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Testimony of Pennsylvanians for Modern Courts

Senate Judiciary Committee's Public Hearing on Philadelphia's Criminal Justice System

Presented by: Lynn A. Marks, Executive Director

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I. Introduction

Pennsylvanians for Modern Courts (PMC)¹ thanks the Senate Judiciary Committee for holding this public hearing and for the opportunity to submit this testimony. We are grateful that the Senators are taking steps to help improve Philadelphia's criminal justice system and to make Philadelphia safer.

Pennsylvanians for Modern Courts applauds the *Philadelphia Inquirer* for its recent series on the Philadelphia Court's handling of criminal cases. Although not everyone agreed with the conclusions, the series raised important questions about the City's ability to react to and reduce criminal activity. The Pennsylvania Supreme Court's creation of a special commission and its call for an outside expert to study the criminal justice system are positive steps that demonstrate the Justices' dedication to improving the Philadelphia court system even further.

When problems are identified, it is crucial that the stakeholders join together to find solutions. Even before the release of the *Inquirer* series, some progress had been

¹ **Pennsylvanians for Modern Courts** is a statewide nonprofit, nonpartisan organization founded to improve and strengthen the justice system in Pennsylvania by reforming the judicial selection process; improving the jury system, court administration and court financing; increasing fairness in the courts; ensuring a strong judicial discipline system; and assisting citizens in navigating the courts and the justice system, whether as litigants, jurors, or witnesses.

made in this regard. The Criminal Justice Advisory Board (CJAB), a panel composed of citywide officials, was created in 2009 to better coordinate a multi-agency response to fighting crime. Such initiatives are essential to synchronizing efforts and better understanding the issues. More is needed and some suggestions are offered below. We hope that such efforts continue to make our city safer, while at the same time ensuring that individual rights are preserved.

II. Ensuring the Public is a Full Stakeholder in the Criminal Justice System

PMC works to educate the public about the courts and to ensure that people understand what happens in court so that they may more effectively participate in their own cases. We also work to ensure that people have positive experiences in the courts, whether as litigants, witnesses, or jurors.

The courts do the people's business, and judges are public servants. In short, everyone who is part of the court system works for "we the people." But too often, regular folks feel that administrative procedures and bureaucracy take over and create confusion. Many citizens, for myriad reasons, fear the court system. For too many, going to court – for whatever cause brings one there – becomes a nightmare to be avoided at all costs.

These issues are not merely problems of the courts. They are issues for our entire community. We recommend that the stakeholders who have been discussing the criminal justice system and working to improve it continue to meet regularly. Stakeholders in the criminal justice system include at least the following: the District Attorney's office, the Public Defender's office and private defense lawyers, the Police Department, the courts, the Probation Department, the Sheriff's Office, city representatives, the prisons, and probably the Prothonotary (since it is absorbing the function of the Clerk of Quarter Sessions).

But in addition to institutional stakeholders, non-governmental groups and "users" of the courts are also stakeholders and have valuable perspectives. Non-governmental groups could include, for example, the Philadelphia Bar Association and minority Bar Associations, such as the Barristers Association, the Hispanic Bar Association, the Asian Pacific American Bar

Association, the Southeast Asian Bar Association and the National Bar Association's Women Lawyers Division.

In addition, "users" of the court system could likewise contribute ideas to improve the system, whether as individuals or through representative groups. Examples of such groups include those helping crime victims (e.g., domestic violence, sexual assault, homicide victims, crime victims in general); those helping users of the court system who have limited English proficiency or are hard of hearing or who have mental or physical disabilities; and those helping people of a particular ethnicity or national origin, or race, gender, religion or age group.

