

GOOD AFTERNOON. I'M BETSY SCHEIBEL FORMER NORTHWESTERN DISTRICT ATTORNEY.

BULLYING, AND OUR SOCIAL RESPONSE TO IT, IS AN IMPORTANT ISSUE PRESENTLY FACING PARENTS, EDUCATORS, LAW ENFORCEMENT PERSONNEL, LEGISLATORS, AND, MOST IMPORTANTLY, OUR CHILDREN. I COMMEND THE WORK OF THIS COMMISSION AND I APPRECIATE THE OPPORTUNITY TO ADDRESS YOU HERE. WITH ME TODAY IS BETH DUNPHY FARRIS, MY FORMER DEPUTY FIRST ASSISTANT DISTRICT ATTORNEY WHO ASSISTED ME IN THE PRINCE INVESTIGATION AND IN PREPARING TODAY'S COMMENTS.

ON JANUARY 14, 2010, AS DISTRICT ATTORNEY FOR THE NORTHWESTERN DISTRICT, I WAS NOTIFIED OF THE UNATTENDED DEATH OF A FIFTEEN YEAR OLD FEMALE CHILD IN THE TOWN OF SOUTH HADLEY. THE RESULTING INVESTIGATION INTO THE CIRCUMSTANCES OF HER DEATH, AND MY DECISION TO INITIATE CRIMINAL CHARGES AGAINST SIX HIGH SCHOOL STUDENTS, CATAPULTED THE STORY BEFORE THE PUBLIC. WHILE THIS IS NEITHER THE TIME, NOR PLACE, TO

DISCUSS THE REASONS WHY I TOOK ACTION IN THIS MATTER, MUCH OF THE PUBLIC DEBATE THAT HAS ENSUED HAS CENTERED ON BULLYING, INCLUDING AN ATTEMPT TO DEFINE WHAT IS THE APPROPRIATE RESPONSE TO IT. DURING MY YEARS AS A PROSECUTOR, THIS WAS ONE OF THE MOST IMPORTANT ISSUES I ENCOUNTERED. IT TRANSCENDS RACE, ETHNICITY, GENDER, SEXUAL ORIENTATION, AS WELL AS SOCIAL AND ECONOMIC BOUNDARIES. IT IS AFFECTING ALL OF OUR CHILDREN, EITHER DIRECTLY OR AS A BYSTANDER, AND NEEDS TO BE ADDRESSED WITH THOUGHTFUL POLICIES AND PROCEDURES -- WITHOUT RESORT TO KNEE-JERK REACTIVE MEASURES THAT ARE NOT SUSTAINABLE OR BENEFICIAL.

TO THAT END, WITH THE LIMITATION OF TIME, LET ME ADDRESS ONE OF THE SPECIFIC ISSUES BEFORE YOU -- THE NEED, OR LACK THEREOF, TO CREATE LEGISLATIVE CHANGES TO ADDRESS THE ISSUES OF BULLYING AND CYBERBULLYING. I PROPOSE THREE LEGISLATIVE CHANGES.

AS A PROSECUTOR, ON A DAILY BASIS, I WAS CALLED UPON TO OVERSEE OR REVIEW POLICE INVESTIGATIONS

DETAILING ACTIONS COMMITTED BY SCHOOL-AGED CHILDREN, BOTH ON AND OFF SCHOOL GROUNDS. IT MAY NOT BE SURPRISING TO HEAR THAT, FOR THE MOST PART, OUR CRIMINAL STATUTES ADEQUATELY ADDRESS THE INTENTIONAL ACTS CHILDREN PERPETRATE AGAINST CHILDREN. AS SUCH, PROSECUTORS EMPLOY A FULL ARRAY OF MEASURES AVAILABLE WITHIN THE JUVENILE JUSTICE SYSTEM; FROM DETERMINING WHETHER A DELINQUENCY COMPLAINT IS WARRANTED TO RECOMMENDING AN APPROPRIATE RESOLUTION. THUS, WHEN INTERPRETED BY TRAINED LAW ENFORCEMENT PERSONNEL OR PROSECUTORS, ACTS OF BULLYING ARE APPARENT -- AND APPROPRIATELY -- PROSECUTED OR DIVERTED IN THE CRIMINAL JUSTICE SYSTEM. ALL TOO OFTEN, HOWEVER, SCHOOL ADMINISTRATORS DELAY OR, IN SOME CASES, NEGLECT TO NOTIFY LAW ENFORCEMENT OF CRIMINAL ACTS COMMITTED ON SCHOOL PROPERTY.

