy. Nobody on this committee, or this building, can ask OLS to draft a bill to end rape culture. So, for everyone who's been following the Al Alvarez story, or who followed the Brock Turner story, or the Larry Nassar story, or the Catholic Church story...and has been wondering, "What the heck happened?" "What can we do better?" The good news is that WE, every day people, can do something!

And there is a science to it – because, we do still believe in that pesky thing called "science" here in New Jersey. The Centers for Disease Control recognizes sexual violence as a public health issue, and as with other public health issues, like diabetes, or heart disease, there are scientifically proven risk and protective factors that relate to someone's likelihood to *perpetrate* acts of sexual violence.

Yes, we're done blaming rapes on how the survivor was dressed, or their sexual history, or...anything other than the rapist. Rapists are responsible for rape. To use a Governor Muphy-ism, "Period. Full stop."

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And when we, as a society, start holding people accountable for their own actions, I predict there will be an increased level of interest in understanding the actual SCIENCE behind reducing perpetration.

The CDC's 2016 *STOP SV: A Technical Package to Prevent Sexual Violence*, presents a robust portfolio of evidence-based and evidence-informed approaches to creating a safer society, including the reduction of social norms that accept or allow indifference to violence to fester. For example, restrictive gender norms, or rigid ideas about the appropriate roles and behavior of men and women, can serve to support or condone violent behavior in intimate and other relationships. Studies show that individuals and communities adhering to restrictive and harmful social norms are more likely to perpetrate physical, sexual, and emotional violence against women.

We don't need more programming that *sounds* good. We need programming that works to counter and undue harmful social norms. Let's build upon our anti-harassment, bullying, and intimidation education and policies. Let's guarantee age-appropriate comprehensive sexuality education for every New Jersey student. Let's reinforce these messages with complimentary messages and programming for parents and caring adults. Let's build a robust evidence-informed sexual violence prevention infrastructure in all 565 New Jersey municipalities.

To that end, I'd be remiss if I didn't take a moment to commend my colleagues both at the coalition, and our local sexual violence service programs. Thanks to their steadfast commitment to evidence-informed primary prevention of sexual violence, NJCASA is representing New Jersey as one of only a handful of states that has advanced through multiple phases of a national study, led by the Centers for Disease Control, assessing the evaluability of home-grown sexual violence prevention curricula. *Our* intervention, *Gender and Violence: How Media Shape Our Culture* builds the capacity for participants to identify and comment on negative sexualized mass media and understand the impact of such damaging messages.

And, after years of investing both federal and state resources to support the sexual violence prevention infrastructure in New Jersey, and being recognized as a national leader for our evidence-informed approach to preventing sexual violence, some of our partners in state government are contemplating a drastically different course of action – essentially turning its back on the progress we've made by shifting their support to programming that, in part, "empowers women and girls".

Now, let's be clear, of course, as a feminist organization, the New Jersey Coalition Against Sexual Assault supports the empowerment of women and girls. However, devolving our statewide *prevention* approach to one that focuses on empowering women and girls means a giant step back in New Jersey. Empowered women are sexually assaulted. Empowered

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women face disbelief when they disclose their victimization. Empowered women are denied access to justice when they report to law enforcement. Katie Brennan is an empowered woman.

NJCASA cautions against investing precious resources into strategies that miss the mark in the actual *prevention* of sexual violence by perpetuating the harmful misconception that if “only women were more empowered” they’d avoid being victimized.

NJCASA has always been a key partner in the creation of the statewide sexual violence prevention plan and we remain hopeful that institutions in positions to make appropriations decisions continue to partner with us, allowing our expertise and experience to guide programming decisions in support of our shared vision of a safer, more equitable New Jersey.

And just as New Jersey is on the forefront in our approach to sexual violence *prevention*, I believe that the New Jersey I love can be a national leader in innovatively working to create new trauma-informed systems, processes, and policies to respond to survivors. I believe that in strengthening our response to disclosures, we increase our ability to hold perpetrators accountable, and thereby create a safer New Jersey for all of us.

Part of NJCASA’s commitment to helping New Jersey “get it right” is evidenced in our request for, and receipt of, private foundation dollars to support a statewide sexual violence needs assessment. The survivor-feedback portion of our needs assessment will launch this Spring and will aim to gain valuable information from survivors – our most critical stakeholders. Subsequent components of the needs assessment will gather feedback from our allies and colleagues in intersectional systems and communities. We’re looking forward to, at the end of this year, using the results of this needs assessment to highlight the challenges and opportunities before us throughout the State. With this rich information, we are confident we can work with our colleagues throughout the State to chart a strategic path forward.

