

Statement of Ms. Ashley Carvalho
Before the United States Sentencing Commission
Hearing on 2023-2024 Proposed Amendments,
March 6-7, 2024
Proposed Amendment on Youthful Individuals
Panel VI – Victims’ Perspective

As you deliberate on the proposed amendment aimed at excluding any convictions prior to reaching the age of 18 from a defendant's criminal record, I urge you to recall the story you're about to hear and remember that your decisions have a profound impact on our communities and have real life consequences. Please be patient with me as my brother's story must delve into the backgrounds of several juvenile offenders.

My brother, Anthony, was just 20 years old when his life was tragically cut short in an act of senseless violence. He fell victim to a group of four individuals, aged 16 to 19, whose criminal records painted a clear picture of their dangerous trajectory.

I cannot understate the gravity of the events that unfolded on the tragic night of my brother's passing. Four juveniles meticulously planned an armed robbery. They made a few stops to arm themselves with loaded guns; they stopped at a Walmart to steal bandanas to conceal their identities, strategically opting for a color opposite that of their gang affiliation; they parked their car on a residential street and set out to find someone to rob. Their actions were calculated, deliberate, and devoid of empathy.

It was at an intersection that my brother inadvertently encountered them and attempted to navigate past them. They blocked his path and escalated the confrontation by raising their guns. My brother began to run toward safety. In a cruel and merciless onslaught, they fired at my brother's back as he sought refuge, darting from one sheltered position to another behind parked vehicles. 15 shell casings were found at the scene. He collapsed a block away from the hospital, where two beautiful citizens came to his aide. His last words were "please call my mom."

As we grappled with the devastating loss of Anthony, we found ourselves ensnared in a legal system that seemed to offer more loopholes than justice. My father would describe it as a system that poured salt on the wounds of victims while finding new opportunities for offenders to evade responsibility.

And here is the salt: to start, if the current system was working, my brother would still be alive today. Taxpayers have spent thousands if not millions of dollars on studies to show us recidivism rates are higher with shorter sentences. The lead gunman (19 at the time), had been released on probation from the House of Corrections a mere 2.5 months prior on a shockingly short 18-month sentence for armed assault with intent to murder. The leniency of sentencing only served to embolden him further, awarding him with enough "street credit" before being released back into society. If science and data are on the table, 18-months was not nearly enough, especially given his age. He *would* recidivate, he *would* escalate, the only unknown was who his next victim would be.

The second gunman, aged 16, was wearing an ankle monitor when he participated in the slaying of my brother. Despite his criminal record, which included charges of armed assault with intent to murder, he was released on probation likely because of his age, under the assumption that "kids don't think rationally." Despite the court's awareness of his violent tendencies and impulsivity, they opted to monitor him with an ankle bracelet and simply hoped for the best. Was it his bullet that tore its way into my brother's lung?

Here's some more salt - when one of the defendants was released due to a legislative development in bail reform, it unleashed a tragic chain of events that culminated in the loss of more innocent lives. In 2017, one month after *Bragan v Commonwealth*, one of the defendant's bail was reduced from \$35,000 to \$1,000. Yes, the law states Judges should take into consideration the "dangerousness" of said individual when setting bail, but somehow this Judge found being indicted for two separate violent crimes, a masked home invasion resulting in two women being stabbed and an armed assault with intent to rob resulting in my brother's murder, all within a year, subjective. His need to follow new legislative developments and right our wrongs by keeping people behind bars merely because they are poor, swung the pendulum so far in the opposite direction that this dangerous kid was set free. Within 10 months of his release he was arrested for an OUI. Somehow the Probation Office did not communicate with the DA, and he was released. Within a week of that he found himself in a high speed car chase evading arrest. He collided with an oncoming vehicle resulting in three fatalities including himself, his passenger and a 32 year old war veteran who was on his way to the hospital to meet his newborn baby. His actions devastated three other families, and, less significantly, his death complicated my brother's case. This is why guidelines are so important and why judges should not be allowed to depart from those guidelines.

Yet, even amidst our grief, we sought solace in the pursuit of justice. Six and a half years later, my family finally found a semblance of closure as the perpetrators were brought to trial and rightfully convicted. However, our journey towards healing was abruptly halted by yet another legal twist, another pour of salt: Massachusetts highest court deemed it unconstitutional to sentence a juvenile under the age of 21 to life without the possibility of parole. We now face a resentencing.

The impact of this ruling cannot be overstated. It reopens wounds, prolongs anguish, and thrusts families into an endless cycle of legal battles. My father, who had already borne the weight of unimaginable loss, now faces the daunting prospect of continuing the fight for justice from beyond the grave. He cries for us, his daughters, as he realizes the journey did not end when the trial did.

With each opportunity provided, these juveniles demonstrated their unworthiness of such opportunities from the outset. To me, their persistent behavior appears less driven by impulsivity and more indicative of a fundamental lack of moral direction.

Ladies and gentlemen, I implore you to consider the real-life consequences of your decisions. Juvenile records serve as red flags, guiding Judges towards informed sentencing that prioritizes public safety. Science unequivocally demonstrates that longer sentences reduce recidivism rates, safeguarding our communities from further harm. If this amendment is passed, these red flags are eliminated. Let us not turn Lady Justice's blindfold into something that it was not intended to be.

Removing a juvenile's criminal history from consideration sends a dangerous message that past actions have no bearing on future behavior. It undermines the very essence of justice and accountability. We cannot afford to ignore the warning signs, to turn a blind eye to the dangerous paths some young individuals may choose.

My brother's story transcends mere statistics; it stands as a powerful testament to the pressing need for reform. May his legacy ignite change, motivating us to champion a legal system that prioritizes accountability, compassion, justice and the prevention of reentry.

Thank you.