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House Republican Policy Committee
September 17, 2026

Testimony of
First Assistant District Attorney
Travis S. Anderson

Good morning, Chairman Rowe, Representative Miller, and members of the House Republican Policy Committee. My name is Travis Anderson. I am the First Assistant District Attorney here in Lancaster County and have served in this role for the past three years. Prior to being appointed as First Assistant in 2024, I spent ten years as a prosecutor in the Lancaster County District Attorney's Office, including several years supervising the office's trial unit. The focus of my criminal practice is the prosecution of violent felonies, including homicide cases. I appreciate the opportunity to testify this morning and I hope that my participation assists in bringing about a legislative solution to the problem created by the Pennsylvania Supreme Court's decision in *Commonwealth v. Lee*.

I want to start by clarifying some points about the crime of Second Degree Murder and the people who commit it. The *Lee* opinion reflects, in part, the long-standing talking point that those who commit Second Degree Murder are less dangerous or less culpable than offenders who commit other categories of Murder. I respectfully urge the General Assembly to reject this contention.

A conviction for Second Degree Murder does not necessarily or even logically evince a jury determination that the offender is less dangerous than an offender who commits premeditated murder. Oftentimes, a conviction for Second Degree Murder represents a compromise verdict. The charge of First Degree Murder requires the jury to unanimously decide beyond a reasonable doubt that the defendant had the specific intent to kill, whereas Second Degree Murder does not require the jury to agree upon the specific thought processes of the killer.

There are, to be sure, some "getaway drivers" and other less culpable coconspirators who are convicted of Second Degree Murder. But oftentimes, those who commit Second Degree Murder are among the most dangerous offenders. One cannot be found guilty of Second Degree

Murder unless one was attempting to commit or actually committing one or more of the most depraved felonies that exist within the Crimes Code. An offender's culpability is certainly not mitigated because the victim died as a result of the offender's pursuit a Robbery, or a Rape, or a Kidnapping, or the other offenses which can give rise to Second Degree Murder.

Society needs to be protected from those who kill in furtherance of such violent felonies. Doing so requires a sentencing scheme that both removes the offender from the community through a lengthy period of incarceration and that concomitantly presents a grim deterrence through the certainty of a stiff sentence.

I respectfully encourage the House to adopt the thoughtful sentencing framework outlined in Senate Bill 1400, which provides the necessary incapacitation and deterrence, while also allowing the court to take account of the individual circumstances of the offense and the offender.

As the Committee is aware, under Senate Bill 1400 the default sentence for an adult offender convicted of Second Degree Murder is a mandatory sentence of 35 years to life in prison. However, life imprisonment without the possibility of parole is the mandatory sentence where certain special circumstances exist.

Senate Bill 1400 also allows the sentencing court to take account of mitigation evidence. The 35-year mandatory would not apply if the defendant can prove that, factually, they were less responsible for the death. This addresses the Supreme Court's concerns about those rare Second Degree Murder defendants who have decreased culpability as compared to a principal actor who directly commits the killing.

Senate Bill 1400 also provides a thoughtful and practical framework for addressing the hundreds of offenders presently serving sentences for Second Degree Murder. Putting the decision in the hands of the Parole Board and mandating the opportunity for victim's family to be heard will ensure the orderly and evenhanded administration of justice for offenders who are already sentenced. And Senate Bill 1400's predictable timelines for parole eligibility would also alleviate much of the distress and uncertainty that would otherwise be created by judicial resentencing hearings.

About ten years ago, I represented the Commonwealth in the resentencing of several of Lancaster County's juvenile lifers—offenders who had been sentenced to life imprisonment for murders they committed when they were under the age of 18, but who had to be resentenced in accordance with another set of Supreme Court decision. I can tell you that the uncertainty and procedural unpredictability of those resentencing hearings re-traumatized many of the surviving family members of the victims. I respectfully urge the General Assembly to avoid those same issues by enacting the procedures outlined in Senate Bill 1400.

Thank you for the opportunity to testify today. I am happy to answer any questions that the Committee may have.