

HOUSE DEMOCRATIC POLICY COMMITTEE



Legislative Panel:
State Policies on Disability Issues
March 23, 2018

1:00 – 1:20

Introduction

1:20 – 1:40

Support Service Provider Program for Deafblind (HB 2069)

Paul Richard McGann

Allison Cherry, Support Service Provider

Joe Strechay, Office of Vocational Rehabilitation, Bureau of
Blindness and Visual Services

Marcia Drenth, Center for Independent Living of Central PA

2:00 – 3:00

Kids with Autism and Crime

Lu Randall, Autism Connection of PA

Tammy Hughes, Duquesne University School of Education

Tiffany Sizemore, Duquesne University School of Law

Richard Steele, Juvenile Court Judges' Commission

Pennsylvania House of Representatives<http://www.legis.state.pa.us/cfdocs/Legis/CSM/showMemoPublic.cfm?chamber=H&SPick=20170&cosponId=25149>

03/14/2018 02:31 PM

[Home](#) / House Co-Sponsorship Memoranda

House Co-Sponsorship Memoranda

House of Representatives Session of 2017 - 2018 Regular Session

MEMORANDUM

Posted: February 2, 2018 10:45 AM
From: [Representative Dan L. Miller](#) and [Rep. Thomas P. Murt](#)
To: All House members
Subject: Deafblind Support Service Providers

In the near future, we plan to introduce legislation that will codify an expiring grant program which has provided a lifeline for many deaf and blind Pennsylvanians by providing access to support service providers who facilitate communication and provide sighted guidance.

In 2014, the Department of Labor and Industry allocated a pilot grant to start a statewide support service provider program in Pennsylvania. This program has since allowed many more deafblind Pennsylvanians to access their communities and avoid costly in-home care or nursing home placement. To ensure this program continues to succeed in supporting individuals who are deafblind, our legislation would codify the grant program into statute.

Support service providers are trained to assist deafblind individuals specifically by providing environmental information and acting as a guide and communication facilitator.

It is imperative that deafblind Pennsylvanians continue to enjoy services that empower them to live more independent lives. Please join us in co-sponsoring this important legislation.

[View Attachment](#)



Introduced as [HB2069](#)

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2069 Session of
2018

INTRODUCED BY D. MILLER, MURT, READSHAW, THOMAS, CHARLTON, RAPP,
YOUNGBLOOD, DRISCOLL, KINSEY, PASHINSKI, MILLARD, DeLUCA AND
WARD, FEBRUARY 12, 2018

REFERRED TO COMMITTEE ON HUMAN SERVICES, FEBRUARY 12, 2018

AN ACT

Amending the act of December 12, 1994 (P.L.1023, No.139),
entitled "An act establishing the Statewide Independent
Living Council; providing for the powers and duties of the
council; providing for a State plan for the provision of
services to people with disabilities; providing for grants
and funding for establishment of centers for independent
living; and requiring centers for independent living to
maintain certain standards and give certain assurances in
order to qualify for assistance," further providing for
definitions and for grants and funding.

The General Assembly of the Commonwealth of Pennsylvania
hereby enacts as follows:

Section 1. Section 3 of the act of December 12, 1994
(P.L.1023, No.139), known as the Independent Living Services
Act, is amended by adding definitions to read:

Section 3. Definitions.

The following words and phrases when used in this act shall
have the meanings given to them in this section unless the
context clearly indicates otherwise:

* * *

"Individual who is deafblind." An individual:

(1) Who has a central visual acuity of 20/200 or less in the better eye with corrective lenses or a field defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees or a progressive visual loss having a prognosis leading to one or both conditions.

(2) Who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification or a progressive hearing loss having a prognosis leading to this condition.

(3) For whom the combination of impairments described under paragraphs (1) and (2) causes extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment or obtaining a vocation.

(4) Who despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined through functional and performance assessment to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment or obtaining vocation objectives.

* * *

"Support service provider." An individual trained by a center for independent living to link an individual who is deafblind to their environment by:

(1) Guiding an individual who is deafblind.

(2) Facilitating communication between an individual who is deafblind and other individuals.

(3) Providing information to an individual who is

deafblind about their surroundings.

Section 2. Section 8 of the act is amended by adding a subsection to read:

Section 8. Grants and funding.

* * *

(f) Existing centers for independent living.--

(1) The Department of Labor and Industry shall provide grants to:

(i) Centers for independent living that provide services to individuals who are deafblind. Grants shall be used to provide assistance to an individual who is deafblind who is working toward establishing and maintaining independence.