And while the conversations we’ve had in this committee revolve around Katie Brennan’s very brave and public disclosure, we recognize that this is part of a larger, long-overdue national conversation. Tarana Burke’s #MeToo movement was never intended to just be about celebrities and Hollywood, though peeling back layers of oppression and abuse wherever they exist is important. But it’s so much bigger than that. It’s about habitual harassment in the service industry, in our education system, sports, and in state legislatures around the country. Our colleagues in Colorado tackled this issue at length, after reports of sexual harassment and misconduct against at least five of their state lawmakers. They commissioned an external group who conducted a climate survey of their Legislature and delivered a final report of findings and recommendations, which I will draw from more during this testimony.

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We must make policies with the understanding that no survivor's lived experience is identical to that of another and neither are their pathways to justice and healing. We must commit to the thoughtful, intentional process of undoing policies and procedures that don't work – we must be willing to think outside of the box. We must believe that New Jersey can do better and that we can become a national leader in the anti-sexual violence movement.

We can keep in mind that survivors of sexual violence have had their decision making power, and bodily autonomy, taken from them. We can, in response, create reporting processes that allow survivors to regain elements of control and respond to the unique circumstances of their experience. In the Workplace Culture study and final report that I mentioned earlier, the Colorado workgroup recommended forming two distinct complaint processes: an informal and a formal route.

A bifurcated process allows us to be more responsive to individual needs:

- An *informal process* is used to resolve less severe, though equally serious, complaints, where the Complainant expressed that they just want the behavior to STOP. The informal process focuses on behavior modification and is run on a single-investigator model – in Colorado's report, they recommended the EEO Officer.
- A *formal complaint* is filed for serious allegations of misconduct. It appropriately separates out the distinct roles of investigating, fact finding, recommending and administering disciplines or recourse between multiple people in multiple roles, and has more severe consequences appropriate for a more severe complaint and more in-depth investigation.

We've also heard unclear and conflicting information regarding whether, and when, others perceived Ms. Brennan chose to disclose her identity after her initial conversations with her husband, best friend, and Mr. Braz. It appears to us that as she observed no movement on her complaint, Ms. Brennan felt compelled to identify herself more concretely – to Mr. Platkin, Ms. Taylor, and even the Governor and First Lady. It also appears that multiple people with knowledge of her claims felt they couldn't proceed with a confidential complaint.

But victims shouldn't *have to* identify themselves publicly for complaints of misconduct to be taken seriously. Codifying and communicating a clear, confidential reporting path within the workplace is another recommendation from our friends who studied this issue at-length in Colorado. An anonymous or confidential reporting option would have different outcomes than a complaint filed with a name or identifying information. But if the survivor feels most safe and comfortable withholding identifying information in the course of filing a complaint, there should be a process codified for how we can move a case forward with seriousness, professionalism and accountability.

Additionally, expanding upon a recommendation we heard from Senator Oroho in this committee, we recommend creating an Independent EEO Advisory panel to professionalize

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response to high-level complaints. Our Colorado colleagues recommended the formation of an independent panel to handle all complaints levied against Legislators, but we could apply this concept to highly-politicized situations or cases involving individuals with high levels of power and influence, which all too often render victims silent. Colorado's recommendations outlined the panel as a nonpartisan volunteer board, comprised of five members with extensive relevant experience: employment lawyers, judicial arbitrators with a focus on employment law, experienced workplace investigators, and former legislators who have been out of office for several years were among their recommended Committee members. Panels would serve for a set term and be given power and authority to manage complaints of discrimination, harassment, and / or retaliation.

And, outside of *responding* to violence, we can work to create a better culture that will prevent and insulate against violence and harm. We recommended the creation of an Office of State Employment Culture (OSEC). Colorado's interim Legislative Workplace Interim Study Committee recommended that such an office be created as part of their Office of Legislative Legal Services, staffed by at least two dedicated, full-time employees. In addition to responding to complaints and carrying out the dual formal and informal complaint processes I detailed earlier, they also recommended that the Office have a prevention focus. Staff would be responsible for presenting to all Government and Legislative staffs on both workplace culture and behavior expectations, and also outline the processes for reporting abuse and harassment – so each person has a robust understanding of the process. They further recommended that the Office conduct annual reports on workplace harassment and culture, to keep the pulse of areas of concern and opportunities for growth. While these recommendations would require further study on feasibility and the specific method of implementation for the Garden State, we're excited to see the inventive ways that our colleagues around the country are responding to harassment and abuse within our State Houses and beyond.

