

Committee on Judiciary
House of Representatives
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Written Statement by
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I would like to thank the members of the Committee for providing me with an opportunity to share a few thoughts regarding House Bill 2620.

I currently coordinate the **Equal Justice for People with Mental Retardation** project at the Institute on Disabilities, Pennsylvania's University Affiliated Program at Temple University. Funded by the Joseph P. Kennedy, Jr. Foundation, **Equal Justice** is a three year project designed to support people with mental retardation who have been arrested for crimes, or who have been crime victims. I also serve on the Philadelphia Police Advisory Panel on Disabilities. This Panel consists of law enforcement officers and representatives from various disability organizations, and works to enhance the relationship between law enforcement and the disability communities in Philadelphia.

Through my work on the **Equal Justice** project, I have learned that, throughout the United States, people with mental retardation are coming into contact with the criminal justice system in increasing numbers. The best and most current research indicates that at least 10% of the national prison population consists of people with mental retardation. Data also indicates that people with disabilities including mental retardation, are twice as likely to be crime victims as are their non-disabled peers. As people with disabilities assume their rightful place in the social and economic mainstream, law enforcement officers are being called upon to interact these individuals on a regular basis. Police training on disability, however, remains minimal.

In order to address this growing problem, the **Equal Justice** project provides information and training to criminal justice professionals regarding mental retardation, as well as training for self-advocates and their allies regarding the criminal justice system. We have completed several police trainings to date and have found that law enforcement officers are extremely willing to access information that will assist them in the communities they serve. Evaluations completed by officers who have attended our trainings reflect this; in fact, many officers have asked for permission to participate in additional trainings on disability.

House Bill 2620 provides for police training that is consistent, reflects the current best practices in the field of disability, and broadens the spectrum of the information presented to officers. Curricula currently in use by law enforcement officers do not reflect the diversity of the disability community. In fact, many curricula present misinformation about several disabilities, including mental retardation. Item #6b of House Bill 2620 will ensure that training materials on disability are accurate; it will also create an opportunity for dialogue between two communities that traditionally interact only in crisis situations.

Item #5 of House Bill 2620 specifies the need for training, which will enhance an officer's ability to recognize mental retardation, and understand the effect of this disability on communication and interaction. This is very significant for people with mental retardation who are alleged offenders or victims of crime.

The Equal Justice project is currently advocating for 30 Pennsylvanians with mental retardation who have been accused of and/or convicted of crimes. In almost every case, the fact that these individuals have mental retardation went unnoticed. This is not surprising, given that police officers are not specifically trained about mental retardation, and because people with mental retardation will go to great lengths to hide their disability. Nationally respected author and advocate Bob Perske calls this the "cloak of competence". This cloak of competence works against people with mental retardation at every stage of the criminal justice process, but places them in particular jeopardy in an interrogation setting. People with mental retardation often waive their Miranda rights to a lawyer, are easily led when questioned, and often claim responsibility for actions that they did not commit in an effort to please authority figures and extricate themselves from a stressful situation. When incarcerated, these individuals are particularly vulnerable to abuse from other inmates; they may choose not to frequent common areas where they are at risk for such abuse, and may be forced to act aggressively in self-defense. These factors contribute to the fact that inmates with mental retardation generally serve their full sentence because their behavior while incarcerated is perceived to be antisocial. Our law enforcement officers are the gatekeepers to the justice system; training officers to identify an alleged offender with mental retardation at an early stage will provide that individual with the opportunity to obtain appropriate and necessary resources and supports.

Difficulties in communication do not only occur with offenders. People with mental retardation who have been victims of crimes are not viewed as credible witnesses, and are often thought to be incapable of providing testimony on their own behalf. When supporting victims with mental retardation, the Equal Justice project staff has found that a traditional approach to interviewing crime victims may not be effective for a victim with mental retardation. A good example was given to me by my friend and colleague Audrey Badger, whose personal statement is attached for your consideration. Audrey's daughter Nikki, a young woman with Downs Syndrome, was raped by a neighbor. The two officers who

initially responded to Audrey's call for help had no previous experience with people with mental retardation or other developmental disabilities. As the officers questioned Nikki about her attacker, they wondered if Nikki was capable of providing them with the information they needed to make an arrest. When the officers asked Nikki if her attacker was white, Nikki responded with a "No". When asked if her attacker was African American, Nikki, also answered "No". The investigating officers took Nikki's response as a sign that Nikki could not remember what had happened to her, and prepared to leave. Audrey then turned to her daughter and asked Nikki to describe the boy who had attacked her. "He looks like Mr. Lee's family", Nikki responded. Additional questioning helped the officers to ascertain that a young Asian boy who lived a few houses away from Nikki was the attacker. Again, advance training would have prepared the officers for interviewing a victim like Nikki.

Nikki is one of many people with mental retardation and other developmental disabilities who have been the victim of a crime. Through police training, our project staff has been fortunate enough to meet many dedicated Victims Assistance Officers (VAOs) who go to great lengths to serve their communities. The VAOs that we have met have not received training regarding disabilities such as mental retardation, and have many questions regarding support for such individuals. VAO's need access to information and training that will enhance their understanding of the particular needs of people with mental retardation who have been victimized, as well as an understanding of the real or perceived barriers that prevent these crimes from being reported and/or prosecuted.

House Bill 2620 is a small bill that has the potential to make a significant impact. Not only will it ensure that police officers have consistent access to the best and most current information from the disability community, but it will serve to enhance the relationship between the Law Enforcement and Disability Communities throughout Pennsylvania.

I urge the committee to support this important legislation, and thank you once again for considering my statement.