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April 28, 2014

The Honorable Dick Durbin
Chairman
Senate Judiciary Subcommittee on the Constitution, Civil
Rights, and Human Rights
SH-815
Washington, DC 20510

The Honorable R. Edward Cruz
Ranking Member
Senate Judiciary Subcommittee on the Constitution, Civil
Rights, and Human Rights
SH-229
Washington, DC 20510

Dear Chairman Durbin and Ranking Member Cruz:

I am pleased to submit the attached statement for the record from the Maryland Commission for Effective Community Inclusion of Individuals with Intellectual and Developmental Disabilities on the important and timely topic of *Law Enforcement Responses to Disabled Americans: Promising Approaches for Protecting Public Safety*.

In September 2013, I established via Executive Order the *Commission for Effective Community Inclusion of Individuals with Intellectual and Developmental Disabilities*, in part as a response to the circumstances surrounding the death of Maryland resident Ethan Saylor. Through that tragedy, we recognized that many individuals in positions of authority, including law enforcement officials and other first responders, receive limited training about responding to situations involving individuals with intellectual and developmental disabilities. Ethan's mother, Patti Saylor, from whom the Subcommittee will receive testimony, is an inspiration to many parents and families across Maryland who have a family member with an intellectual or developmental disability.

The Commission is tasked with, among other things, making recommendations on improving training for law enforcement and first responders on how to address situations involving people with intellectual and developmental disabilities. In addition, it will also develop an overall strategy for inclusion across public sectors.

Dr. Timothy P. Shriver, Chairman and CEO of Special Olympics, chairs the Commission, and its membership includes state and local officials, disability advocates, and a self-advocate. Our state has been well-served by the Commission's dedication and resolve to develop thoughtful recommendations and policies designed to create a society where all Marylanders are fully included, whether by law enforcement and other first responders, schools, hospitals or additional public sectors.

I would like to offer that the Commission is available to work with you and your colleagues in Congress. A collaborative federal-state approach will ensure that best practices in one state are adopted and replicated in other states across the nation. We look forward to working with you in the months ahead to ensure the dignity of every individual is protected.

Sincerely,

Governor

cc: The Maryland Congressional Delegation



Testimony Submitted for the Record

**On behalf of the
Maryland Commission for Effective Community Inclusion of Individuals
With Intellectual and Developmental Disabilities**

before the

**United States Senate
Committee on the Judiciary**

**Subcommittee on
The Constitution, Civil Rights and Human Rights**

**“Law Enforcement Responses to Disabled Americans: Promising Approaches for
Protecting Public Safety”**

APRIL 29, 2014

Introduction

The Maryland Commission for Effective Community Inclusion of Individuals with Intellectual and Developmental Disabilities appreciates the opportunity to provide its views on law enforcement responses to individuals with intellectual and developmental disabilities.

In September 2013, Governor Martin O'Malley established the Maryland Commission for Effective Community Inclusion of Individuals with Intellectual and Developmental Disabilities "Commission." In creating the Commission, Governor O'Malley recognized that individuals with intellectual and developmental disabilities are three percent of the world's population, making it the world's largest disability group. We are now living in a time of greater inclusion in society of persons with intellectual and developmental disabilities. Despite some successes, we know that much more must be done to ensure that people with intellectual and developmental disabilities are fully included in all aspects of our communities.

The Commission's Vision Statement guides its work and is as follows:

The goals of justice, equality, and dignity remain unfulfilled for people with intellectual and developmental disabilities. The mission of the Commission for Effective Community Inclusion of Individuals with Intellectual and Developmental Disabilities is to bring to life accurate, effective and comprehensive attitudes, policies and supports that will guide first responders in their work with and care for individuals with intellectual and developmental disabilities. We hope to build on the goals of the Americans with Disabilities Act and its accomplishments by creating a more compassionate, knowledgeable and understanding society that respects the life-saving work of our public servants along-side the valuable contributions of our citizens with intellectual and developmental disabilities. We seek to reduce stigma, increase safety, and inspire relationships of acceptance and support for all Marylanders.