PRESENTLY, THE LAW REQUIRES A PRINCIPAL OF A SCHOOL TO REFER INCIDENTS OF BULLYING TO LAW ENFORCEMENT "IF A CRIMINAL CHARGE MAY BE PURSUED". INSTEAD, I WOULD

SUGGEST THAT REFERRAL OF AN INCIDENT OF BULLYING TO LAW ENFORCEMENT BE REQUIRED ONCE SUBSTANTIATED THROUGH A SCHOOL-BASED INVESTIGATION. WITHOUT IT, INCONSISTENT INTERPRETATION OF THE CRIMINAL CODE BY SCHOOL ADMINISTRATORS, MANY OF WHOM ARE NOT TRAINED IN THE LAW, PREVENTS EARLY INTERVENTION AND PREVENTION MEASURES FOR THE VICTIM, PERPETRATOR AND BYSTANDER. SUCH REFERRAL REQUIREMENTS ARE REQUIRED OF OTHER ADMINISTRATIVE AGENCIES OVERSEEING REPORTS OF ABUSE AND NEGLECT FOR CHILDREN, ELDERS AND PERSONS WITH DISABILITIES. THERE IS NO LOGICAL REASON TO EXEMPT EDUCATORS FROM SIMILAR MANDATED REFERRAL REQUIREMENTS.

THIS RECOMMENDATION IS BASED ON MY THIRTY YEARS AS A PROSECUTOR. MY VIEW OF REFERRAL UPON SUBSTANTIATION IS NOT ROOTED IN A DESIRE TO PROSECUTE EVERY CHILD ALLEGED TO BE A BULLY, OR IN THE FEELING THAT ADMINISTRATORS ARE INCAPABLE OF IDENTIFYING ACTS THAT RISE TO THE LEVEL OF A CRIME. INSTEAD, IT COMES

FROM A POSITION ROOTED IN THE WELL-ESTABLISHED PRINCIPLE THAT THE DISTRICT ATTORNEY SHOULD REVIEW AND DETERMINE WHETHER AN ACT IS CRIMINAL AND, IF CRIMINAL, WHETHER PROSECUTION IS APPROPRIATE. SUCH REFERRAL IS REQUIRED WHEN A WEAPON IS DISCOVERED ON SCHOOL GROUNDS. ONCE AGAIN, THIS PROCESS IS MANDATED IN OTHER DISCIPLINES WITH THE RESULT BEING A MORE SUCCESSFUL INTERVENTION FOR BOTH THE VICTIM AND THE PERPETRATOR.

PRESENTLY, THERE IS NO SANCTION FOR THE FAILURE OF A SCHOOL ADMINISTRATOR TO REFER AN INCIDENT OF BULLYING TO LAW ENFORCEMENT. IN ALL OTHER STATUTES REQUIRING REFERRAL, ADMINISTRATORS WHO FAIL TO ADHERE TO THE ARTICULATED STANDARD ARE SUBJECT TO CIVIL, IF NOT CRIMINAL PENALTIES.

