

TESTIMONY IN SUPPORT OF HB 2255

**Deborah Harley
Chief, Family Violence and Sexual Assault Unit
Philadelphia District Attorney's Office**

**On Behalf of the Pennsylvania District Attorney's Association
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House Judiciary Committee**

Good morning Chairman Caltagirone and members of the House Judiciary Committee. My name is Deborah Harley, and I am the chief of the Family Violence and Sexual Assault Unit at the Philadelphia District Attorney's Office. I also am testifying on behalf of the Pennsylvania District Attorneys Association. I am here today to testify in support of HB2255, important legislation permitting expert testimony in cases involving sexual assault and sexual violence.

I want to thank Representative Parker for her outstanding leadership on this issue. I also want to thank you, Chairman Caltagirone, for holding this hearing. This is an important issue to victims of sexual assault.

Victims of rape and sexual assault undergo one of the most traumatic violations of humanity—forced, violent and sexual attacks on their physical person. While the occurrence of rape in America is shockingly high (20 to 30% of adult women experience a sexual assault in their lifetime), societal attitudes toward sexual violence create an atmosphere of skepticism, criticism, and backlash for victims. It is because of the pervasive misperceptions in our culture that passage of this legislation is critical.

Under current case law in Pennsylvania, expert testimony is impermissible to assist the jury in explaining any type of victim behavior. This is in contrast to 48 States, the District of Columbia, the military, and the federal courts, where it is permissible for the prosecution to introduce expert testimony regarding the behavior of adult victims of sexual assault. Additionally, Pennsylvania law expressly permits instructing jury members that they may consider the promptness of a complaint in assessing a victim's credibility. The law as it currently stands in the Commonwealth is only serving to perpetuate the myths and misunderstandings surrounding the behavior of sexual assault victims.

Over the last twenty years, I have seen thousands of cases of sexual assaults and rapes. In each case, the victim undergoes a traumatic experience with a wide range of behavioral and psychological responses: some experience memory loss, some do not fight back, some disassociate themselves from the event, some blame themselves, some are in a state of denial. These patterns of behavior often contradict how the general public believes a victim of crime would react, especially given the general skepticism regarding sexual assault. Psychologists, psychiatrists, victim advocates, nurses, social workers, counselors and other trained individuals who come into constant contact with rape victims must be allowed to testify, through their experience in the field, to the ranges of psychological and physical responses victims may undertake. Such expert testimony on the general complexity of victims' reactions is necessary for the jury to be able to properly evaluate the response of a particular victim.

Jury members, unaided by expert testimony, are very likely to interpret victim behavior in flawed and biased ways, according to their own un-educated beliefs and beliefs impressed on them by society. Jurors often regard a rape victim as being unreliable because of behavior that is in direct response to prior sexual and/or physical abuse. Victims that delay the reporting of sexual assault are deemed unreliable. Victim response psychology can offer explanations—based on research, education, training, and experience—for the cycle of domestic violence, for other victim behaviors that appear to be counterintuitive after a traumatic assault, and for delayed reports of rape and sexual assault. Lastly, even jurors who have undergone a traumatic event themselves, or know someone close to them who has, may be biased because these jurors will compare the victim's responses to their own responses in assessing the credibility and facts of the case. Yet no two victims can be expected to react the exact same way.

For all these reasons, legislation to allow expert testimony to explain victim behavior is absolutely necessary in Pennsylvania.

I sincerely believe that the misperceptions and myths surrounding sexual trauma are negatively impacting the state (and victim) in successfully prosecuting rapists. Permitting experts to testify as to the effects that sexual assault has on victims gives the jury the necessary tools to make an educated credibility decision and assess the facts of the case without bias or prejudice. In our judicial system it is imperative that a jury be fair and impartial. It is only with expert testimony in sexual abuse cases that those values can be ensured.

Thank you Chairman Caltagirone, members of the Committee, and Representative Parker. I would be happy to answer any of your questions.