A National Review

The Commission looked at materials and approaches offered by various states, disability organizations and universities for training first responders, with a focus on training for law enforcement in the area of intellectual and developmental disabilities (there are also a variety of programs that emphasize one disability, such as Autism Spectrum Disorders, or center on mental illness, and those programs were not the focus of the Commission's review). States such as California, Delaware, New Jersey, Indiana, Louisiana, and New Mexico, have legislation requiring some or all first responders to receive training on how to interact with individuals with intellectual and developmental disabilities. Other states offer training without a legislative mandate, but it is not clear that every officer is receiving adequate training. Several universities and private organizations have also developed training curricula that are provided to police

departments and other first responders around the country, generally in the absence of a statewide mandate or a comprehensive statewide training program.

The Commission's Recommendations for Law Enforcement

The Commission has taken on the broad mandate of *community* inclusion and is looking at several public sector areas in which to develop recommendations for advancing full inclusion of individuals with intellectual and developmental disabilities. Its initial focus, however, is law enforcement and first responders. In addition to researching programs nationwide, the Commission: reviewed existing training programs in Maryland (including materials to meet a recent Maryland mandate to conduct in-service training on Autism Spectrum Disorder awareness for law enforcement); held a Listening Tour to solicit the public's input; and spoke to experts in the field.

Through its due diligence, the Commission concluded that attaining full inclusion will require that individuals feel safe, understood, and included throughout society. The Commission is in the process of developing training objectives and curriculum recommendations for law enforcement and first responders. The focus on safety includes not only teaching about de-escalation, "hidden" disabilities, and behavioral indicators, but also about the need for specialized responses that may require an officer to modify previously learned training material in order to ensure a safe outcome. To teach about understanding, the training objectives look at communication, both verbal and non-verbal, understanding the differences between mental illness and intellectual and developmental disabilities, as well as the role of family and staff support. The lesson of inclusion requires cross-cultural interactions (between law enforcement and people with intellectual and developmental disabilities) in settings outside a typical law enforcement interaction. Examples include school-based activities, ride-alongs, youth-led social activities and recreation.

The Commission believes strongly that establishing relationships between public sector officials and people with intellectual and developmental disabilities is a critical aspect to any training program. For law enforcement in Maryland, this relationship-building will begin in the classroom with trainers who are people with intellectual and developmental disabilities working along-side law enforcement trainers. The training will also include scenario-based learning and role playing, which are believed to be more effective training devices and will also include people with intellectual and developmental disabilities.

The Commission also heard from many Maryland citizens about the need to educate individuals with intellectual and developmental disabilities about what to expect from first responders. While this is often successfully done by parents or other family members, it needs to be more systemic so that all individuals with intellectual and developmental disabilities are receiving the same opportunities for such training. In addition, the Commission believes that we need to better educate the community about how first responders will be handling situations that involve people with intellectual and developmental disabilities in order to help increase understanding and acceptance.

The Need for Data

The significant number of people with intellectual and developmental disabilities alone tells us that there is a need to ensure that all of our law enforcement and first responders have adequate training in how best to address a myriad of situations that they will encounter with such individuals. As the Commission traveled throughout the State of Maryland on its Listening Tour, it heard several stories from family members, people with intellectual and developmental disabilities and disability organizations about the need for more training. Members of law enforcement also tell us there is a need. While the need has been clearly expressed, finding statistics to support that need has proven difficult. Data on the number of incidents between law enforcement and individuals with intellectual and developmental disabilities, as well as number of individuals with intellectual and developmental disabilities in the criminal justice system overall are elusive for the State.

Research into other parts of the country does not yield much better results. Data on people with intellectual and developmental disabilities in US prisons are widely divergent from state to state. Although we often hear that between 4 and 10%¹ of the prison population are people with intellectual and developmental disabilities, given the disparity in definitions from state to state, those numbers may not be accurate.

With regard to the number of encounters between the police and people with intellectual and developmental disabilities, there also is no uniformity. For example, in Maryland, there is no State Police clearance code for incidents involving targets with intellectual and developmental disabilities, as distinct from those with mental illness. While statistics suggest a high prevalence of mental illness among people with intellectual and developmental disabilitiesⁱⁱ, it is not accurate to attribute all behavioral challenges seen by law enforcement in this community to a mental illness. Mental illness and intellectual and developmental disabilities are not the same and may require very different approaches; yet there is little data in regard to the number of contacts law enforcement officers have with people with intellectual and developmental disabilities.