(ii) Centers for independent living that train support service providers. Grants shall be used to provide the necessary training to become a support service provider in this Commonwealth.

(2) A grant under this subsection shall be in the amount of at least \$250,000. Beginning on the effective date of this subsection and annually thereafter, the minimum grant amount listed in this paragraph shall increase at the rate of inflation as outlined in the Consumer Price Index for All Urban Consumers in the Northeast Region for the most recent 12-month period for which the figures have been reported by the United States Department of Labor, Bureau of Labor Statistics. If the rate of inflation does not increase, the minimum grant amount shall remain the same as it was for the previous year.

Section 3. This act shall take effect in 60 days.

- What is an SSP?
 - Person who physically guides deaf-blind people and provides them environmental information so they may accomplish everyday tasks independently.
- Main Functions
 - Communication Facilitator
 - Environmental Queues
 - Foster Independence
- NOT the job of an SSP
 - Interpreter
 - Assistant
 - Caretaker
- Examples of Activities:
 - Grocery Shopping
 - Doctor's Appointments
 - Haircuts
 - Shopping
 - Tech Help
 - Leisure
 - Lunch, Walk, Library, Coffee
 - Special Events
 - Deaf-Blind chapter meeting, Gateway Clipper, Cochlear Day at the Zoo
 - Everyday Tasks
 - Pay Bills, Fill out Checks, Read Mail, Medical Forms, Voting
- Why is it important?
 - Without this program many Deaf-Blind people must rely on family or on friends/neighbors who might charge them for services and take advantage of them.
 - Some deaf-blind people have no one else to help them with these tasks.
 - Have come to rely on this program for basic human needs, things that many of us take for granted.

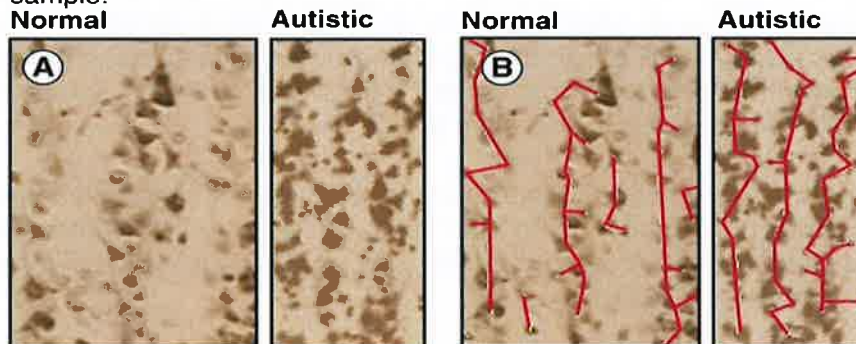
Autism Spectrum Disorders and Crime

A. Autism impairs an individual's ability to **communicate** and **interact** with others.

1. The brain with autism is over-wired with nerves, magnifying every sensory input to sometimes-unbearable levels. Over-wiring causes a traffic jam, or a kind of short circuit, which limits understanding of what other people are saying, and also jams the autistic* person's attempt to communicate to others.

Defining autism

The brains of autistic patients are structurally different from normal brains. Figure A shows a comparison of the brain cells. Figure B shows the same slide overlaid with lines to show the columnar structure, revealing less buffer space between columns in the autistic sample.