We recommend that the first task of OSEC be the creation and dissemination of a climate survey of our state workforce. As has been recognized as best-practice on college campuses throughout the country, climate surveys help institutions understand the lived experiences of their community. On campuses, they help administrators understand whether students know about the safety, health, and wellness resources available on or off campus. They identify if students are coming to school having already experienced the trauma of victimization. Do they know who on-campus is a confidential resource? Do they understand the role of campus security? Do they understand the process of reporting a sexual assault on campus? What if it happens off-campus?

The results of climate surveys inform a data-driven, fact-based plan for reducing and responding to sexual violence. By conducting a climate survey with state government employees, we can get an understanding about the scope of the issue so that together, we can create a robust, evidence-informed portfolio of policies and practices that are responsive to the needs of state employees.

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The results of the assessment conducted in Colorado report identified potential risk factors that can lead to unhealthy work environments – some of which seem relevant to what has been discussed in this committee, including:

- Homogenous workforce;
- Workplace described as “rough-and-tumble”;
- Single-sex dominated workplace culture;
- Young workforce;
- “High-value” employees with large power disparities; and
- Decentralized workplaces.

EEO guidance identified five critical components for a workplace to prevent and address harassment:

- 1) committed leadership;
- 2) demonstrated accountability;
- 3) strong, comprehensive policies;
- 4) trusted and accessible complaint procedures; and
- 5) regular, interactive training tailored specifically to the audience and organization.

Building and strengthening these five components will be some of the main work of the Office of State Employment Culture, which will be staffed by human resources professionals, EEO officers, a ‘Workplace Culture Specialist,’ who focuses on promotion of the office’s work and fostering an understanding of how to report harm in the workplace, and a confidential Ombudsperson, who would be responsible for managing the confidential reporting processes we discussed earlier.

The office would have multiple physical locations, to help ensure confidentiality of survivors who want to report using the anonymous process and to better serve the wide political arena. The Ombudsperson would focus entirely on the experience of the victim of harassment or assault, much like a Confidential Sexual Violence Advocate, or CSVA, would respond outside of a workplace. The Ombudsperson would discuss workplace culture problems, help the victim understand the various venues they could choose to file a report, and address concerns about the process. Colorado’s experts recommended, given the nature of this role, that the Ombudsperson be a trusted third-party partner, rather than an Employee of the state.

In addition to strengthening the process that create a healthier, safer, New Jersey workforce, we know that we can/should be working harder to **hold perpetrators accountable**. So, what can we do to better respond to sexual violence when it happens outside of government?

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In April 2014, our friends and colleagues at Aequitas, a nonprofit group that aims to improve access and quality of justice for victims of gender-based violence, published an article in their newsletter called, "Beyond Conviction Rates: Measuring Success in Sexual Assault Prosecution" by Jennifer G. Long and Elaine Nugent-Borakove". The intro reads:

"The justice system is a critical component of a comprehensive response to sexual violence; there is no true offender accountability without it, and, for many victims, it is an important part of healing. When the justice system is ineffective or unresponsive, it not only fails to support victims and keep communities safe, but it has the power to undermine prevention, advocacy, and other critical efforts. The criminal justice system response requires the participation of many professionals. Few, however, have as great an impact on offender accountability and community safety as the prosecutor. The prosecutor serves as the gatekeeper to the criminal justice system, and has sole, but not unlimited, discretion in determining who and what to charge. Prosecutors' utilization of research-informed decision making, therefore, is pivotal to the just application of the law. Sexual assault cases are some of the most difficult to prosecute. Although experience and specialized knowledge greatly enhance the likelihood of positive trial outcomes in these cases, experienced prosecutors know that a not-guilty verdict does not necessarily equate with "losing." A prosecutor who never loses a sexual assault case is likely charging and prosecuting only the "safe" cases, as opposed to cases that are just as important but may seem less "winnable," due to, for example, less available or unavailable "traditional" evidence, such as eyewitnesses or DNA."

