

Testimony of the Office of Protection and Advocacy for Persons with Disabilities
Before the Judiciary Committee

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March 23, 2009

Good afternoon and thank you for this opportunity to comment on several of the bills on your agenda today.

Raised Bill No. 348, An Act Concerning the Videotaping of Custodial Interrogations establishes a rebuttable presumption of inadmissibility of a statement (e.g. confession) obtained from a person suspected of committing a serious crime when that statement was obtained during a custodial interrogation and no recording is made of the interrogation. By operation of the definitions and explicit exceptions listed in the bill, the presumption of inadmissibility would be strictly limited, and could be overcome in a number of circumstances.

Our Office supports this proposal. The video recordings called for in this bill would help safeguard the rights of people with cognitive or psychiatric disabilities who may be subject to interrogations. Many people who have mental retardation, non-verbal learning disabilities, autism-spectrum disabilities, brain injuries and mental illnesses find themselves at a significant disadvantage when being questioned by authorities. Although generalizing is risky and often unfair, there is strong evidence to the effect that people with mental disabilities are often more easily talked into agreeing to do or say things. Some of this is a survival strategy: people who have intellectual disabilities or who experience difficulty reading social cues often cultivate a sense of how to please authority figures and “pass” in situations where they do not fully understand what is happening. In the context of custodial interrogation, relying on such a strategy can prove disastrous. But there is more involved than a desire to pass for “normal” and to please others. Some of the problem also has to do with naiveté and confusion: if you have a mental disability, it is easy to become confused or insecure as to your own recollections of past events, and you are quite likely to accept interpretations offered by others.

Unfortunately, interrogation techniques designed to undermine the resistance of “typical” suspects can so confuse people with mental disabilities that they may falsely confess, perhaps even without recognizing that they have done so. Across the country evidence is mounting that people with mental disabilities are particularly susceptible to falsely confessing when confronted by exhausting, aggressive interrogation tactics. Various studies and investigations into the phenomenon of “false confession” point to a high correlation between mental disability and susceptibility to faulty results from intensive interrogation techniques.

The fact that a person has a cognitive or psychiatric disability is often not immediately apparent to interrogators. When a question of cognitive or psychological function is subsequently raised, having a recording to refer to will likely be very helpful in determining the reliability of the

person's statements and the circumstances under which they were obtained. Knowing what was actually said would also go a long way toward preventing wrongful convictions, and assuring that our criminal justice system treats persons with cognitive and psychiatric disabilities fairly. Our Office urges your support for this legislation.

Our Office also supports **Raised Bill No. 6533, An Act Concerning a Department of Correction Advisory Commission**. As the title implies, this proposal would establish an Advisory Commission to review Department of Correction (DOC) policies and practices, and to recommend changes. While the proposed commission would not have direct authority over any aspect of DOC operations, it would help ensure that the State's commitment to progressive corrections policy continues over the long term.

As the Committee is aware, increasing numbers of people with psychiatric disabilities have been incarcerated in recent years. Nationally, it is now estimated that over 20% of all prison inmates have a mental illness serious enough to require treatment and Connecticut estimates are similar. Many factors contribute to this unfortunate trend, but whatever its origins, it has tremendous implications for prison management, mental health care requirements, educational and rehabilitation programming, disciplinary practices and overall human rights. Considering that the correctional system also houses people with cognitive and intellectual disabilities, communications and sensory disabilities, and physical disabilities, it is heartening to note that our Office has been included on the membership of the commission.

Our Office also supports **Raised Bill No. 537, An Act Providing Community Reintegration Services to End of Sentence Inmates**. This bill would require that inmates who "max out" in prison be offered the same transitional support services currently provided to those inmates who are released on parole or under other supervised release mechanisms. As referred to above, a significant number of the people we are sending to prison have psychiatric, intellectual and cognitive disabilities. While DOC has been working with its community providers to ensure that they are not discriminating against people with those types of disabilities, and DMHAS has shown genuine interest in collaborative transitional programs, in our Office's experience, it is still more likely that an inmate with psychiatric, developmental or cognitive disabilities will "max out" in institutional lock up than will other, non-disabled inmates who have been convicted of similar crimes and who present similar risk profiles. To the extent that this bill would enhance the availability of transition planning and coordination with social service agencies, it would both benefit those individuals and help reduce recidivism.

Thank you for your attention. If there are any questions, I will try to answer them.