Sources: Dr. Manuel Casanova, Andrew Switala

STAFF

"Overwiring" causes slow processing in autism



Organized connections

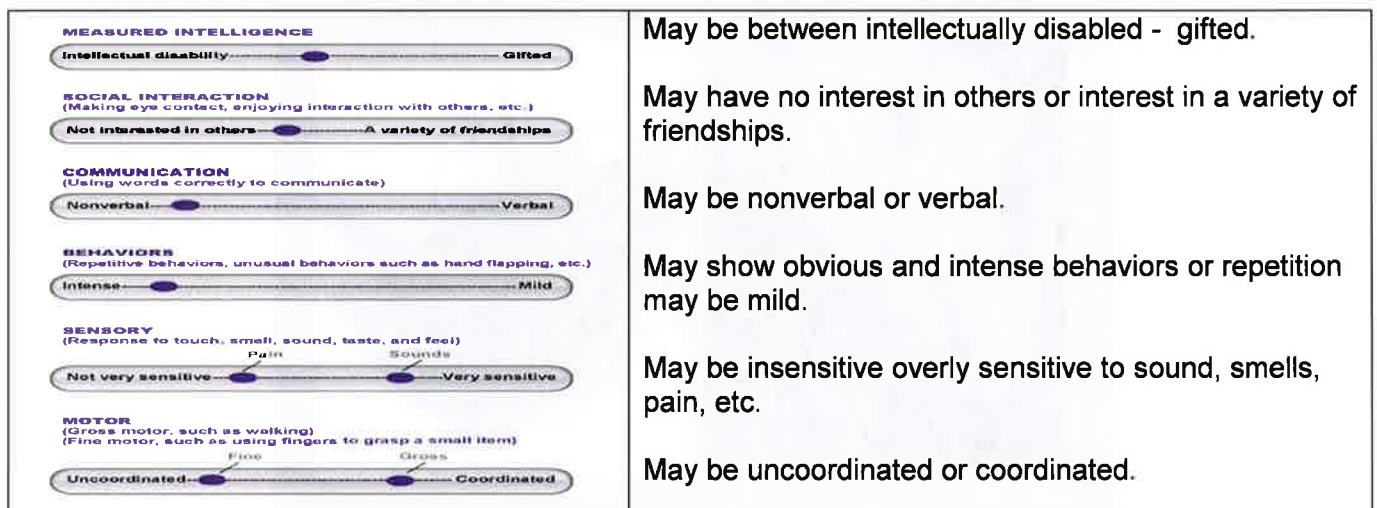
Disorganized connections

* most adults with autism prefer identity-first language

2. **Information gets stuck in the autistic brain**, which causes focus on special interests and creates expertise in autistic people. Unfortunately, trauma and abuse stick in a similar fashion. Autistic people relive memories in very vivid fashion, and over time this creates very high anxiety and easily-activated fear or panic responses.

- **Restrictive, repetitive interests or activities** (e.g., strong adherence to routines, agitated when routines are disrupted, preferred interest dominate conversations, etc.). An African American man reading in a library was oblivious to the early closing that day; he got locked inside (looked like a break in).
- **Restrictive, repetitive patterns of behavior** (e.g., pacing, rocking, hand flapping, finger flicking, etc.) are automatic and the result of brain activity overflow. We twist our hair or chew gum or bounce our leg sometimes but people with autism often have larger movements that make them stand out and catch the eye of bystanders.
- Low awareness of **social rules** and limited ability to engage in **social reciprocity** (e.g., an appropriate back and forth in conversations and interpersonal exchanges). An individual who loved to read comics at the library sat on the library lawn for four hours waiting for it to open; this resulted in a 911 call.
- **Difficulty prioritizing actions**. This can range from putting shoes on ahead of pants, to deciding whether or not to listen to an officer or run home because he is late and might be in trouble with mom. Difficulty prioritizing is also known as **executive functioning** deficits.

3. **Autism Spectrum Disorder (ASD)** includes Autistic Disorder and what we used to refer to as Asperger's. People with ASD have **similar** difficulties but their symptoms can look very different. This graph shows how different people can be.

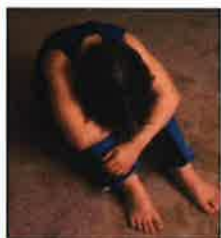


B. Autism and Victimization

1. People with autism are bullied, assaulted, sexually abused, and experience other crimes at a much higher rate than others, and due to communication difficulties, these often go untreated. **Predatory individuals seek jobs or volunteer work with this population.**

Abuse: adults with disabilities

2013



- 1.3 million violent victimizations
 - 21% of all violent victimizations
 - Persons with I/DD: highest rate
-
- 24% of violent crime victims believed, targeted due to disability.

Dept of Justice, Bureau of Statistics May 2015 Report
<http://www.bjs.gov/content/pub/press/caps0913stpr.cfm>

