



House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

MEMORANDUM

To: All Members of the House of Representatives

From: Representative Brendan Boyle

Date: January 10, 2012

Subject: Co-sponsorship: Exculpatory Evidence Requirements in Criminal Cases

In the near future, I will be introducing legislation that would amend Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes by adding a new section requiring the disclosure of exculpatory evidence post-conviction. Exculpatory evidence is any evidence or information that tends to negate the guilt of a defendant or mitigates the offense or sentence or which could potentially lead to discovery of other exculpatory evidence. It is my sincere hope that you join me in this effort.

In 2001, an innocent man was convicted of burglary and other charges and sentenced to twenty-two to seventy years in prison. Five years later, the prosecuting attorney discovered DNA evidence that exonerated the defendant, but did not disclose that information until several years later when the defendant filed an unrelated petition for post-conviction relief. Under state disciplinary rules, prosecutors are not required morally or ethically to turn over exculpatory evidence post-conviction, only pre-conviction. In addition, there is currently no state or federal constitutional right to exculpatory evidence post-conviction.

My legislation would require prosecutors to turn over exculpatory evidence if and when it was discovered, to both the courts and the defendant within five business days. The goal of the legislation is to make withholding this evidence post-conviction a violation of the defendants' rights, and to allow a defendant to appeal his case under the Post-Conviction Relief Act.

If you would like to co-sponsor this important legislation that protects people's rights, please contact Kristen Womelsdorf in my Harrisburg office at 717-787-3055 or at KWomelsdorf@pahouse.net.