

Testimony Before the House Republican Policy Committee Pennsylvania's Second-Degree Murder Sentencing

Chairman Gaydos and members of the Committee, thank you for the opportunity to submit my written testimony.

My name is John Rago. Although I submit this statement purely in my capacity as a private citizen, I have worked in and observed the Pennsylvania Criminal Justice System from a variety of perspectives for decades. I am an Associate Professor of Law at Duquesne University Kline School of Law, where I have spent much of my professional life teaching and thinking about criminal justice policy and best practices. I am also a Member of the Pennsylvania Commission on Sentencing, where I strive, consistent with statute, to promote “an effective, humane and rational sentencing, resentencing and parole policy.” Finally, I am the Chair of the Board of the Center for Victims, Pennsylvania's largest victim service organization, which is based in Pittsburgh.

These multiple perspectives lead me to a fairly simple proposition: **The Commonwealth's criminal justice system must be capable of honoring several principles simultaneously.**

Like every government, we must protect the public and support responsible law enforcement. We must recognize and respond to the profound needs of victims and their families. Ignoring this part of the equation leads to anarchy. Of equal importance, we must, at the same time, respect the constitutional rights of the accused, adhere faithfully to the rule of law, and honor the human dignity of all people, including those convicted of terrible transgressions.

These principles are not competing values. They are the foundation of a legitimate criminal justice system.

The Pennsylvania Supreme Court's decision in *Commonwealth v. Lee* requires us to confront an extraordinarily important question. The Court held that the mandatory imposition of life without parole for felony murder, without an individualized assessment of culpability, violates the Pennsylvania Constitution. The Court did not invalidate the felony-murder doctrine itself, nor did it say that a person convicted of second-degree murder can never receive a sentence of life imprisonment. Rather, it reminded us that culpability and the circumstances of the individual case matter.

This distinction is critically important.

We are now facing the prospect of reviewing more than 1,100 existing life-without-parole sentences. Whatever legislative response ultimately emerges, this cannot simply be a debate about being “tough” or “soft” on crime. It is a question of how we

construct a system that is fair, constitutional, protective of the public, and worthy of public confidence. In short, it is nothing less than a reflection of *our* values and speaks to who *we* are as a society. This is more about society at large than the individuals convicted of second-degree murder.

As I noted, the first obligation of government is to provide for the safety of its citizens. But public safety takes many forms. It means preventing crime and holding those who commit serious offenses accountable. It also means supporting victims and their families, providing meaningful opportunities for healing and restoration, and ensuring that those who violate our laws are appropriately held accountable, and, for most, return to our communities prepared to become productive members of society.

I am sure we all agree that victims and their families deserve to be heard. Pennsylvania's Victims' Bill of Rights must remain central to whatever process the Commonwealth creates. Victims should receive notice, an opportunity to be heard, and meaningful consideration of the extraordinary harm caused by violent crime.

But I do not believe honoring victims' rights is inconsistent with individualized sentencing. Not only is it possible to do both, it is necessary.

Most people who enter our prison system will eventually return to being our neighbors. That reality makes the decisions we collectively make today important not only to those serving sentences, but to the safety and well-being of the communities to which they may ultimately return.

So, I would urge the General Assembly to approach *Lee* with care rather than haste. Hard-won experience has demonstrated to me that good, enduring work occurs slowly. We need to preserve accountability for the taking of a human life, recognize the legitimate interests and rights of victims, give judges meaningful tools to distinguish among levels of culpability, protect the public, remember that defendants are still part of our human family, and ensure that whatever system is adopted complies with the Pennsylvania Constitution.

If we can accomplish those things, we will have done more than respond to *Lee*. We will have strengthened public confidence in Pennsylvania's criminal justice system.

Indeed, that confidence—earned by fairness, consistency, accountability, and respect for the rule of law—is essential to public safety itself.

Thank you for the opportunity to submit my written testimony.