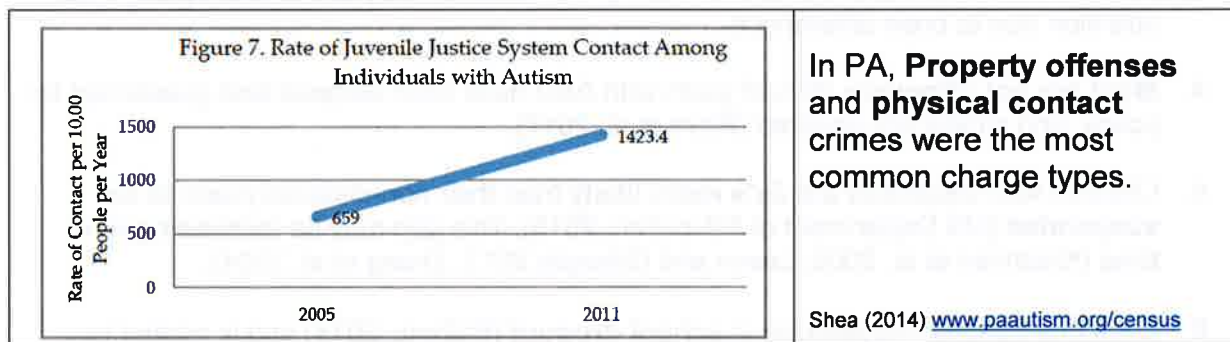
Making Complex Ideas Simple

2. Untreated victimization and trauma can lead to PTSD, especially people with autism. All of this (brain differences + trauma/abuse) causes fight, flight, or freeze behaviors.
3. Individuals with autism will have **up to seven times more contact** with law enforcement over the course of their lifetime than their peers because they act differently and draw attention due to brain differences.
4. **Most are not offenders** 20% of youth with ASD have been stopped and questioned by police, and almost 5% arrested (Rava et al. 2017).
5. Children with disabilities are **2x's more likely** than their non-disabled peers to be **suspended** (US Department of Education, 2015), This gap may be **increasing over time** (Krezmien et al. 2006; Losen and Gillespie 2012; Zhang et al. 2004).
6. Even one **school suspension** is **school dropout** (Balfanz, 2014) and is related to Juvenile Justice Contact called "**school to prison pipeline**" (US Department of Education, 2014; Wald & Losen, 2003)
7. **People of color** have delays or entirely **lack proper diagnosis** due to a lifetime of being inadequately treated in medical system. Children in poverty tend to be **diagnosed at school** and **receive less treatments** (Zelege, Hughes, Tiberi, & Drozda, 2017). This is a factor in the school-to-prison pipeline.
8. In a report of 2525 **caregivers in PA**, youth (elementary to high school) with ASD experienced **school disciplinary action** (15.0%), **police contact** (7.9%) and

hospitalization (7.8%). Experiencing any one of the three events increased risk of experiencing either of the other events (Turcotte, Shea, Mandell, 2017).

C. Autism and Criminality: A complex and controversial topic

1. Factors that lead to criminal activity are usually **distinctly different** for individuals with autism compared with other offenders. They may **not understand that a law has been violated**.
2. Behavioral **manifestations of brain differences in autism**:
 - Physical outbursts - often related to sensory overload, lights too bright plus sound too loud plus inability to escape the situation
 - Appearances of stalking (called "obsessional following" or "determined pursuit" in youth) - where a person they like becomes a preferred interest and now they are showing up outside of their classroom, at lunch, in the library, at after school events, restaurants and outside of the home.
 - Inappropriate sexual advances - applying correct rules like "can I kiss you?" in the wrong setting, like at the mall with strangers.
 - Acting as an accomplice to crimes committed by false friends because people with autism can be very lonely and tend to trust just about anyone when there is an extreme need for acceptance or companionship. This is very problematic related to those they meet in detention settings, which can kick off decades of legal troubles.
3. In PA, rates of Juvenile Justice contact **increase for youth with autism** while it decreased for youth without autism.



4. Problem: Diagnosis is **not always properly identified** at the time a criminal act is committed. **Why?** A) we don't ask, b) the individual may be overwhelmed and unable to tell us, c) they may be undiagnosed and d) professionals interpret behaviors through a criminal or juvenile justice lens.

<u>Autism Communication Challenges</u>	Potential Misinterpretation by <u>Professional</u>
<ul style="list-style-type: none"> • Talks in a monotone or sing-song voice • Echolalia (repetition of words or phrases) • Perseveration (talking about their interests; changing subject back to interests) • Giving unrelated answers to questions • Mimics others speech (echolalia) • Incongruence between words and facial expressions • Does not understand jokes, sarcasm, teasing, or metaphors • Inability to comprehend and respond to multiple prompts/directives 	<ul style="list-style-type: none"> • Making fun of the question • Failing to take the question seriously • Failing to take the interaction seriously • Not listening • Back talking • Has something to hide • Lying • Stubborn, Noncompliant

5. Fight/flight/freeze behaviors in response to authority figures, especially teachers, administrators, or law enforcement officers (LEO) can look like **intentional criminal behavior**. And while de-escalation (giving the person some time and space to calm down) works, traditional LEO tactics (control, contain, detain) can escalate instead.