Since the Wall Street Journal published Ms. Brennan's very public disclosure, my colleagues and I have found ourselves, on more than one occasion, scratching our head (or, quite frankly, wanting to flip a table) in frustration.

Ms. Brennan had become a statistic. The Department of Justice reports that for every 1,000 sexual assaults, 230 are reported to police, 9 get referred to a prosecutor, and less than 5 perpetrators will be incarcerated. We can do better!

First, given that most sexual assaults happen behind closed doors with no witnesses of the *actual* crime, it's crucial for prosecutors to leave no stone unturned – to use every piece of evidence available to inform their next steps. So few survivors ever report to law enforcement that when they do, the decision by not just *one*, but two prosecutors' offices, to not interview Ms. Brennan's fresh complaint witnesses, is unacceptable. In addition, I'd argue that intentionally interviewing those at the party *before* the incident, but *not* interviewing those to whom she immediately disclosed what happened *after* the incident, shows a lack of interest in gathering *all* the facts.

Secondly, the Attorney General's public declaration that he found no wrong-doing by the Hudson County Prosecutor, *while the Middlesex County Prosecutors' Office was, in theory,*

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still considering Ms. Brennan's case, has the appearance of unnecessarily weighing the scales towards the ultimate actions and decisions made in Ms. Brennan's pursuit of justice.

Thirdly, survivors rarely know where to go for help – generally speaking, we're not all carrying around the number to our EEO office, or local rape crisis center on speed dial in our phones. So, when a survivor reaches out for support from professionals responsible for *helping* – it shouldn't be so hard to point them in the right direction. In fact, it *should* be hard for multiple professionals to seemingly raise their hands and shrug their shoulders, passing off or dismissing the disclosure like a hot potato. If the state deemed themselves not responsible because neither Ms. Brennan or Mr. Alvarez worked for the State at the time of the incident, one of the many high-ranking professionals with whom she spoke should have been able to inform Ms. Brennan of her options. And, if they didn't know off the top of their head, they should've *found* the answers and shared them with her. "I don't know" or "It's not under our jurisdiction" is an unacceptable response.

So, what can we do about all of this?

As I mentioned earlier, it was only in 2017 that New Jersey passed mandatory sexual assault training for law enforcement. And to the best of my knowledge, mandatory prosecutorial or judicial training is encouraged, but not required. Let's start there!

We recommend that New Jersey develop expand the availability of specialized units, investigators, and prosecutors who incorporate experience and research into trauma-informed, victim-centered, offender-focused charging decisions, investigations, and trial strategies. This might include:

- Expanding the concept of corroboration (*e.g., identifying all relevant potential witnesses*);
- Introducing expert testimony at trial;
- Utilizing electronic evidence;
- Utilizing multidisciplinary SART teams to ensure that the victim's needs are supported during/after trial; and/or
- Anticipating and responding to witness intimidation,

The original Wall Street Journal article includes comments from John Molinelli, a former Bergen County prosecutor, that indicated that in order to move forward with charges, prosecutors must reasonably believe that they can prove the case in court. "Even if they believe he did it," Mr. Molinelli said, "do they have the evidence that any reasonable prosecutor can believe would sustain a prosecution?"

We contend that the Attorney General's office should issue strong guidance and accompanying training to help prosecutors redefine "success" in the criminal prosecution of cases of sexual violence. Some sample outcomes of a shift in this way could include:

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- Conviction of the accused;
- Victim safety, or a sense for the victim that their voice was heard;
- Increased community awareness;
- Creating a record and holding defendant accountable by producing sworn testimony;
- Reducing recidivism;
- ... or some combination of all these metrics.

We can also shift to determining success by ensuring that a survivor-centered *procedure* followed:

- Did we do everything we could have done/should have done to achieve certain outcomes within our control? Did the victim/survivor feel supported?

It's also important to note that convictions don't necessarily indicate success:

- A conviction tells us *only* whether the defendant was found guilty ... conviction rates give an incomplete picture of an individual or office's performance – and could mask the widespread granting of lenient pleas.
- Low reporting rates contribute to low prosecution rates, and fewer prosecutions may make it more challenging for the system to create an environment where victims feel they can safely report a sexual assault and achieve justice.