IF THE ISSUE OF PARENTAL LIABILITY IS BEING REVIEWED TO DETERMINE WHETHER LEGISLATIVE ACTION IS WARRANTED, CERTAINLY THE FAILURE OF SCHOOL OFFICIALS TO APPROPRIATELY REDRESS SUBSTANTIATED CLAIMS OF

BULLYING SHOULD BE EQUALLY SUBJECT TO REVIEW. AS “CARETAKERS” OF OUR CHILDREN, AS THAT TERM HAS BEEN COMMONLY UNDERSTOOD, BY STATUTE AND AT COMMON LAW, A REVIEW OF PARENTAL LIABILITY WITHOUT A SIMILAR REVIEW OF SCHOOL-BASED LIABILITY IS SHORTSIGHTED.

THIS VIEW IS NOT MEANT TO PASS JUDGMENT ON SCHOOL ADMINISTRATORS, NOR IS IT MEANT TO PLACE ADDITIONAL BURDENS ON AN ALREADY STRETCHED SYSTEM. IT IS, HOWEVER, MEANT TO PLACE THE RESPONSIBILITY OF PROTECTING OUR CHILDREN, WHILE THEY ARE IN SCHOOL, SQUARELY ON THE SHOULDERS OF THOSE WHOSE JOB IT IS TO PROTECT THOSE CHILDREN.

THESE SUGGESTED LEGISLATIVE CHANGES ARE A LOGICAL EXTENSION OF THE DISTRICT ATTORNEY’S LEGISLATIVE MANDATE TO OPERATE COMMUNITY-BASED JUVENILE JUSTICE PROGRAMS. THIS LEADS ME TO MY THIRD SUGGESTION FOR LEGISLATIVE CHANGE. CHAPTER 12, SECTION 32 OF OUR GENERAL LAWS ALLOWS DISTRICT ATTORNEYS TO OPERATE COMMUNITY-BASED JUVENILE JUSTICE PROGRAMS

(CBIJP), BUT THERE ARE INFORMATION-SHARING LIMITATIONS. THE ACTS OF 2004 ESTABLISHED PILOT CBIJPs IN ESSEX COUNTY AND HAMPSHIRE COUNTY IN MY DISTRICT. FURTHER, IT PROVIDED FOR CONFIDENTIAL AND PRIVILEGED INFORMATION SHARING, A DECISION THAT ADDRESSED PREVIOUS CONCERNS WITH CHAPTER 12, SECTION 32.

I WOULD SUGGEST THAT CHAPTER 12, SECTION 32 BE AMENDED TO ALLOW ALL DISTRICT ATTORNEYS TO OPERATE CBIJPs WITH THE SAME PARAMETERS AS IN THE ACTS OF 2004. THESE CBIJPs INCLUDE MEMORANDUMS OF UNDERSTANDING BETWEEN PROSECUTORS, POLICE AND SCHOOL ADMINISTRATORS AND ARE DESIGNED TO IDENTIFY AND PROVIDE SERVICES TO AT-RISK YOUTH OR THOSE IN KNOWN-RISK SITUATIONS. THE INTENT IS TO AVOID ENTERING THE CRIMINAL JUSTICE SYSTEM, NOT TO “THROW KIDS INTO IT”. THIS CAN ONLY BE ACCOMPLISHED BY SHARING INFORMATION AND ALLOWING INPUT BY IDENTIFIED STAKEHOLDERS AT REGULAR ROUNDTABLES IN A WAY THAT HELPS BUILD TRUST, WHICH IN TURN LEADS TO MORE MUTUALLY ACCEPTABLE

RESOLUTIONS.

MASSACHUSETTS CAN AND SHOULD BE A LEADER IN ADDRESSING BULLYING IN A COMPREHENSIVE WAY... STRIKING A BALANCE BETWEEN THE NEED TO PROTECT VICTIMS AND HOLD PERPETRATORS ACCOUNTABLE, WITH PROVIDING EDUCATION AND OUTREACH AS A MEANS TO REDUCE, AND, IN SOME CASES, PREVENT ACTS OF BULLYING. BULLYING IS A SOCIAL PROBLEM AND ONE THAT NEEDS TO BE ADDRESSED IN A HOLISTIC MANNER. ONLY THEN WILL WE BEGIN TO MAKE HEADWAY IN CHANGING THE CULTURE.