* Autism can look like the most severe types of criminal offenders **especially to juvenile justice personnel**. Youth with empathy deficits (i.e., Callous and Unemotional traits) have the

highest recidivism rates, poorest treatment prognosis – where typical conduct disorders fare much better.

Individuals with autism have empathy expression challenges, but they are different than those non-autistic people with callous and unemotional traits. The empathy expression challenges noted in autism are responsive to treatment.

Autism Features	Callous and Unemotional traits in Non-Autistic People
<u>Empathy Area:</u> Cognitive (Theory of Mind deficits) Emotional/affective empathy intact <u>Restricted Interests</u> Perseverate on narrow range of interests May impact ability to maintain reciprocal relationships	<u>Empathy Area:</u> Cognitive empathy intact Emotional/affective empathy deficits <u>Narcissism</u> Self-centeredness , sense of entitlement, increased inclination to act negatively toward others

Problem areas are noted in **bold**.

6. If you have autism and are in a traditional treatment program that requires a **victim impact statement**, you are likely to fail to progress and **stay in placement longer**. (Sutton, Hughes, et. al (2013) doi 10.1177/1088357612462060
7. **Developmental**, not a psychiatric, Disability
 - Symptoms impair or disrupt development
 - Lifelong challenge; difficulties do not dissipate
8. The **treatment for autism is different** from:
 - Traditional classroom instruction
 - Traditional social and emotional skill instruction
 - Traditional psychiatric treatments
 - Traditional counseling / psychotherapy services **because the brain is different!**
9. Diagnosis is **not always properly identified** at the time a criminal act is committed.
10. Information regarding national prevalence is limited; There are **more** individuals with autism in secured facilities than expected. **We need autism screening and Pennsylvania is the perfect place to start!**

D. Legal Reform Opportunities

Pennsylvania's Juvenile Act provides for the treatment and rehabilitation of young people charged with offenses. For children in the delinquency system, the Act requires children to have "programs of supervision, care, and rehabilitation..." 42 Pa. C.S.A. §6301(2). In order to achieve that goal, the Court should "[employ] evidence-based practices whenever possible...by using the least restrictive intervention that is consistent with the protection of the community, the

imposition of accountability...and the rehabilitation, supervision, and treatment needs of the child.” 42 Pa. C.S.A. §6301(3).

Despite the stated purpose of the Juvenile Act, children with autism continue to fall through the cracks, as evidenced by the statistical information earlier in this report. The following proposed changes to the Juvenile Act and Juvenile Court Rules of Procedure are intended to ensure that court can be a more fair and safe place for these young people.

1. Training, Intake & Diversion

- a. 42 Pa. C.S.A. §6304 governs the powers of probation officers in the Commonwealth. Among their duties are: to make reports and recommendations to the Court, make appropriate referrals to services, and supervising and assisting children who have been placed on probation. Juvenile Court Procedural Rule 195 provides more information on the required training the probation officers must undergo. Specifically, they must be trained on the Juvenile Act and Rules of Juvenile Court Procedure.

In order to specifically ensure that children with autism are not left to slip through cracks in the system, the legislature can amend 42 Pa. C.S.A. 6304(a)(1) to read: “Make investigations, reports and recommendations the court. All reports to the court shall include any physical, developmental, and/or mental health disability revealed during the probation officer’s investigation of the child.”¹

Additionally, the Pennsylvania Supreme Court, via the Juvenile Court Procedural Rules Committee could require, under Rule 195, specific training regarding prevalent developmental and mental health disabilities in adolescents as part of the required training for probation officers. Such requirement would ensure that probation officers may be able to recognize signs and symptoms of autism (and other disabilities) and conform their supervision of the child in a developmentally and socially appropriate way.

- b. In the event that a child with autism is arrested and admitted to a juvenile detention facility, Juvenile Court Procedural Rule 240(A) sets forth detention requirements. Among the requirements of the probation officer are to conduct an investigation about the child.

In order to specifically protect the child with autism, who may have very specific problems functioning in a secure detention facility, the Pennsylvania Supreme Court, via the Juvenile Court Procedural Rules Committee could advise the committee to explore either: (1) adding a comment to Rule 240, noting the best practice of having the investigation specifically delve into whether the child has an ASD diagnosis or (2) amend Rule 240(A)(1) to include specific language that requires the investigation to include inquiry about any developmental delays and/or mental health diagnoses that the child has. It should be noted that a comment to the rule would not be legally binding; However, including the language in the body of the rule itself would be.