It seems that in Philadelphia, a culture has been created that discourages witnesses to criminal activity from coming forward and participating in the litigation process. This, of course, has a direct impact on the ability of the criminal justice system to address and redress criminal activity. PMC believes that reversing this trend will require a multi-pronged effort. Proposals to impose harsh sanctions on those who intimidate or threaten witnesses as well as dedicating more resources to protection of witnesses are important elements of this effort. But a broader cultural shift also is required to encourage people to be less afraid to come forward with relevant information. This involves rebuilding public trust in the courts, our judges, the police, and the entire criminal justice system. For members of the public to participate and cooperate willingly as witnesses in criminal investigations and trials requires public confidence that the system works for them.

This is not an easy task, but it is a critical one. It requires a concerted effort by all the stakeholders: city institutions, private associations, and users of the court system, as discussed above. At present, when potential witnesses weigh their obligations to testify in court and the possible benefits of that testimony against their own personal risk, the scales tip too often in favor of remaining silent. In a city where violent crime is more prevalent than it should be and witnesses are targeted, this is not surprising. Silence becomes a matter of personal security.

But even if appropriate resources are dedicated to increasing witness safety, the system still must convince people that speaking out is the right thing to do. Achieving this requires instilling in

the public, confidence in, and a sense of ownership over the criminal justice system. The public must believe that the system indeed works for “us.”

This will require increased and continuous efforts to educate the public as well as create partnerships between the public and the police, the courts, and the District Attorney’s and Public Defender’s offices. Representatives of these groups should regularly attend community meetings, make themselves available to discuss issues of import to the neighborhoods and make their responsibilities, efforts and good intentions known. This project cannot be singularly focused on increasing conviction rates or closing a particular case, but must instead be an ongoing effort to improve and strengthen ties between the stakeholders so that all can work together for a common goal.

Programs that bring judges and lawyers into school classrooms are a positive start. Many judges and lawyers who have been to classrooms have found it a very worthwhile experience. But more is needed. Police officers, prosecutors, judges and defense lawyers should increase their presence at community meetings. They should also appear regularly on radio and television and provide information to community newspapers, on blogs and other social networking sites. They should speak about their work and explain why it is so important for witnesses to come forward, show up for court, and testify truthfully. In addition, police, lawyers, and judges should convey appreciation for witnesses who are willing to cooperate, and demonstrate a strong commitment to protecting witnesses. This kind of community building is what brings about cultural change.

But change takes time, and must work both from the ground up and from the top down. Community, civic and religious leaders should be enlisted to determine what messages and what messengers will be effective in their communities. Then, those messengers should engage in a speaking and listening tour to learn about the perceptions on the ground level – where the witnesses and potential witnesses are.

The public should be afforded the opportunity to comment, be it to CJAB or another entity. There is a need for a coalition of non-governmental organizations who have a stake in, and are affected by the justice system. The public must have a voice and listening to this voice is crucial.

III. Regular, Ongoing Meetings of the Stakeholders

As today's hearing and the recent *Philadelphia Inquirer* series demonstrate, there is currently a great deal of focus on improving the efficacy of Philadelphia's criminal justice system. Too often, however, energy and enthusiasm fade as an issue recedes into the background. This must not be permitted to happen in this case; otherwise, any gains and improvements will be reversed with time. Some issues may require the attention of only some stakeholders; others will require full participation. This of course includes public involvement.

A fully functioning criminal justice system isn't simply one with the highest conviction rates or lowest rates of fugitives from justice. Instead, it is one where victims, defendants, prosecutors, and defense attorneys all believe that they have had a fair day in court. It is one where witnesses show up and testify without fear of retribution. It is one where judges possess confidence that both sides have presented full cases on which the judge or jury can base a fair decision. It is one in which some defendants get convicted, some get acquitted, and some make reasonable, fair plea agreements.

There is no quick fix to improve our current system. Obviously, the system could use additional financial resources. But changing attitudes is crucial. That change requires hard work—education and outreach programs; regular, on-going communication among diverse contingents of the Philadelphia community. But the ultimate benefit of that work—a criminal justice system that serves to protect the City of Philadelphia—is well worth the cost. This is what Philadelphians both want and deserve.

Thank you for the opportunity to present this testimony, and for ensuring that there is continued focus on the critical question of how to improve our criminal justice system.