There are potentially three types of performance measures we could consider:

- *Outcomes / outputs*: Outcomes define the broader goal – typically, that justice is achieved. To be useful, offices need to **define justice** (safety of victims, holding offenders accountable, appropriate procedures are followed, etc.). Outputs are tangible products produced by the organization.
- *Satisfaction and safety measures*: Focus on perceptions of victims and/or community members about how cases were handled. Were policies followed? How were decisions made about cases?
- *Efficiency and timeliness*: Are they concerned with both the level of effort and resources used to bring about outcomes? Are they tracking the length of time it takes to produce an output/outcome? Faster case disposition can lead to increased satisfaction among victims about the process and swifter responses to criminal activity can reduce recidivism and increase community safety.
- It's important to note "the goals may differ from person to person."

Aequitas notes that that prosecutorial performance measures have been established for the juvenile justice system and the Judge Advocate General Program at the U.S. Dept. of the Navy. Perhaps these can serve as a launching pad for some New Jersey -based reforms.

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And, any policy is only as strong as its enactment and enforcement. This was evidenced when, as it's been reported, the Middlesex County Prosecutors Office seemingly dismissed one of the Attorney General's November 2018 directives, which reads that, "It is vital that prosecutors explain to victims—in a respectful and compassionate way— that sometimes criminal charges are simply not viable, and that a prosecutor can decline to charge a sexual assault case for a variety of reasons unrelated to the victim's credibility. I am therefore directing that, when a County Prosecutor's Office declines to prosecute a sexual assault case, the Assistant Prosecutor (AP) handling the case must provide the victim with an opportunity to meet in person with the AP, during which meeting the AP must explain the basis for declining prosecution."

It's been reported that Ms. Brennan was notified of the second declination to pursue her case via faxed communication to her lawyer. And, the timing of her notification seems to coincide with the release of the same information to the press.

This is a good, survivor-centered directive and it seems it wasn't followed. What accountability mechanisms exist when a directive isn't followed? What recourse exists for Ms. Brennan?

I know there's been some discussion about creating an appeal or override process by which survivors could pursue their case before a grand jury if it was declined by the prosecutors' office. We see this as an *option* but not the *solution*. If we consider some of the recommendations above to *overhaul* the criminal justice system, the idea of an appeal or override can, and should, be available as a last-resort only needed to be considered by a handful of survivors.

It's clear that we have a lot of work to do. We've talked about prevention and response — both in, and out of the context of government employment. Let's work hard to make sure that *every* New Jerseyan benefits from the conversations we've had here.

So let's talk about campaigns and transitions. We need to do a better job vetting the individuals working on political campaigns. I get it — campaigns are fast-paced environments that rely heavily on volunteers to canvass and phone bank. And, every person dedicating time to a campaign reflects on the candidate, making it in the candidate's and the party's best interest to do its very best at ensuring the caliber of the people working on their behalf.

I've met with women, political operatives, that have shared horrific stories of working on campaigns with men who make them feel uneasy. The kind of men who invade your personal space. Send inappropriate texts. Take the long way home when you're in their car canvassing. Men who touch inappropriately and then try to gaslight you when you call them out on it. These types of men have no room in our political arena.

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I think we've well-established that background checks won't catch these types of bad actors. So, leadership comes from the top. The state parties, the county chairs, municipal chairs, campaign managers, and candidates need to set a zero-tolerance culture in their spheres of influence. We need to make everyone involved in campaigns sign a code of conduct and we need to make clear the reporting process for individuals who experience harassment while working on a campaign. And those responsible for receiving complaints *must* follow a set of established actions in response. No more dismissing claims. No more "I did talk to them but didn't take notes." No more, "I can't help you."

Survivors are watching every high-profile case. And so are perpetrators. They're watching when Stanford student Brock Turner gets a slap on the wrist for a convicted rape, even with multiple eye-witnesses and a viral victim-impact statement from the survivor. They're watching when our (now) President brags on a hot mic about sexually assaulting women and then excuses it as "locker room talk." They watched for years as R. Kelly's sexual abuse of underage women was an open secret, while radio stations continued to play his music and he continued to sell out concert venues. They're watching the U.S. Secretary of Education Betsy DeVos destroy Title IX and the critical protections it affords all students. Survivors are watching US.

So, let's make sure we pass civil statute of limitations reform next month.