For the child who is not detained after filing of charges, Juvenile Court Procedural Rule 311 governs intake conference with the juvenile probation

¹ Italicized and underlined language indicates proposed additions or edits to current statutes or rules.

officer. It sets forth the things that must be accomplished during the intake interview. This Rule could easily be amended to include a subsection that requires probation officers to, "make specific inquiry about whether the child has a diagnosis of autism and/or any other developmental disability and/or mental health diagnosis and report the information to the court during the child's first hearing." Such a provision would ensure that all relevant parties (i.e., judge, counsel, service providers, etc.) would know this information at the earliest possible opportunity and use it in order to craft appropriate outcomes for the case.

- c. Juvenile Court diversion opportunities differ from county to county in the Commonwealth. Even among the diversion programs that are specifically listed by statute, the method in which they are executed varies widely across the state. Nonetheless, there are some uniform inquiries that can be put into place in order to assure that the needs and special considerations of treating children with autism are consistently being addressed.

INFORMAL ADJUSTMENT: Informal adjustment is a process outlined in 42 Pa. C.S.A. 6323 and Juvenile Court Procedural Rule 312. It allows for the probation officer to refer a child to an agency for services and/or require the child to complete certain conditions in lieu of having the case formally brought before a judge for consideration of adjudication. Upon successful completion of the terms of informal adjustment, the child's case is closed and the child becomes eligible for record expungement in six months.

Adding a subsection to the statute requiring that any referrals to social service agencies for services or rehabilitative programming must be appropriate for the child at issue. The following is proposed language for an additional subsection under 42 Pa. C.S.A. 6323:

"(g) Children with Developmental Disabilities. – If the child being considered for informal adjustment has a diagnosis of autism or autism spectrum disorder, the probation officer must inquire whether any social agencies to which the child is referred is able to provide appropriate accommodations for the child. No child shall be denied from being considered for informal adjustment due to lack of services to accommodate his or her developmental disability. No child shall be considered an unsuccessful informal adjustment solely because his or her developmental disability prevents the child from fully participating in the program."

The highlighted language above can be added to Juvenile Court Procedural Rule 312(B)(2) as well.

CONSENT DECREES: Consent Decrees are governed by 42 Pa. C.S.A. §6340 and Juvenile Court Procedural Rule 370. Consent Decrees are an agreement between the juvenile and the Commonwealth or juvenile probation, whereby the court proceedings are suspended while the juvenile agrees to complete certain conditions under the supervision of probation. If the juvenile successfully completes the conditions of the consent decree, then the petition is withdrawn and the case is closed. The child also becomes eligible for record expungement six months after case closure. Practice varies across counties as to whether the child must admit to any offense prior to receiving the benefit of a consent decree.

In either case, however, the child receives a dismissal of the case upon successful completion.

Under 42 Pa. C.S.A. 6340(c.1) the following language can be added to protect children with autism: *In the case of a child with autism or other developmental disability, any term or condition of the consent decree must take into consideration the child's ability to complete the program successfully given his or her diagnosis. No child shall be denied from being considered for a consent decree, nor shall the Attorney for the Commonwealth be permitted to object to a consent decree under 42 Pa. C.S.A. 6340(b), due to lack of services to accommodate the child's developmental disability. No child shall his or her consent decree revoked solely because his or her developmental disability prevents the child from fully participating in the program.*

Similar language can be added to the Juvenile Court Procedural Rule 370(a)(3): *In the case of a child with autism or other developmental disability, any condition of the consent decree must take into consideration the child's ability to complete the program successfully given his or her diagnosis* and Rule 371: *No child shall be denied from being considered for a consent decree, nor shall the Attorney for the Commonwealth be permitted to object to a consent decree under 42 Pa. C.S.A. 6340(b), due to lack of services to accommodate the child's developmental disability.*

2. Disposition

Disposition is the word used for sentencing in juvenile court. It is the part of the process where the court must decide where a child who has been adjudicated delinquent is to receive services. In general, the court has the option of placing the child on probation or placing the child in an out-of-home placement (either secure or non-secure). The child remains under supervision until the court believes she or he has completed the conditions of supervision, but in no event will the court's jurisdiction last past the child's 21st birthday.

In addition to opportunities early in the process to divert children with autism out of the system and provide all relevant parties with critical information, disposition is another important part of the process where a child's limitations should be considered.