The Federal Bureau of Investigations' Uniform Crime Reporting (UCR) requires data collection in the following areas:

- a. Violent crime
- b. Murder
- c. Rape
- d. Robbery
- e. Aggravated assault
- f. Property crime
- g. Burglary
- h. Larceny-theft
- i. Motor vehicle theft
- j. Arson

The FBI also utilizes the National Incident-Based Reporting System (NIBRS). A review of the NIBRS definitions further indicates that characteristics of offenders, victims, and witnesses are not collected in the data.

Based on the data we know to be collected at the Federal level and based on our research in Maryland and other states, the Commission believes that there is a need to develop baseline data in this area so that we can accurately determine the resources needed to address the problem, meaningfully measure training outcomes and adequately determine future training needs. This is an area where the federal government could be helpful and begin by including people with intellectual and developmental disabilities as a separate category in its various data collection methods. Having data will provide a much needed foundation for this discussion and ensure that scarce resources are used effectively today and in the future.

Community Inclusion

While law enforcement responses to people with intellectual and developmental disabilities are important, that is only one part of the larger community picture that needs to be addressed. More than a half century of laws, court decisions and public programs have led to greater numbers of persons with intellectual and developmental disabilities living independently in their communities, making their own choices, contributing to their own support and participating in active social lives. Yet stigma persists, and overcoming it is everyone's responsibility in the 21st century. Better educating our communities and first responders remains one of our unfinished tasks.

The Commission believes that now is the time to establish training priorities in many areas to best serve individuals with intellectual and developmental disabilities and ensure the same level of safety, understanding, and inclusiveness no matter what career or lifestyle they choose.

We are grateful that this Subcommittee has begun this important dialogue and hope it will continue and broaden so that the promises of community integration and inclusion are real and meaningful for all members of our society.

If you would like to reach any of the Commission members listed below or would like additional information, please contact: Alisa Macht, Executive Officer for the Commission for Effective Community Inclusion of Individuals with Intellectual and Developmental Disabilities at: amacht@goccp.state.gov.us

Charles Rapp
Police and Correctional Training Commissions

Brian T. Cox
Maryland Developmental Disabilities Council

Thomas Curtis
Maryland Department of Disabilities

Andrew J. Imparato
Association of University Centers on Disabilities

Joanna L. Pierson
The Arc of Frederick County Maryland

Theresa R. Sparks
Maryland Disability Law Center

Sara Hart Weir
National Down Syndrome Society

Erica Wheeler
Emeritus Assisted Living

The Hon. Michael E. Busch, Speaker
Maryland House of Delegates
Represented by Delegate Pete Hammen

The Hon. Thomas V. Mike Miller, Jr., President
Maryland Senate
Appointee

¹ Petersilia, J. (August 2000). Doing justice? Criminal offenders with developmental disabilities. CPRC Brief, 12 (4), California Policy Research Center, University of California.

ⁱⁱ Hovermale, Lisa (2010). The Evaluation of People with Intellectual and Developmental Disabilities in the Acute Setting from Emergency Psychiatry, Edited by Arjun Chanmugam, Patrick Triplett, and Gabor Kelen.

Commission Membership

Timothy P. Shriver
Chair
Special Olympics International

Colonel Marcus L. Brown, Superintendent
Maryland State Police

Officer Scott A Davis
Montgomery County Police Department

Lt Dwayne Embert
Queen Anne's County Sheriff's Office

Hon. Anne Colt Leitess
State's Attorney for Anne Arundel County

Sam Abed, Secretary
Department of Juvenile Services
Represented by Joseph (Jay) Cleary

Gregg Hershberger, Secretary
Department of Public Safety and Correctional Services
Represented by Dr. James Holwager

Cathy Raggio, Secretary
Maryland Department of Disabilities

George Failla (as of 4/28/2014)
Maryland Department of Disabilities

Joshua M. Sharfstein, Secretary
Department of Health and Mental Hygiene
Represented by Dr. Lisa Hovermale

Maryland Institute for Emergency Medical Services
Represented by Rae Oliveria

Tammy Brown, Executive Director
Governor's Office of Crime Control and Prevention
Represented by James Hedrick