For years, the Catholic Church, currently the subject of an Attorney General's investigation into decades of child sexual abuse, has opposed this reform, not only causing more harm to those already victimized by the church, but also harming *all* survivors living in New Jersey – not only those victimized by the church. While publicly they've held open forums for survivors, recently shared lists of responsible members of the church, and will soon be opening their victims' compensation fund, behind the scenes, they've continued to call legislative offices to sway their consideration of this overdue and necessary policy reform. Let me be clear, child rapists shouldn't get to call the shots on legislation that will hold them accountable.

A state with a six-year civil statute of limitations for *trespassing* cannot allow only *two* years for sexual assault. The point of these hearings is to identify opportunities to create better outcomes for survivors. Civil statute reform, before this legislature in the form of S477/A3648, creates a better outcome for *all* survivors. Katie Brennan, in her disclosure to the Wall Street Journal, and again in her testimony in this room, called for civil statute reform. Survivors of clergy abuse have been calling for it for years. We're looking forward to advancing this legislation with your help over the next few weeks.

Finally, I'd be remiss if I didn't acknowledge the need for us to invest in our local county-based rape crisis centers. Open 24 hours/day, 365 days/year, these organizations are critical partners in our work in sexual violence prevention and response. Yet, at a point in time when we have more financial support than ever before to support these services, thanks to an increased ceiling in Victims of Crime Act funding, AND increased state appropriations,

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thanks to NJCASA's advocacy and the support of both the legislature and the administration, rape crisis centers are LOSING funding.

Yes, while 50% of our programs have a waiting list for critical services, they are LOSING funding to support both the prevention and response work in their communities, due to the grant-making processes and decisions within state government. I have sat in meetings, needing to explain why there are statistical discrepancies between the Uniform Crime Report – which only tracks the number of sexual assaults reported to law enforcement – and the reports submitted by our programs – which serve ALL survivors – not just those who have engaged law enforcement. I've needed to explain that New Jersey's privileged communication statute extends to individuals trained and supervised by one of our rape crisis programs and that awarding sexual assault service contracts to organizations that don't have privilege compromises the confidentiality of victims.

In talking with my colleagues across the country, I've learned that other states have dedicated a portion of VOCA funds *specifically* to expand the capacity of rape crisis centers. We have not. But, we should. And when we do, we should make sure that those funds, and *all* funds contracted from the State out to local service providers, gets to the grantees in a timely manner. Rape crisis centers shouldn't need to take out lines of credit to make payroll because the state government is six months, or more, delayed in executing contracts or reimbursing for expenses.

Behind me is the rest of the NJCASA team – seven of the best, most brilliant professionals in this work. Want a training about the neurobiology of trauma or building empathy as a protective factor against perpetration? Want to discuss next steps in helping New Jersey meet the standards of the Prison Rape Elimination Act? Or create initiatives that address oppression as the root cause of sexual violence? Interested in supporting safer campus communities? Want to understand our policy priorities, or are you a member of the press that is looking for resources or talking points? We are here to help!

Because there's clearly a lot New Jersey *should* and *can* do and I am confident that we will be busy over the days, months, and years ahead, as we work together – the legislature, the administration, and subject matter experts – to chart a path forward in New Jersey.

I want to thank you all again for the opportunity to join you here today. I love New Jersey and am endlessly honored to do this work with all of you. I caution – the work ahead of us will not be easy – after we smash the patriarchy and the culture of violence it upholds, we will need to rebuild the very foundation upon which many pillars of our society and institutions are built.

But, when the progress seems slow or the frustrations too great, we cannot quit. Rather, I call on us all to remember Ms. Brennan's testimony:

"I had access to people in the highest positions of power in the State of New Jersey. And at each turn, my pleas for help went unanswered. Somehow, it wasn't a priority

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to address my sexual assault and working with my rapist, until it impacted them. We all have a lot of work to do. It's not about one bad actor. This isn't about one incident. It isn't about one hiring. This is about a pervasive culture of assault and violence. It is every person who looked the other way instead of acting. It is the millions of survivors in New Jersey before me whose attackers never saw conviction. It is the survivors before me whose employers kept perpetrators of violence and harassment. It's the millions of survivors who are only able to come forward years later, to find out that it's too late. We can work to prevent sexual assault. We won't be able to change the entire country's culture overnight, but we can each play a part."

NJCASA is committed to doing our part and we look forward to working with all of you in support of a safer, more equitable Garden State.

Thank you.

Remarks respectfully submitted by:
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