Disposition is governed by 42 Pa. C.S.A. §6352 and Juvenile Court Procedural Rules 510-516. Under the statute, disposition must be "appropriate to the individual circumstances of the child's case." Rule 512(A)(1) requires the court to take into account "oral and written evidence from both parties and the juvenile probation officer that is helpful in determining disposition." Rule 515 requires that the court to place a number of things on the record in determining its disposition for the child. Although 515(D)(7) requires the court to make findings related to any disability of the child, the language could require that the court make a specific finding about whether any information has been presented regarding any disability of the child and, if so, what the court has specifically done to accommodate that disability in its disposition. Language like the following could be included: *"a finding of whether it has received any information from any party that the juvenile has autism or any other developmental disability; If such finding is made, the court shall indicate what accommodations have been made in its*

disposition to address the needs of the juvenile related to juvenile's developmental disability."

This particular change could work well with some of the investigation and reporting requirements included above. If probation officers are required to inquire and report about disabilities, then it lowers the chances that the court would not have this information at disposition.

Contributors to this report:

Tammy L. Hughes, Ph.D., Professor & Chair, Department of Counseling, Psychology and Special Education email: hughest@duq.edu, website: <http://www.duq.edu/academics/faculty/tammy-hughes> phone: 412.396.5191

Luciana Randall, M.R.C., Executive Director, Autism Connection of PA, email: lu@autismofpa.org website: www.autismofpa.org phone: 412.781.4116

Tiffany Sizemore, J.D., Esq. Professor of Clinical Legal Skills. email: sizemoret@duq.edu website: <https://www.law.duq.edu/faculty/tiffany-sizemore> phone: 412.396.5694

Richard Steele, M.A., Executive Director, Juvenile Court Judges' Commission, ricsteele@pa.gov website: www.jcjc.pa.gov phone: 717.787.6910

Richard D. Steele, Executive Director, Juvenile Court Judges' Commission

2018 Disability Summit

Legislative Panel Discussion on Autism Spectrum Disorder and Juvenile Justice

March 23, 2018

Good afternoon. My name is Rick Steele, and I serve as the Executive Director of Pennsylvania's Juvenile Court Judges' Commission. I want to thank you all for the opportunity to speak today about autism and the juvenile justice system, and am particularly grateful to Representative Dan Miller for organizing this wonderful two-day event and for inviting me to participate in this afternoon's panel discussion. It is, indeed, an honor to be here with these distinguished panelists.

The Juvenile Court Judges' Commission (JCJC) was created in 1959 as an Executive Branch agency located in the Governor's Office of General Counsel. The Commission is comprised of nine juvenile court judges appointed by the Governor following nomination by the Chief Justice. The JCJC has broad statutory authority and is responsible to: advise juvenile court judges in all matters pertaining to the proper care and maintenance of delinquent and dependent children; examine the administrative methods and judicial procedure used in juvenile courts and establish standards and make recommendations to the courts presiding over juvenile matters; examine the personnel practices and employment standards used in probation offices; and collect and analyze data to identify trends and determine effectiveness of programs and practices, make recommendations concerning evidence-based programs and practices to judges and post related information on the agency's website. The JCJC also awards and monitors annual grants to counties for the development and improvement of probation services for juveniles.

My discussion today will continue the panel's focus on autism spectrum disorder (ASD) and youth involved with the juvenile justice system. In Pennsylvania during calendar year 2016, there were 23,014 initial juvenile delinquency dispositions, which are the juvenile version of an adult court sentencing. According to the Centers for Disease Control and Prevention (CDC), as of 2016 ASD occurs in one out of every 68 children in the United States. In Pennsylvania, through the Pennsylvania Autism Census, it was found that the number of residents with autism receiving publicly funded services was over 55,000 individuals. The incidence of ASD has been steadily increasing with time, although experts in the field maintain that this increase is largely due to improvements

in diagnosis. ASD is four times more likely to occur in males as in females according to the CDC, and it was found that, in Pennsylvania, 85% of individuals with ASD have a co-occurring disorder such as Intellectual Disability (ID), Anxiety Disorder, Obsessive Compulsive Disorder, Attention-Deficit/Hyperactivity Disorder and/or depression.

While our juvenile justice system currently lacks the ability to accurately track juveniles who enter the system and who have ASD, the information just reviewed would certainly lead to a conclusion that a significant number of juvenile justice-involved youth are also ASD. Information from the Pennsylvania Autism Census would support this conclusion.

