



October 26, 2023

Matt Dugan  
PO Box 1007  
Moon Township, PA 15108

**Re: Invitation to Collaborate on Development of Policies and Protocols for Prosecution of Sexual Assault and Rape**

Dear Mr. Dugan,

We write to you as a coalition of service providers, advocates, and community leaders who work with and on behalf of survivors of sexual assault and rape. Our organizations provide supports and services for survivors of gender-based violence, including helping clients navigate and seek justice through the county's criminal justice system.

Through our representation of individual survivors and our collaborative efforts with other advocacy and community-based organizations, it has come to our attention that the Allegheny County District Attorney's office has a practice of regularly declining to pursue charges in cases of sexual assault where the assailant and the victim had a prior relationship. ADAs in the District Attorney's office and the police officers with whom they work have told our clients that their "hands are tied" when it comes to bringing assault charges in such cases, even when there is physical evidence and the survivor and the police both express an interest in charges being filed. The existence of this practice is further supported by Public Source's recent investigation into the Allegheny County DA's office's prosecution of sexual violence cases.<sup>i</sup>

It is our understanding that the DA's office bases this practice on its assessment that juries will not believe the testimony of sexual assault survivors, particularly those who previously maintained a relationship with their assailant. As we are sure you are aware, biases of this sort are rooted in public misperceptions about sexual violence and normal responses to trauma,<sup>ii</sup> as well as gender-based stereotypes.<sup>iii</sup> Making prosecutorial decisions based on such assumptions raises serious ethical questions,<sup>iv</sup> and maintaining a practice or custom that treats prosecutions involving intimate partner violence less favorably or holding such cases to a higher level of scrutiny may violate survivors' constitutional rights.<sup>v</sup>

We believe that any practice or custom that treats certain types of sexual assault survivors less favorably than other victims of crime, especially if this practice is based on rectifiable biases

about victim credibility, is detrimental to public safety, undermines the mission of the DA's office, and further harms and stigmatizes survivors of sexual assault. We recognize that the DA's office is committed to protecting the rights of all individuals in Allegheny County through fair and thorough criminal prosecutions. We ask that this mandate apply equally to survivors of sexual assault.

With this goal in mind, we are asking that you meet with us to review the DA's office's current practices around investigating and charging claims of sexual assault and to discuss the development and implementation of protocols that are transparent, equitable, and trauma informed. We are hopeful that you share our belief that charging decisions should be rooted in recognized best practices and should focus on justice, victim safety, and offender accountability. We would welcome a meeting to discuss how the DA's office can ensure it is charging and prosecuting sexual assault cases in a manner that aligns with these goals.

We look forward to receiving your response and to a collaboration that promotes the rights and wellbeing of sexual assault survivors.

Respectfully,

Sue Frietsche  
Co-Executive Director  
Women's Law Project

Sadie Restivo  
Interim Executive Director  
Pittsburgh Action Against Rape

Kristy Trautman  
Executive Director  
FISA Foundation

Nicole Molinaro  
President/CEO  
Women's Center & Shelter of Greater Pittsburgh

Brandi S. Fisher  
President/CEO  
Alliance for Police Accountability

Jessie B. Ramey  
Director & Professor  
Women's Institute, Chatham University

Rochelle L. Jackson  
Founder/Director  
Black Women's Policy Center

Marissa Fogel  
Executive Director  
National Council of Jewish Women, Pittsburgh Section

Angela Reynolds  
CEO  
YWCA Greater Pittsburgh

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<sup>i</sup>Ross, Alexandra, “Her ex left her bruised and in shock. Her attempts at justice illuminate the struggle to prosecute partner rape allegations,” *Public Source* (15 Sep 2023) available at <https://www.publicsource.org/alleggheny-county-rape-prosecution-sexual-violence-assault-pittsburgh-police/>.

<sup>ii</sup> “Attrition studies show that many cases are not investigated or are declined for prosecution because they are perceived to be too difficult to prosecute or unlikely to result in a conviction. These perceptions are seldom based on the legal standards for charging, but rather are grounded—consciously or unconsciously—on sexual violence myths such as those about victim credibility, the relationship (if any) between victim and offender, and the age, race, and socioeconomic status of the victim or offender.” “Model Response to Sexual Violence for Prosecutors (RSVP Model): An Invitation to Lead,” *AEquitas, the Justice Management Institute (JMI), and the Urban Institute*, p. 87, n. 10, available at <https://thersvp.org/wp-content/uploads/2022/07/RSVP-Vol.-I-12.6.19.pdf>.

<sup>iii</sup> “To assess the trustworthiness of a woman’s account of domestic violence, judges and other gatekeepers are inevitably (though perhaps unconsciously) influenced by stereotypical beliefs about women, particularly in the context of intimate relationships.” Deborah Epstein and Lisa Goodman, “Discounting Women: Doubting Domestic Violence Survivors’ Credibility and Dismissing Their Experiences,” *University of Pennsylvania Law Review* 167:425, available at [https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=9644&context=penn\\_law\\_review](https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=9644&context=penn_law_review).

<sup>iv</sup> “Ethical standards guide prosecutors to make charging decisions based on what a reasonable factfinder should conclude when weighing all available admissible evidence; they should not make charging decisions based upon probabilities dictated by the misgivings of the uninformed.” Garvey, Teresa, et al., “Charging Considerations in the Prosecution of Marital Rape,” *AEquitas: Strategies in Brief* (Sep 2019), available at <https://aequitasresource.org/wp-content/uploads/2019/09/Charging-Considerations-in-the-Prosecution-of-Marital-Rape-2.pdf>

<sup>v</sup> *DeShaney v. Winnebago County Dep’t of Soc. Servs.*, 489 U.S. 189, 197 n.3 (1989) (“[t]he State may not of course, selectively deny its protective services to certain disfavored minorities without violating the Equal Protection Clause.”); *Hynson By & Through Hynson v. City of Chester Legal Dep’t*, 864 F.2d 1026, 1031 (3d Cir. 1988) (laying out the Third Circuit’s test for determining when a law enforcement agencies’ policies, practices, and customs towards domestic violence constitute sex discrimination under the Equal Protection clause); *Seidle v. Neptune Twp.*, 2019 WL 5685731, at \*8–9 (D.N.J. Oct. 31, 2019), opinion vacated in part on other grounds, No. 2020 WL 4349901 (D.N.J. July 29, 2020) (finding sufficient evidence to support plaintiff’s claim that municipal defendants had a custom of treating domestic violence complaints less favorably under the *Hynson* test); *Hynson v. City of Chester*, 731 F. Supp. 1236, 1240–41 (E.D. Pa. 1990) (same).