



Senate of Pennsylvania

July 23, 2026

Pennsylvania Commission on Sentencing
530 Irvis Office Building Capitol Complex,
Harrisburg, PA 17120

Dear Chair Krajewski and Commission Members,

As the Leader of the Senate Democrats and Senate Judiciary Committee Chairwoman, we are writing to express our concern regarding the impending lack of sentencing guidelines for murder of the second degree post *Commonwealth v Lee*. Our Caucus is well aware of our Supreme Court's monumental decision in that case, and keenly aware of the over 1,100 Pennsylvanians currently serving a sentence for this crime. Despite our best efforts, it is unlikely that bipartisan legislation will cross the finish line by the Court's deadline on July 24, 2026.

We write to express concern that after July 24, 2026, the legal sentence for murder of the second degree is an unknown minimum sentence up to life without parole. In the *Lee* case, the Court gave direction on how such a sentencing might occur:

On remand, the sentencing court must, after consideration of Appellant's individual culpability, determine whether he should be resentenced to life imprisonment without the possibility of parole; or to a maximum sentence of life imprisonment, as required by 18 Pa.C.S. §1102(b), accompanied by a minimum sentence determined by the court. Our allowance for such a minimum and maximum sentence – despite the requirement in 42 Pa.C.S. §9756(b)(1) that a minimum sentence may not exceed one half of a maximum sentence, and the prohibition in 61 Pa.C.S. §6137(a) that the parole board has the power to parole all offenders except those serving life imprisonment – flows from our constitutional ruling.

We came to the same conclusion in analogous circumstances in our post-*Miller* rulings addressing the resentencing of juveniles convicted of first-degree murder who had been sentenced to life

imprisonment without the possibility of parole. See *Batts I*, 66 A.3d at 297 (remanding for resentencing for possible maximum sentence of life imprisonment and minimum sentence to be set by sentencing court), and *Commonwealth v. Batts*, 163 A.3d 410, 442-44 (Pa. 2017) (“*Batts II*”) (in appeal following *Batts I*, determining severance of 42 Pa.C.S. §9756(b)(1) and 61 Pa.C.S. § 6137(a) necessary for constitutionally-mandated resentencing of juveniles). *Commonwealth v. Lee*, No. 3 WAP 2024, slip op. at 71 (Pa. Mar. 26, 2026).

Without statutory guidance, we expect sentences to vary widely across our state, and we have significant concern that such outcomes will be unfair, unjust, and result in extremely disparate outcomes, potentially creating different systems of justice based on geographical location. ***We respectfully urge you to utilize your statutory authority to create appropriate, research-based sentencing guidelines for murder of the second degree within the current sentencing scheme that are reasonably proportionate to sentences with an offense gravity score between G1- H6.***

Further, in considering creating such guidelines, we point out that under *Com. v. Tarver*, 493 Pa. 320, 426 A.2d 569 (1981), the underlying enumerated felony and murder of the second degree merge for purposes of sentencing. We would urge you to consider this as you seek to create appropriate, proportionate guidelines for this offense.

You have our sincerest gratitude for your excellent work and all that you have done to create a uniform and robust sentencing scheme here in Pennsylvania.

Sincerely,

A handwritten signature in black ink that reads "Jay Costa". The signature is fluid and cursive, with the first name "Jay" being more prominent than the last name "Costa".

Jay Costa
43rd Senatorial District

A handwritten signature in black ink that reads "Amanda M. Cappelletti". The signature is cursive and somewhat stylized, with the first name "Amanda" being the most legible part.

Amanda M. Cappelletti
17th Senatorial District