In Pennsylvania, when a youth is referred to the Juvenile Court, a process known as intake is initiated. As part of intake, the juvenile probation officer is required to gather all pertinent information regarding the youth, their family, education background, peer relations, leisure time activities, health records when appropriate, contact with other social services including child welfare, drug & alcohol, mental health, etc. Depending on the individual, medical, psychological, psychiatric and other records may be obtained to assist in a process that ultimately culminates in a recommendation of how to best proceed in the case. The juvenile justice system is designed to utilize this information in an effort to craft dispositions (known as sentences in the adult system) that are individualized to the circumstances of each youth, and provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the communities. Dispositional recommendations range from various forms of diversion through formal court action, delinquency adjudication and even potential out-of-home placement. In all cases, the utilization of the least restrictive alternative is emphasized. These recommendations also include services and interventions deemed appropriate in addressing identified needs of the youth.

Over the last several years, Pennsylvania's juvenile justice system has been implementing the Juvenile Justice System Enhancement Strategy, a major part of which emphasized the use of evidence-based practices at every stage. As part of this, we have learned much about the principle of "responsivity", which informs us of the need to consider certain individual factors inherent to some youth when applying various forms of interventions aimed at addressing the causes of their delinquent activities. Even the most effective evidence-based intervention, applied with high levels of fidelity, will not be effective if responsivity factors present with the youth are unaccounted for in the style in which the intervention is presented. Responsivity factors can include issues of gender, culture, mental health, sexual identity, trauma exposure, and autism spectrum disorder. These responsivity factors should also inform how the probation officer, and others who work with the youth, can most effectively interact with the young person.

As with all cases, consideration of diversion from the formal juvenile justice system of youth with ASD should be considered, especially in cases where the manifestations of the ASD are directly related to the alleged offenses. However, ASD in and of itself should not be considered an “excuse” for serious violations of the law. This further underscores the need for the juvenile justice system to be informed and capable of effectively working with ASD youth while applying the basic tenets of Balanced and Restorative Justice.

The challenge has largely been to find an effective way to increase sensitivity to, and knowledge about, ASD youth encountering the juvenile justice system.

Beginning in 2014, the Juvenile Court Judges’ Commission collaborated with the Autism Services, Education, Resources and Training initiative, known as ASERT. ASERT is a statewide initiative funded by the Bureau of Autism Services within the Pennsylvania Department of Human Services. It had become abundantly clear that youth with ASD were becoming increasingly involved with the juvenile justice system, and that there was a need for awareness and education as to how to best accommodate these individuals.

In 2014, The ASERT Collaborative Eastern Region conducted a survey of justice system professionals in PA regarding their knowledge of autism. This survey identified specific training needs for justice system professionals to improve their interactions with individuals with autism. Prior to, and as a result, of this survey, free tailored trainings with content specific to the trainees have been delivered by the ASERT Eastern and Western Regions. Since 2014, the ASERT Collaborative has trained over 2,100 justice system professionals, including judges, probation officers, prosecutors, defenders, police officers and service providers. Many additional resources have been developed specifically to assist justice system professionals, including “Signs of Autism: For Justice System Professionals” and the “Judge’s Guide to Autism”. Numerous other documents providing guidance to system professionals have been developed on topics including how to prepare an individual with ASD to appear in court, how to approach individuals with ASD, tips for law enforcement when interacting with individuals with ASD, and others.

Despite efforts to increase the juvenile justice system’s knowledge about ASD, much work remains if we are to truly impact the issues. Previously mentioned suggestions for amendments to both the Juvenile Act and the Pennsylvania Rules of Juvenile Court Procedure may well serve to drive system change. Nevertheless, the need for ongoing system-wide training and increased practices to allow for early identification of ASD individuals involved in the juvenile justice system remain at the heart of efforts to improve. Screening tools that can be utilized by probation staff during intake proceedings would provide a significant support, and the availability of referral options

for further diagnosis is critical. Additionally, treatments and support services specifically designed to effectively address symptoms of ASD must be incorporated into services provided to delinquent youth.

In conclusion, the prevalence of ASD within the population of youth served by the juvenile justice system in Pennsylvania continues as an emerging, yet critical, issue and one that has received increasing attention over the past several years and into the future. The resolution of these issues cannot rest solely on the juvenile justice system, as an appropriate and effective response needs to be collective and collaborative, involving all of the child-serving agencies and entities. It is only through these types of responses that we can continue to hold youth accountable for offenses committed while providing for public safety, building youth competency and assuring appropriate treatment and intervention responses to this very vulnerable group of youth.

Once again, I want to thank you all for this opportunity to share information about these critical issues. I look forward to addressing any questions to the best of my ability when time permits.

*Richard D. Steele, Executive Director
Juvenile Court Judges' Commission
Ricsteele@pa.gov
717-787-6910*